

2 The Lindon City Council held a regularly scheduled meeting on **Tuesday, January 3, 2006**
beginning at 7:00 p.m., at the Lindon City Center, City Council Chambers, 100 North State
Street, Lindon, Utah.

4 Conducting: Jeff Acerson, Mayor
6 Pledge of Allegiance: Ryan James Thompson
Invocation: Ott Dameron

8 **PRESENT**

ABSENT

10 Jeff Acerson, Mayor
12 Jerald I. Hatch, Councilmember
Eric Anthony, Councilmember
14 H. Toby Bath, Councilmember
Lindsey Bayless, Councilmember
16 Bruce Carpenter, Councilmember
Ott H. Dameron, City Administrator/Recorder
18 Adam Cowie, Planning Director
Brian Haws, City Attorney

Debra Cullimore, Deputy City Recorder

20 The meeting was called to order at 7:02 p.m.

22 **SWEARING-IN CEREMONY** - The newly elected members of the City Council, Toby Bath,
24 Eric Anthony, and Mayor Acerson will be sworn-in to 4 year terms of office. The City
Administrator/Recorder and the Finance Director/Treasurer will also be sworn-in. The Utah
26 State Code requires the appointed positions of Recorder and Treasurer to be reappointed after
each municipal election.

28 The City Recorder, Ott Dameron, asked the recently elected officials and the City
30 Treasurer to come forward to take the Oath of Office. Mayor Acerson, Councilmember Toby
Bath, Councilmember Eric Anthony, and City Treasurer Kristen Colson came forward. Mr.
32 Dameron administered the Oath of Office to them. Judge Bullock will attend the City Council
meeting on January 17, 2006 to administer the oath of office to Mr. Dameron.

34 **MAYOR PRO-TEM** - By Mayor and City Council direction, the appointment of a Mayor Pro-
36 Tem will be rotated quarterly among the Council members. Councilmember Eric Anthony will
be the Mayor Pro-Tem for January through March of 2006. This item was given as information
38 only.

40 **MINUTES** – The minutes of the regular meeting of December 20, 2005 were reviewed. The
following corrections were made:

42 Page 3, Line 46 Insert the word, “financially” before the word “feasible.”
44 Page 5, Line 26 Insert the words, “and overall number of lots” after the word
“density.”

Page 8, Line 33 Insert the words, “scope and priorities of the” before the word
“Code.”

COUNCILMEMBER BATH MOVED TO APPROVE THE MINUTES OF THE
DECEMBER 20, 2005 MEETING AS CORRECTED. COUNCILMEMBER BAYLESS
SECONDED THE MOTION. ALL PRESENT VOTED IN FAVOR. THE MOTION
CARRIED.

OPEN SESSION – No comments.

MAYOR’S COMMENTS/REPORT –

Mayor Acerson spoke of the loss of the sister and mother of Don Peterson, Public Works
Director, with both dying within a short time of each other. He extended his personal
condolences to Mr. Peterson and his family. The Mayor also spoke of the illness of Debra
Cullimore’s daughter who is in the hospital at this time. He asked all to remember her in our
thoughts and prayers.

CONSENT AGENDA – No items.

CURRENT BUSINESS –

1. **Review and Action** – *Appeal of Code Enforcement Decision.* This is an appeal of a
Code Enforcement decision regarding storage of vehicles and trailers placed within the front set
back in residential zones of the city. Theresa Adamson will be present to speak to the Council.

Mayor Acerson invited Ms Adamson to come forward and speak with the Council. Ms
Adamson stated that she has been a resident of Lindon City since September 26, 1979. She
described her neighborhood of 13 houses as being on the dead-end portion of 800 West. She
said that she had used the area on the south side of her home within the front set back distance
for RV and trailer parking since 1980. She said the street has very little traffic. She requested
that her situation be “grandfathered” to allow her to continue to park trailers in the front set back.

Ms Adamson then spoke of the volunteer service she has rendered to the city by being a
concerned citizen. She has reported weed problems and signage problems as well as collected
blowing debris around her neighborhood. She said she was trying to be a good citizen.

Mayor Acerson asked Ms Adamson if she understood that parking vehicles in the front
set back was against the city’s ordinances. She replied that she new it was against the
ordinances, but it “isn’t a problem.” The Mayor asked if she had removed some vehicles and
what vehicles are remaining. She said she had removed some of the vehicles and that 3 remain:
a 4-horse trailer, a 2-horse trailer, and a dump trailer.

Councilmember Bayless read a portion of the City Code requiring storage vehicles to not
be visible from the street or other properties. She then asked Ms Adamson if she could move
these remaining trailers out of the front yard. Ms Adamson said that she would rather have them
“grandfathered” in because this residential street is very close to commercial developments and
will not remain residential forever.

2 Mayor Acerson asked Mr. Haws, the City Attorney, to comment. Mr. Haws explained
that the ordinance was primarily in place to address safety issues. By keeping the front yards
4 clear, visibility is enhanced for any potential conflicts between pedestrians and vehicles. A
secondary issue would be aesthetic. He said the Council could not decide an issue contrary to
the ordinances of the city. He said “grandfathering” is not possible.

