

Minutes of the **Regular Session** of the **City Council** held Tuesday, **February 8, 2011**, at 7:13 p.m. at the Lehi City Administration Building, 153 North 100 East, Lehi, Utah.

**Members Present:** Bert Wilson, Mayor  
Kaye Collins, Council Member  
James Dixon, Council Member  
Steve Holbrook, Council Member  
Mark Johnson, Council Member  
Johnny Revill, Council Member

**Others Present:** Jamie Davidson, City Administrator; Ron Foggin, Assistant City Administrator; Ken Rushton, City Attorney; Kim Struthers, Planning Director; Lorin Powell, City Engineer; Jim Hewitson, Public Works Director; Travis Ball, Power Director; Brenn Bybee, Assistant to the Administrator; Marilyn Banasky, City Recorder; and approximately 38 citizens.

**1. Welcome, Roll Call, Pledge of Allegiance**

Mayor Wilson welcomed everyone and noted that all Council members were present. Caleb Walker led the Pledge of Allegiance.

**2. Citizen Input (for public comments on items not listed on the agenda)**

Fire Chief, Dale Ekins, presented Ron Berenson with a plaque honoring him for his 30+ years of service with the Lehi City Fire Department.

**3. Consent Agenda**

a. Approval of meeting minutes from:

January 25, 2011 Pre-Council

January 25, 2011 City Council

Mayor Wilson reported that Councilor Collins submitted an addition to her motion on Item 11 of the January 25, 2011 City Council meeting minutes.

**Motion:** Councilor Collins moved to approve the Consent Agenda with the addition to the minutes. Councilor Revill seconded the motion.

The motion passed unanimously.

**4. Public hearing on Mountain Home Development's request for approval for Eagle Summit Subdivision Phase 7, a 3 lot residential subdivision located at 5269 Eagle View Drive in an existing PC (Planned Community) zone.**

Carl Karen, reported that he is from the Traverse Mountain Master Association, who is the property owner. He stated that there is a utility easement going through two lots and the Home Owners Association (HOA) wants to divide that into three parcels. He explained that instead of the property being open space and owned by the HOA, it would be attached to the

property owners to maintain and the property would become part of the property owner's parcels. Councilor Collins stated that because the parcel has utilities going through it, the Development Review Committee recommended that no fences be allowed down the center of the easement and that no permanent structures can be constructed within the easement. Mr. Karen stated that he is familiar with the Development Review Committee's comments and the home owners are aware that they can't fence the middle of the easement.

Mayor Wilson opened the public hearing at 7:23 p.m.

No public comments were made.

Mayor Wilson closed the public hearing at 7:23 p.m.

**5. Consideration of Mountain Home Development's request for approval for Eagle Summit Subdivision Phase 7, a 3 lot residential subdivision located at 5269 Eagle View Drive in an existing PC (Planned Community) zone.**

**Motion:** Councilor Johnson moved to grant approval of the request from the Traverse Mountain Master Association for Eagle Summit Subdivision Phase 7, a 3 lot residential subdivision located at 5269 Eagle View Drive, and that all of the Development Review Committee's comments be considered and taken care of before the recording of the plat. Councilor Dixon seconded the motion.

**Roll Call Vote:** Councilor Revill, Yes; Councilor Collins, Yes; Councilor Dixon, Yes; Councilor Johnson, Yes; and Councilor Holbrook, Yes. The motion passed unanimously.

**6. Public hearing on Don Lilyquist/Maverik's request for approval for Thanksgiving Point Business Park Plat E, a 2-lot commercial subdivision located at 3569 North Thanksgiving Way in an existing RC (Resort Community) zone.**

Don Lilyquist reported that Maverik has an existing convenience store at Thanksgiving Point and they have been approached to sell the property in back of the store for another commercial development. He stated that they need to subdivide the property in order to do that. Councilor Revill stated that the information in their packet states that the commercial development is for a possible car wash and wondered if Maverick has car washes. Mr. Lilyquist replied that they don't. Councilor Collins inquired if they were proposing to change existing traffic flows. Mr. Lilyquist replied that the traffic flow won't change and the accesses and driveways will remain the same.

Mayor Wilson opened the public hearing at 7:28 p.m.

No public comments were made.

Mayor Wilson closed the public hearing at 7:28 p.m.

