



153 North 100 East
Lehi, UT 84043
(801) 768-7100

Minutes of the **Regular Session** of the **City Council** held Tuesday, **February 09, 2016**, at 7:00 p.m. at the Lehi City Administration Building, 153 North 100 East, Lehi, Utah.

Members Present: Bert Wilson, Mayor
Paige Albrecht, Council Member
Chris Condie, Council Member
Paul Hancock, Council Member
Mike Southwick, Council Member
Johnny Reville, Council Member

Others Present: Jason Walker, City Administrator; Robert Ranc, Assistant City Administrator; Ryan Wood, City Attorney, Kim Struthers, Planning Director; Lorin Powell, City Engineer; Darren Paul, Police Chief; Todd Munger, Public Works Director; Dave Norman, Water Director; Mike West, Planner; Cameron Boyle, Assistant to the City Administrator; Beau Thomas, Management Analyst; Marilyn Banasky, City Recorder; and approximately 42 citizens.

1. Welcome, Roll Call, Pledge of Allegiance

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

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

Cody Black reported that the City's sports programs and percentages of residents vs non-residents was discussed. He stated that he was a baseball coach for the 3-4 grade teams and that the City has modified the rules of the games to accommodate all the players. He stated that there are 14 kids per team and 28 teams and that there were 60-80 kids in that age group on the waiting list. His perspective is that this is a problem of management of that department or the City not allowing managers to get what they need, or there are not enough parks. He studied American Fork and they have nine baseball parks and Lehi has nine baseball parks. To be comparable, he feels that Lehi should have twice the parks since it has double the population. He wondered what the formula was for population and parks. He stated that he didn't know if raising taxes is the answer, but nobody wants to raise taxes to accommodate what we need. Mayor Wilson reported that Lehi is building more parks.

Dave Norman, Lehi City Water Director, gave an overview of the water optimizing study that he is requesting. He reported that this study will help Lehi determine what water they have and how to use it. It will allow him to do models for both the culinary and pressurized irrigation systems and determine how well they are using water resources.

4. Consent Agenda

- a. Approval of meeting minutes from:
 - January 26, 2016 Pre Council
 - January 26, 2016 City Council

b. Approval of Purchase Orders.

Motion: Councilor Condie moved to approve the consent agenda. Councilor Albrecht seconded the motion.

Roll Call Vote: Councilor Revill, Yes; Councilor Hancock, Yes; Councilor Southwick, Yes; Councilor Albrecht, Yes, and Councilor Condie, Yes. The motion passed unanimously.

4. Public Hearing and Consideration of Site Plan approval for Holiday Inn Express to be located at 3851 Thanksgiving Way in an existing Commercial zone.

Mayor Wilson opened the public hearing

Dan Dixon stated that he is a resident of Lehi and lives in Thanksgiving Meadows. He was recently the President of the HOA and is a realtor and appraiser. He does 95% of his business in Lehi and is an expert in values and feels that a hotel immediately abutting homes would negatively affect home values. He understands that the hotel fits in the code but has a lot of concerns about the safety of that structure being immediately next to homes as there is a slope between the homes and the hotel. He stated that there is little to zero barrier to homes, children, and windows to the bedrooms, which is a concern as this business runs 24/7. He feels that it would also negatively affect the curb appeal of those homes. He feels there is a huge difference between an office building and a hotel as they are Mon-Fri and are open 8:00 a.m. to 5:00 p.m. He stated that a hotel, by nature, is a transient location and there are people coming and going with no pride of ownership. He feels that an office structure would be kept better. He is strongly against a hotel with a 24/7 business style that keeps people through the night. He feels it is the wrong place for it and strongly encouraged the City Council to have the hotel go elsewhere.

Melanie Platt lives adjacent to the hotel and has three daughters. They feel that all aspects of the code are necessary for approval and one phrase in the Development Code is to protect the health, safety, and welfare of the residents. She also feels that this will conflict with the noise ordinance. She stated that they do not feel this project meets that standard when it comes to their children. She reported that she talked to Kim Struthers and asked him for a definition of health, safety, and welfare. He told her that the City hasn't defined that. She looked it up and gave the definition. She stated that in the hotels and motels section of the Development Code it states the Lehi Police can provide recommendations for security, but this is not mentioned anywhere else in the code. She stated that there is another area in that section that talks about a hotel not being within 600 feet of a school and she feels that a home is the same as a school.