6 Some discussion was then held concerning “inoperable” vehicles and “operable” vehicles
as well as the definition of Recreational Vehicles. It was determined that the horse trailers could
8 fit the definition of an RV.

10 Councilmember Bath stated that he would suggest that Ms Adamson move the vehicles to
the back yard, behind the fence. He said he understood that because of the weather and muddy
yard, perhaps the vehicles could not be moved immediately. He suggested specifying a time
12 period for her to comply.

14 Councilmember Anthony said one of his concerns was having multiple vehicles in the
front set back. Councilmember Bayless commended Ms Adamson for removing the inoperable
vehicles which she had stored, but stated that she agreed with Councilmember Bath. The
16 vehicles must be moved out of the front set back as the City Attorney has advised. Mr. Haws
then stated that having vehicles stored in the front set back could expose the home owner to
18 liability problems as well.

20 Ms Adamson then asked about notifying the citizens of ordinance changes. She said that
publishing a notice in the newspaper and posting the notice on the city’s bulletin boards is not
enough. She suggested that a notice be included in the utility bill. The Council explained that
22 the Council meets twice a month and that the utility bill is issued only once per month, so the
timeliness of the notice would be a problem. However, the Council encouraged staff to look into
24 using the utility bill as a vehicle for notice.

26 Councilmember Bath stated that he understood Ms Adamson’s perspective, and he was
sympathetic to her problem; however, the city needs to abide by its ordinances.

28 COUNCILMEMBER BATH MOVED TO GIVE MS ADAMSON UNTIL JUNE 1,
2006 TO COMPLY WITH THE CITY ORDINANCES AND REMOVE ALL THE VEHICLES
30 FROM THE 30 FOOT FRONT YARD SET BACK, AND TO DIRECT STAFF TO REVIEW
THE REQUIREMENTS OF THE CITY ORDINANCES PERTAINING TO VEHICLES
32 BEING VISIBLE FROM A PUBLIC STREET OR OTHER PROPERTIES.

34 The Council then had further discussion. Councilmember Carpenter said he was
sympathetic to the issue but he still had some “heartburn.” He felt that by arbitrarily extending
36 the time for compliance, the Council could be setting a precedent for others.

38 Councilmember Hatch felt the ordinance should be revisited, and that the city was
“nitpicking people to death.” Councilmember Bayless said that the Council has a responsibility
to protect the neighbors. Mayor Acerson asked the City Attorney about responding only on
40 complaint by a neighbor. Mr. Haws said that might be construed as selective enforcement.

42 Councilmember Bath then amended his motion to include the reason for the extension of
time to comply by inserting the words, “due to the weather and extremely muddy conditions.”

44 The motion then read:

COUNCILMEMBER BATH MOVED TO GIVE MS ADAMSON UNTIL JUNE 1, 2006 TO COMPLY WITH THE CITY ORDINANCES DUE TO THE WEATHER AND EXTREMELY MUDDY CONDITIONS AND REMOVE ALL THE VEHICLES FROM THE 30 FOOT FRONT YARD SET BACK, AND TO DIRECT STAFF TO REVIEW THE REQUIREMENTS OF THE CITY ORDINANCES PERTAINING TO VEHICLES BEING VISIBLE FROM A PUBLIC STREET OR OTHER PROPERTIES. COUNCILMEMBER BAYLESS SECONDED THE MOTION. THE VOTE WAS RECORDED AS FOLLOWS:

COUNCILMEMBER ANTHONY	NAY
COUNCILMEMBER BATH	AYE
COUNCILMEMBER BAYLESS	AYE
COUNCILMEMBER CARPENTER	AYE
COUNCILMEMBER HATCH	NAY

THE MOTION CARRIED (3-2).

2. **Review and Action** – *Review of Planning Commission Approval of Conditional Use Permit for Ace Disposal, Inc. – Storage Yard/Staging Area.* Clark Taylor, of Schaeffer Industries, is appealing the approval of the Ace Disposal Inc. Storage Yard/Staging Area given by the Planning Commission on November 9, 2005. Mr. Taylor will be here to address the Council.

Clark Taylor was present as the representative for this appeal. Richard Hamik was also present as the representative for Ace Disposal, Inc. The owner of the property where the business will be located, Boyd Jacobson, was also present at the meeting. Mr. Taylor requested to address the Council prior to Mr. Cowie’s presentation, noting that typically the applicant is given the opportunity to address the Council at the beginning and end of each discussion. City Attorney, Brian Haws, suggested that it would be appropriate for Mr. Cowie to review elements of the approval and the appeal for the Council prior to any comments from Mr. Taylor.

Mr. Cowie outlined the location of the property in the HI zone. Mr. Cowie noted that the Ace Disposal application for a conditional use permit was reviewed and approved by the Planning Commission during their regular meeting on November 9, 2005, and that neighboring property owners had received proper notice of the public meeting. Mr. Cowie reviewed the recommendations of approval made by the Planning Commission as follows:

1. That a six foot fence be installed around the perimeter of the site.
2. That the applicant be responsible for cleanup of any trash which is not contained at the site.
3. That the required 20 foot landscaping strip be installed on the street frontage.
4. That no trash is stored on the site.
5. That no unusable containers are stored on the site.
6. That the large containers are not stacked.
7. That the small containers are stacked no more than two high.
8. That dust control measures are used if necessary.
9. That there is no maintenance of vehicles or containers on the site.
10. That the City consider red curbing in the area to alleviate on street parking problems.