**7. Consideration of Don Lilyquist/Maverik's request for approval for Thanksgiving Point Business Park Plat E, a 2-lot commercial subdivision located at 3569 North Thanksgiving Way in an existing RC (Resort Community) zone.**

**Motion:** Councilor Revill moved to grant approval of Don Lilyquist/Maverik's request for approval for Thanksgiving Point Business Park Plat E, a 2-lot commercial subdivision located at 3569 North Thanksgiving Way, subject to the completion of all Development Review Committee's redline and general comments, and Planning and Zoning comments on cross access easement between lots. Councilor Johnson seconded the motion.

**Roll Call Vote:** Councilor Dixon, Yes; Councilor Johnson, Yes; Councilor Holbrook, Yes; Councilor Revill, Yes; and Councilor Collins, Yes. The motion passed unanimously.

**8. Public hearing on Ivory Development's request for Preliminary Subdivision approval for Platinum Fields, a 48-lot Planned Residential Development located at approximately 2300 West 300 North in an existing R-1-22 (Residential/Agriculture) zone.**

Chris Gamvroulis, from Ivory Development, reported that Ivory Homes recently purchased this property from the FDIC and is requesting to move forward with a 48 lot Planned Residential Development called Platinum Fields. He stated that they have worked hard to ensure that the engineering on the roads and infrastructure works and that they will raise the site to allow for homes with basements. He stated that they will be doing the bridge and open space in the first phase.

Mayor Wilson opened the public hearing at 7:35 p.m.

No public comments were made.

Mayor Wilson closed the public hearing at 7:35 p.m.

**9. Consideration of Ivory Development's request for Preliminary Subdivision approval for Platinum Fields, a 48-lot Planned Residential Development located at approximately 2300 West 300 North in an existing R-1-22 (Residential/Agriculture) zone.**

**Motion:** Councilor Revill moved to approve the request from Ivory Development for Preliminary Subdivision approval for Platinum Fields, a 48-lot Planned Residential Development located at approximately 2300 West 300 North, subject to the completion of the Development Review Committee's redline and general comments, and any Planning and Zoning comments. Councilor Johnson seconded the motion.

**Roll Call Vote:** Councilor Holbrook, Yes; Councilor Revill, Yes; Councilor Collins, Yes; Councilor Dixon, Yes; and Councilor Johnson, Yes. The motion passed unanimously.

**10. Consideration of Scott Woffinden's request for an Extension of Approval for Powell Subdivision, a 2-lot commercial subdivision located at 575 East State Street in an existing MU (Mixed Use) zone.**

Scott Woffinden reported that he recently purchased the Powell property and is requesting an extension of time to record the Powell subdivision. Mayor Wilson thanked him for the good work that has been done to improve the property. Councilor Johnson inquired if the extension could be granted for one year from today as the original extension expired on May 26, 2010, and the City code only allows for extensions to be granted in one year increments. A discussion was held regarding this issue and it was determined that due to the extraordinary circumstances of this property it would suffice to grant the extension for one year from today's meeting.

**Motion:** Councilor Johnson moved to grant Scott Woffinden's request for an Extension of Approval for the Powell Subdivision, a 2-lot commercial subdivision located at 575 East State Street as presented, subject to the Development Review Committee's comments. The extension will expire on February 8, 2012, because of extraordinary circumstances of the change of ownership on this piece of property. Councilor Holbrook seconded the motion.

**Roll Call Vote:** Councilor Revill, Yes; Councilor Collins, No; Councilor Dixon, Yes; Councilor Johnson, Yes; and Councilor Holbrook, Yes. The motion passed with four in favor and one opposed.

**11. Consideration of Epperson and Owens, P.C. law firm's request to reduce an invoice from the Lehi Police Department.**

Jamie Davidson reported that a number of months ago the Police Department was served with a subpoena on a civil matter for the Ragsdale homicide. He stated that the City produced 48 CD's at \$50/each and 3 case reports at \$25/each for a total invoice amount of \$2,475.00. He explained that the attorney wrote the City requesting reconsideration of the bill, due to what the attorney felt was an extraordinarily high cost of producing the CD's and said his client would be willing to pay \$1,425.00, of \$25/CD. Mr. Davidson reported that staff feels a more appropriate amount to charge is \$25 per CD and \$15 per case report which would reduce the amount by \$1,080 and making the total invoice \$1,395.00. He stated that going forward the City will work with Police Department to establish an evidence CD charge on the Consolidated Fee schedule.

**Motion:** Councilor Holbrook moved to reduce the billing from \$2,475.00 to \$1,395.00 as presented. Councilor Dixon seconded the motion.