Haley Dye stated that her home is adjacent to the hotel and that this hotel has no more restrictions than any other commercial use. She stated that the trees would be the same as an office building and she feels this is different. She feels the trees won't shield hotel guests from looking into her home. She would like to think that good intentioned, hard working, men and women staying there are not staring into their back yard, but the world is not like that anymore. She stated that there are very sick people out there. She guarantees that will incentivize people to stay there to watch her children play in the back yard. She stated that

the Planning Commission felt their hands were being force due to legality. The Planning Commission originally stated it did not meet the standard of health, welfare, and safety, but two months later the hotel developer came back and it was approved. They say they will do everything to be safe but the hotel developer hasn't met with the residents, even though they have asked. She stated that they have tried to meet with the developer several times and have made requests for a wall higher than 6 feet. It has been suggested to grade the land to make it level with the yards and add security cameras. She stated that they believe this issue calls for an immediate amendment to the zoning ordinance.

Bruce Baird, Counsel for the applicant, thanked the staff for doing a good job under the circumstances. He stated that the vested rights law and advisory opinions from the Ombudsman make it clear the approvals and zoning code take precedent. He stated that there is no possible way this will be addressed under a challenge. He stated that the visual barrier exceeds the code and setbacks as well. He reported that they looked at a different location on the parcel but it doesn't work. The building is where it is due to the topography, shape of the property, roads, and code. He understands the statement of general purposes of the code but the Ombudsman opinion made it clear that specific standards of the code go over general purpose language. He stated that a hotel has windows that will look into back doors of people for a time, until the trees grow, and that is not a compelling interest. He stated that this has been approved on findings by the Planning Commission twice and it is impossible to find a countervailing, compelling interest to deny this request. He stated that they have looked at options and they don't work, given the layout of the property.

Councilor Southwick inquired why they didn't meet with the residents. Mr. Baird replied that he hasn't heard that raised before and doesn't know the answer. Councilor Albrecht stated that she is surprised that they didn't meet with the residents. Mr. Baird replied that he didn't know of that request until six minutes ago. Councilor Albrecht replied that he was at the Planning Commission meeting where it was requested. Mr. Baird replied that he was at the second Planning Commission meeting and not the first. He stated that this complies with the law. Councilor Hancock stated that one of the letters suggested a window covering blocking and the response was that it would make it economically challenging and there were safety concerns. Mr. Baird replied that the louvers didn't fit with the way a hotel is designed and that the louvers would be a safety issue in case of a fire. He stated that there was a choice made by the design team to do what is normal in a hotel and it wouldn't be required in an office building. Councilor Hancock stated that there is another applicant here tonight that has went back and redesigned their project due to the neighbors concerns. He wondered if they have any consideration to window treatments. Mr. Baird replied they have, but it was determined not to do it. Councilor Condie stated that if he is going to a hotel he would want a curtain. Mr. Baird replied that there is a curtain. Councilor Hancock stated that he is talking about something opaque when the curtains are open.

Mayor Wilson closed the public hearing

Councilor Condie stated that he understands the residents' concerns but one of the things he did when he was elected was take an oath to abide the law. He stated that they could receive a proposal of an office building that is eight stories high instead of four and would have twice the amount of people instead of a hotel. He understands where the residents are coming from

but he has to abide by the oath he took. He stated that it is a vested right according to the General Plan and hopes they understand.

Councilor Revill stated that he has been on the Council for 12 years and can honestly say, over that amount of time, they have had issues where residents don't like it and the applicant has the legal right, but he doesn't remember a time when an applicant hasn't met with residents to help mediate the situation. He has never had an applicant come up and threaten them with a lawsuit if they vote this thing down. He stated that is what they will do and they will probably win. He is disappointed in the applicant. He stated that they have every right to build it, however, he is disappointed.

Motion: Councilor Condie moved to grant the Site Plan approval for Holiday Inn Express to be located at 3851 Thanksgiving Way in an existing Commercial zone; subject to the completion of all Development Review Committee and Planning Commission comments with the strong recommendation that the applicant work with neighbors to see if any concerns can be resolved.

Councilor Southwick inquired if they can state that the developer has to meet with the residents before they proceed. Ryan Wood replied that can't be a requirement.

Councilor Hancock seconded the motion.

Roll Call Vote: Councilor Hancock, No; Councilor Southwick, No; Councilor Albrecht, No, Councilor Condie, Yes; and Councilor Revill, No. The motion failed with one in favor and four opposed.

5. Consideration of Final Subdivision approval for Seasons Towns, a 1-lot development located at Morning Vista Drive & Seasons View Drive in an existing Planned Community zone.

Motion: Councilor Condie moved to grant Final Subdivision approval for Seasons Towns, a 1-lot development located at Morning Vista Drive & Seasons View Drive in an existing Planned Community zone; subject to the completion of all Development Review Committee and Planning Commission comments. Councilor Albrecht seconded the motion.

Roll Call Vote: Councilor Southwick, Yes; Councilor Albrecht, Yes, Councilor Condie, Yes; Councilor Revill, Yes; and Councilor Hancock, Yes. The motion passed unanimously.

6. Consideration of Final Subdivision approval for Newman Ranch, a 52-lot residential development located at 1100 West Main Street in R-2 and R-1-22 zones.

Councilor Albrecht stated that it had been mentioned earlier that this has been a long process and there has been a lot of cooperation and she appreciates it.

Motion: Councilor Revill moved to grant Final Subdivision approval for Newman Ranch, a 52-lot residential development located at 1100 West Main Street in R-2 and R-1-22 zones; subject to the completion of all Development Review Committee and Planning Commission comments. Councilor Southwick seconded the motion.

Roll Call Vote: Councilor Albrecht, Yes, Councilor Condie, Yes; Councilor Revill, Yes; Councilor Hancock, Yes; and Councilor Southwick, Yes. The motion passed unanimously.

7. Consideration of Ordinance #11-2016 approving a Development Code amendment to Chapter 23 regarding electronic billboards.

Councilor Condie stated that he is ready to make a motion. Wade Budge requested to speak.

Wade Budge from Top Ad Media stated that they have been meeting with the City since December, 2014. He thinks the product is good and can recommend it with a couple of changes that are not reflected in the proposed ordinance. He stated that Planning Commission motion asked that the ordinance include the additional figures for single faced and double faced, as proposed by the industry, for clarification; and to add that the 45 degree angle be measured from the freeway and not from the interior angle.

Wade Budge proposed additional changes and distributed a handout outlining them. He proposed removing the scenic area language found in the last sentence of section 23.170(B)(2)(c) as they feel this is unnecessary. He stated that it is not their intent to propose any new billboards but to convert some billboards. He discussed the overlay zone and spacing requirement. He thinks the overlay zone makes sense, but feels the spacing requirement has problems as it creates a race in that overlay zone. He suggested allowing a EDS to be closer than 1,000 feet if the sign is owned by a different sign company. That would allow a 500 foot spacing requirement. He stated that he has made this recommendation in other cities and they have agreed. He likes the overlay but feels the spacing requirement is problematic. Councilor Revill stated that there are only two companies. Mr. Budge replied there are six but the real player is one.

Wade Budge discussed the curfew. He stated that right now these signs are emitting light 24 hours a day. He is requesting that the sign go static at 11:00 p.m. instead of going off at night. He stated that because the sign is directional the light impact is less than it is now.

Wade Budge discussed the pole enhancement language. He thinks that could be good but wants leeway to look at them on a case by case basis. He suggested language that would allow pole painting or decorative features.

Wade Budge discussed the City's proposed section to remove two billboards in order to convert one billboard. He asked for that section to be removed. He feels that the way it is written, no one will give up two signs to get one conversion. He thinks this is a provision that will not make a difference.