**Roll Call Vote:** Councilor Collins, Yes; Councilor Dixon, Yes; Councilor Johnson, Yes; Councilor Holbrook, Yes; and Councilor Revill, Yes. The motion passed unanimously.

## 12. City Business

### Residency/Response Time Proposed Ordinance

Jamie Davidson reported that Ken Rushton distributed a revised ordinance during the Pre-Council meeting regarding residency and response time requirements for full-time employees. He stated that they want to review the proposed ordinance tonight and place it on the next City Council agenda for consideration. Ken Rushton, City Attorney discussed the proposed ordinance that would change section 2.04.050(B) of the current Lehi City code. Mr. Rushton stated that the language in Section B1 was taken from the prior ordinance. He stated that Section B2 of the proposed ordinance allows employees who are hired and have a residency requirement move to the City within 12 months and that two additional 12 month extensions could be granted at the discretion of the City Council. Councilor Dixon stated that he doesn't see a suggestion that there is discretion as the proposal sets out a time frame but doesn't say anything about extenuating circumstances or hardships. Mr. Rushton replied that an extension would require some sort of extenuating circumstances beyond the initial 12 months period and that he may need to add language suggesting that extensions are discretionary with the City Council based upon circumstances presented by the employee. Section B2 was discussed regarding allowing extensions, how many extensions should be allowed, and under what circumstances should an extension be granted to an employee as outlined in this section. It was determined that the second sentence in paragraph B2 would read as follows: Such extensions shall not exceed an additional 12 month period and ~~no more than two~~ additional extensions may be granted ~~for a total of 36 months from the hire date.~~

Mr. Rushton stated that he questions that the Director of Finance and Administrative Services position be included in the residency requirement as he feels that position is not an essential employee as outlined in the ordinance's preamble. He stated that all the other positions that are listed in Section B2 are involved in emergency circumstances or supervises those in emergency circumstances. Mayor Wilson suggested that position could be required to have a 20 minute response time rather than be required to be a resident. Mr. Rushton stated that either way the City needs to have a rational basis for the residency or response time requirement and demonstrate the need for that in order to survive a legal challenge. Councilor Johnson stated that the listed positions are the directors of the City and he believes that establishes the nexus. He understands the nexus is emergency response but thinks that some people could construct an argument that finance needs to be here, depending on the type of emergency. He feels that positions with director level status need to be included.

Mr. Rushton discussed paragraph B3. He stated that he provided two alternatives regarding establishing a 20 minute response time for employees. Alternate #1 lists specific positions and Alternate #2 gives the department directors the latitude to develop an emergency response time policy, which would then be approved by the Mayor and City Council. Mr. Davidson stated that response time could be outlined in a job description and the employee would have to comply with that. He suggested going through each position in the department and specify those employees who would be categorized as emergency responders and put a response time requirement in their job description rather than outlining specific positions in the ordinance. Councilor Johnson reported that he likes the policy procedure and would rather have department directors struggle with this issue and let them develop a policy that fits their departmental needs. He stated that as long as department policies come to the City

Council for review and approval, he is fine with Alternative #2. Mr. Rushton stated that the departments may have policies that address this issue, but he doubts that they have been approved by the City Council. He stated that the policies need to be adopted by the City Council to have the force of law. A discussion was held regarding departmental policies and having them approved by the City Council. It was discussed that they could be reviewed annually and changes would need to come before the City Council. It was determined that Section B3 Alternate #2 be placed in the proposed ordinance and keep the language that the response time would be calculated from the City Administrative Offices. The rest of the proposed ordinance was discussed and no changes were proposed. Mr. Rushton stated that he will make the discussed changes to the ordinance and place it on the next City Council agenda for consideration.

#### Animal Shelter/PETA Update

Ron Foggin, Assistant City Administrator, gave an update on PETA's activities in relation to the Animal Shelter selling animals to the University of Utah research facility. He stated that PETA members are beginning to attend City Council meetings to discuss their displeasure of the selling of the animal shelter animals and have also placed some door hangers in Orem. He stated that the Animal Shelter Board is resolute to continue selling the animals to the research facility.