Councilor Revill inquired about the spacing requirement. Kim Struthers replied that even in the overlay zone they still want to keep the spacing requirement so they don't have all the electronic signage together. He explained that the federal recommendation is 500 feet and the City wants more space at 1,000 feet. He stated that it does allow an incentive to go less than 1,000 feet if they remove signage elsewhere. Councilor Hancock doesn't like that the first to apply for the conversion wins. He doesn't have an issue with spacing. He discussed the quality of materials for signage. Mr. Budge reported that he spent time with the Planning Commission and took them on a tour to look at the electronic signs and stated that there is a

requirement that will be an improvement. He stated that if spacing is important, he did propose language that would allow for closer spacing if the adjacent signs are owned by different billboard companies. Councilor Albrecht wondered why Mr. Budge didn't like the pole enhancement. Mr. Budge stated that it will have to be case by case basis and could make a larger footprint that the landlord doesn't want. Councilor Hancock feels they could leave the requirement for an enhanced pole and the landlord could ask for a conditional use permit for a lesser footprint. Ryan Wood stated that a conditional use is when the use is permitted but they need to mitigate the impact the sign would have. He stated that if that is what they, it would need to be written in the ordinance. Mayor Wilson felt if they offered a waiver for one, everyone would want one. Mr. Budge stated that they will be ensuring that the poles are nice, as they will be holding up a very expensive sign. Kim Struthers stated that staff wanted that language as some on premise signs have some great architectural structures and they wanted off-premise signs to have the same requirement. Mr. Budge suggested adding verbiage to 3a which states "or as proposed by both applicant and the landlord and found acceptable by the Planning Commission". Councilor Condie stated that he won't include that in his motion.

Nate Seacrest from Reagan Signs stated that they have seen a lot of clumping of billboards and that happens because of zoning. He discussed the concept of a "Billboard Bank". He stated that the billboard bank allows a company to take down their sign without losing the sign. He explained that they can take the sign down, then find a location, and put it up in a different place at a later date. He stated that the City makes a record of the billboard that was taken down and gives the sign company a credit in the "bank" for that sign and then when the billboard company is ready to put the sign back up in a different location, they use the sign credit in the bank. He stated that this is a way to allow them to work within the restrictions of the City. He stated that the places that have adopted this it has worked well and he would encourage the Council to engage in this. Councilor Hancock stated that concept sounds great but wondered what the public perception is when they now have a billboard. Mr. Seacrest stated that it depends on the resident. He stated that they can already move signs but they have to do it quick, as per state law. Mayor Wilson inquired how long that timeframe is. Mr. Seacrest replied that state law is silent in that but they move quickly. Ryan Wood inquired what is the length of time they are requesting sign credits remain in the bank. Forever? Mr. Seacrest replied that is how it is now written. He stated that some cities put in a five year limit. Councilor Revill stated that the Planning Commission liked this idea but it didn't get in the ordinance. Mr. Struthers replied that it was discussed and he is not sure of the reason they didn't include it. He stated that they had a couple of billboard by the new hospital where this was discussed. He stated if they do banking, the City will always have the number of billboards it currently has and this would eliminate ever reducing billboards. Mr. Seacrest wondered if it is an appropriate use of city power to limit their business. He stated that they are not asking for new signs but to keep the amount of signs they have now. He feels the goal of the City should be to minimize any negative impact. Councilor Hancock wondered if they go down the banking path and there is resistance from the landlord are they legally obligated even though the landlord is opposed. Mr. Seacrest stated that the City has to agree with a location, but they can't say no location will work. He explained that they can't put billboards in a neighborhood. Councilor Albrecht stated that they are not trying to take away any signs but doesn't want to close that door in the future. Mr. Seacrest stated that the way the ordinance is written there is a curfew and if they have a sign that is close to a residence and they want to move it, he feels the billboard bank gives them a way to do that.

Mayor Wilson asked if there was any comments from the public.

Cal Baumgartner wants to ensure that the content of the billboards will adhere to the culture of Lehi. Ryan Wood explained that content becomes a First Amendment issue and they can't get any narrower and say there is a Lehi standard. He explained that they would have to challenge it case by case basis. Mr. Baumgartner wanted to know what type of assurance they have. Mr. Wood stated that there aren't any assurances and they would just have to take down the offense language or content as soon as they could.

Kyle Brineholt stated that he is an Illumination Engineer by trade. He has driven down the freeway and had the billboard change from light to dark which he feels is a safety hazard. Kim Struthers reported that there are illumination standards.

Jared Johnson with Yesco stated that they worked closely with the Planning Commission and staff in coming up with the lighting standard. He explained that the lighting standard is consistent with other cities and is a higher standard. He stated that he discussed the spacing requirement for signs going the same way. He is concerned that a double faced sign on the same pole wouldn't be considered to be 1,000 feet apart and wouldn't allow double facing signs. Councilor Revill wondered if that will that allow them to put double sided signs where they are currently single sided. Kim Struthers replied that all of the billboards are double sided now. He is fine with the current spacing language and stated that they would never expect to take down one side. Mr. Johnson suggested adding "and facing the same direction" to (h).

Jared Johnson discussed the curfew language and stated that none of the other cities have applied a curfew to turn off a sign that is placed along the interstate, but only near residences. He explained that the standard allows the sign to return to a static held message rather than shutting it off. He discussed the technical advantages to that and that the advertiser gets to hold a single message all night. He thinks it is appropriate to have the signs along the interstate go static at 11:00 p.m. and not be turned off. Councilor Revill stated that they don't have a curfew on the current billboard signs. Mr. Johnson stated that it would only be applied to electronic signs and if they are within 400 feet of a residence. He stated that they have the ability to orient the sign away from a residence.

Councilor Southwick stated that he likes the idea of the sign going static. Councilor Albrecht agreed. Councilor Condie stated that if they adopt the language proposed by Mr. Budge that would take care of it. Councilor Revill stated that Mr. Budge's other suggestion of the spacing requirement being 1,000 feet for the same sign company and 500 feet if a different sign company. Councilor Hancock stated that he is okay with that. Councilor Condie stated that he is fine with that too. He stated that he is inclined to suggest take out #4 which would incentivize the sign company to take down two signs to convert one. Mayor Wilson stated that he doesn't see any harm of leaving that language in.

Motion: Councilor Condie moved to approve Ordinance #11-2016 approving a Development Code amendment to Chapter 23 regarding electronic billboards. Recommend that the language stay the same except in the following areas as noted before. Recommend removing the scenic area language found in the last sentence of 23.170.B(2)(c); that the language is changed 2(h) – Spacing

Requirements to the industry's proposed language; and recommend that we leave section 4 – Exceptions to Spacing Requirements for off-premise EDSs as is. Section 2(j) – Curfew that during the times of 11:00 p.m. to 6:00 a.m. that the signs go static according to the Industry's proposed language; subject to the completion of all Development Review Committee and Planning Commission comments.

Councilor Hancock inquired if Councilor Condie wanted to leave 3(a) Decorative Pole Structure as is. Councilor Condie replied yes. Councilor Hancock stated that there was nothing about a billboard bank in the motion. Councilor Condie stated that he left that out. Councilor Albrecht pointed out that the City's language in section 2(j) Curfew is more restrictive as the sign would be required to go static if the sign is within hundred (400) foot of a residence instead of the industry proposed language of three hundred (300) feet.

Amended Motion: Councilor Condie amended his motion to include the City's proposed language of four hundred (400) feet in section 2(j) Curfew.

Councilor Hancock seconded the motion.

Roll Call Vote: Councilor Condie, Yes; Councilor Revill, Yes; Councilor Hancock, Yes; Councilor Southwick, Yes; and Councilor Albrecht, Yes. The motion passed unanimously.

8. Consideration of Ordinance #13-2016 adopting amendments to Chapter 8-7 - City Cemetery.

Motion: Councilor Southwick moved to approve Ordinance #13-2016 adopting amendments to Chapter 8-7 - City Cemetery and that this change doesn't apply to previously purchased family plots. Councilor Revill seconded the motion.

Roll Call Vote: Councilor Revill, Yes; Councilor Hancock, Yes; Councilor Southwick, Yes; Councilor Albrecht, Yes; and Councilor Condie, Yes. The motion passed unanimously.

9. Consideration of Resolution #2016-06 appointing a Board Member to the Timpanogos Special Service District.

Resolution #2016-06 proposes to appoint Chris Condie to the Timpanogos Special Service District from January 1, 2016 to December 31, 2019.

Motion: Councilor Hancock moved to approve Resolution #2016-06 appointing a Board Member to the Timpanogos Special Service District. Councilor Revill seconded the motion.