#### General Plan Land Use Element Update

Kim Struthers, Planning Director, stated that CRSA will be at the next Planning Commission meeting to introduce themselves and start the process of the General Plan Land Use Element Update. He stated that CRSA needs to work on a public preference survey to solicit input and has requested input on survey questions. Mr. Struthers distributed a draft of the City of Lehi Land Use Survey and asked the Mayor and Council to review it and submit any additional questions they would like to see included. He stated that the survey will go out in the City's newsletter and will also be available on-line. He stated that they need to have the survey ready by February 15<sup>th</sup> in order to get it in the March newsletter. He reported that CRSA will also hold four community workshops throughout the City where the survey will also be available.

#### Legislative Update

Jamie Davidson reported that the legislative session is in full swing. He stated that he attended a meeting regarding the proposed immigration bill and how it would impact law enforcement departments. He stated that there is a ground swell of concern from local government regarding the fiscal impact of the proposed bill. He reported that the State's budget is also a discussion item as well as the lag of the economic recovery in relation to the money coming into the State coffers. He stated that the legislature has come up with a 7% across the board cut. Mr. Davidson reported that Governor Herbert will be holding a meeting tomorrow at 9:00 a.m. at the State Capital with Lehi City and encouraged the Mayor and City Council to attend. He reported that he continues to look for any bills that could be submitted to the legislature regarding SR-73. He stated that he plans to talk to Governor Herbert about SR-73 and economic development at their meeting.

### Micron Annexation Update

Jamie Davidson stated that he and Kim Struthers had a meeting with John Park, City Administrator for Highland City, regarding the Micron Annexation and reported progress. He stated that Highland City is starting to see the value to working out an agreement that would outline Highland City's concerns and make them party to the Micron annexation agreement. He stated that Highland City is interested in extending the boundary line agreement and if the annexation moves forward, they would amend the existing agreement. He stated that Highland City is requesting that they be allowed to be part of the overall planning of the Dry Creek area regarding open space, and trail connectivity. He stated that both cities mutually agreed that they want the area to remain passive open space.

### Planning Commission Update

Councilor Johnson reported that the Planning Commission is asking for direction from the City Council regarding what level of improvements the Planning Commission should require when an existing commercial business changes hands or the owner rents to a tenant. He thinks that if a Conditional Use changes that the Planning Commission has the right to ask for improvements to be made by the new owner or tenant. Councilor Dixon stated that they could discuss this subject at their next joint meeting. He stated that they could mitigate it by the zoning itself, regardless of the use on the property. He feels that what was required for one carries over for landscape, parking, and street improvements. He stated that the responsibility for these improvements ultimately needs to be placed back on the property owners. Councilor Johnson stated that the Planning Commission can insist that improvements be made, but they want to know if that is the direction the City Council wants them to go. Lorin Powell suggested giving a new owner or tenant a time frame to complete the improvements and not require that they all be done at once. Councilor Johnson stated that he is not sure that it is appropriate to ask a new owner or tenant to make street improvements without some type of assistance from the City. Kim Struthers reported that he did a survey of how other cities handle this and found that one common way was if the new owner or tenant is adding on 10% or the site is changing by a specific dollar amount, then the site gets improved. If the changes to the site do not meet those requirements, then the property would not need to be improved. Councilor Johnson suggested having the new owner or tenant put 5% of the property value in improvements. Councilor Dixon suggested having a small business apply for an Economic Development Area in order to help them out with the costs. Councilor Johnson asked the City Council to give it some thought and he will let the Planning Commission know they are working on it.

Councilor Johnson reported that he met with John Mellor, VP of Adobe, and reported that he wants to be on the Planning Commission. Councilor Johnson stated that he finds Mr. Mellor an attractive candidate for an alternate to the Planning Commission as his family is from Lehi.

### Electronic Packet Update

Councilor Johnson inquired to the status of the electronic media i-Pads. Jamie Davidson reported that this agenda was created with the City's new software package and that the new software is best used with Internet Explorer which is problematic for i-Pads. He reported that they are waiting on an Android based pad, that is currently backordered, that will be

compatible with the new software. Councilor Johnson reported that a number of employees are still carrying two cell phones and thought that a policy was in place to allow them to carry one phone and reimburse the employee. Mr. Davidson replied that it would cost more to administer the policy and a revised cell phone policy has been submitted to him.

**16. Adjournment**

With no further business to come before the City Council at this time, Councilor Holbrook moved to adjourn the meeting. Councilor Johnson seconded the motion. The motion passed unanimously. The meeting adjourned at approximately 9:59 p.m.

Approved: February 22, 2011

Attest:

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Bert Wilson, Mayor

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Marilyn Banasky, City Recorder