Roll Call Vote: Councilor Hancock, Yes; Councilor Southwick, Yes; Councilor Albrecht, Yes; Councilor Condie, Yes; and Councilor Revill, Yes. The motion passed unanimously.

10. Consideration of Resolution #2016-07 appointing a Member to the Tri-City Golf Course Governing Body (Fox Hollow Golf Course).

Resolution #2016-07 proposes to appoint Johnny Revill to the Tri-City Golf Course Governing Body (Fox Hollow Golf Course) from January 1, 2016 to December 31, 2019.

Motion: Councilor Southwick moved to approve Resolution #2016-07 appointing a Member to the Tri-City Golf Course Governing Body (Fox Hollow Golf Course). Councilor Condie seconded the motion.

Roll Call Vote: Councilor Southwick, Yes; Councilor Albrecht, Yes; Councilor Condie, Yes; Councilor Revill, Yes; and Councilor Hancock, Yes. The motion passed unanimously.

11. Consideration of Resolution #2016-08 appointing a new Member Representative to the North Pointe Solid Waste Special Services District.

Resolution #2016-08 proposes to appoint Johnny Revill to the North Pointe Solid Waste Special Services District from January 1, 2016 to December 31, 2019.

Motion: Councilor Condie moved to approve Resolution #2016-08 appointing a new Member Representative to the North Pointe Solid Waste Special Services District. Councilor Southwick seconded the motion.

Roll Call Vote: Councilor Albrecht, Yes; Councilor Condie, Yes; Councilor Revill, Yes; Councilor Hancock, Yes; and Councilor Southwick, Yes. The motion passed unanimously.

12. Consideration of Resolution #2016-09 appointing Planning Commissioners to the Lehi Planning Commission.

Resolution #2016-09 proposes to appoint Alternate Commissioner Kelly Ash as a Planning Commissioner to fill the unexpired term of Paige Albrecht whose term will expire December 31, 2016; and appoint Alternate Commissioner Mark Hampton to as a Planning Commissioner whose term will expire December 31, 2018.

Motion: Councilor Condie moved to approve Resolution #2016-09 appointing Planning Commissioners to the Lehi Planning Commission. Councilor Hancock seconded the motion.

Roll Call Vote: Councilor Condie, Yes; Councilor Revill, Yes; Councilor Hancock, Yes; Councilor Southwick, Yes; and Councilor Albrecht, Yes. The motion passed unanimously.

13. Consideration of Resolution #2016-10 appointing Board Members to the Lehi City Public Library Board of Directors.

Resolution #2016-10 proposes to reappoint Kellie Mecham and Jeffrey Driggs as Board members which began July 1, 2015 and will expire June 30, 2018.

Motion: Councilor Revill moved to approve Resolution #2016-10 appointing Board Members to the Lehi City Public Library Board of Directors. Councilor Southwick seconded the motion.

Roll Call Vote: Councilor Revill, Yes; Councilor Hancock, Yes; Councilor Southwick, Yes; Councilor Albrecht, Yes; and Councilor Condie, Yes. The motion passed unanimously.

14. Consideration of adjourning into a Closed Executive Session to discuss pending or reasonably imminent litigation and to discuss the character, professional competence, or physical or mental health of an individual.

Motion: Councilor Condie moved to adjourn into a Closed Executive Session to discuss pending or reasonably imminent litigation and to discuss the character, professional competence, or physical or mental health of an individual. Councilor Southwick seconded the motion.

Roll Call Vote: Councilor Hancock, Yes; Councilor Southwick, Yes; Councilor Albrecht, Yes; Councilor Condie, Yes; and Councilor Revill, Yes. The motion passed unanimously.

The meeting recessed into the Closed Executive Session at 8:48 pm.
The meeting reconvened at 9:20 p.m.

26. Adjournment

With no further business to come before the City Council at this time, Councilor Condie moved to adjourn the meeting. Councilor Albrecht seconded the motion. The motion passed unanimously. The meeting adjourned at approximately 9:20 p.m.

Approved: March 8, 2016

Attest:

Bert Wilson, Mayor

Marilyn Banasky, City Recorder