Mr. Cowie pointed out that this is a conditional use under the specifications of the Standard Land Use Table. Mr. Cowie noted that the Ace Disposal application also appears to meet the ten compatibility standards outlined in Appendix C, Section III of the Standard Land

2 Use Table of the Lindon City Code. Mr. Cowie drew the attention of the Council to the appeal
form submitted by Mr. Taylor which was included in the information packet for this meeting.
4 Mr. Cowie displayed pictures of the existing Ace Disposal site located in West Valley City, as
well as the plat map of the proposed site in Lindon. Mr. Cowie noted that all neighboring
6 property owners had been properly noticed, but that the owner of Schaeffer Industries resides in
California, which may have caused some delay in the response to the notice.

8 Mr. Hamik then addressed the Council regarding the proposed business. He stated that
the West Valley location has been in operation for approximately 25 years, and that they have
also been conducting business in the Utah County area for the past 9 years. Mr. Hamik noted
10 that the Lindon site would be used as a staging and storage area to service business customers in
Utah County, and that this site is a good location for the business. Mr. Hamik stated that short
12 term plans for the site include storage and staging of trucks and containers, and that long term
plans include construction of a permanent building with an office. Mr. Hamik stated that they
14 are willing to address any concerns of neighboring businesses. He noted that they have received
no odor complaints from neighboring property owners at the West Valley site. Mr. Hamik
16 described the operation of the business, and assured the Council that the site will be kept clean.

18 Mayor Acerson noted that the Planning Commission approved the Conditional Use
Permit (CUP) for this application. He asked Mr. Cowie if a CUP is reviewable at any time. Mr.
Cowie confirmed that the CUP is reviewable upon complaint.

20 Mr. Taylor then addressed the Council regarding the appeal. Mr. Taylor stated that
Schaeffer Industries has been a part of the Lindon community for approximately 20 years, and
22 that the owners of Schaeffer Industries, Shadow Mountain Industrial Properties, own 27
additional acres of land in the area. Mr. Taylor outlined the properties owned by Shadow
24 Mountain on an overhead picture. Mr. Taylor stated that there are “new and upcoming”
businesses in the area. He explained operations at the existing Schaeffer Industries site, which
26 include splitting steel, steel pipe and tube manufacturing, and rolling and forming of steel. Mr.
Taylor stated that hydrochloric acid had destroyed the exterior of one of the existing buildings,
28 necessitating the removal of the exterior “skin” of the building. The exterior sheeting is
currently being replaced. Mr. Taylor also noted that Schaeffer Industries is considering
30 construction of an additional 50,000 square feet of manufacturing space on the south end of the
existing building. Mr. Taylor described Schaeffer Industries as a “first class business.” Mr.
32 Taylor referred to the Lindon City Code, Section 17.20.010, which outlines the purpose and
intent of Conditional Uses, and specifies “compatible integration of uses which are related to the
34 permitted uses of the district or are of a temporary nature only.” Mr. Taylor stated that there is
no capital investment on the part of the applicant, and that in his opinion the proposed use does
36 not meet specifications of the code. Mr. Taylor suggested that allowing this business to locate at
the proposed site may be injurious to property values of neighboring businesses due to the nature
38 of the business. Mr. Taylor asserted that the proposed use is not compatible with permitted uses.

40 Councilmember Carpenter noted that the property owner of Schaeffer Industries resides
in California. He commented that the appearance of the existing Schaeffer Industries building on
the south end of the site creates a challenge for the City. Mayor Acerson agreed that the overall
42 appearance of the existing building is problematic. Councilmember Carpenter observed that Mr.
Taylor was presenting the surrounding properties as a “campus” type development, and
44 attempting to portray the “classiness” of the park. He observed that while there is some

2 “campus” element to the area, there are also significant problems associated with the appearance
of Schaeffer Industries and other businesses in the area.

4 Mayor Acerson asked Mr. Taylor if there were any conditions under which he would
accept approval of the Ace Disposal application. Mr. Taylor stated that in his opinion, the use is
not compatible with the specifications of the code, and that there were no conditions under which
6 approval of the Ace Disposal application would be acceptable.

8 Mr. Haws asserted that according to City Code and the Standard Land Use Table, the
proposed business is compatible with permitted uses in the zone. He stated that land use
decisions are made on a rational basis, and that the City Council has wide latitude to approve the
10 application.

12 Councilmember Carpenter asked if any transitional uses are defined in the code between
the HI to the LI zone. Mr. Cowie stated that there are no transitional uses defined in the code.
Councilmember Carpenter inquired as to other permitted uses which may be similar to the
14 proposed Ace Disposal business. Mr. Cowie read several similar permitted uses, such as buses
and motor freight. Councilmember Carpenter commented that the minutes of the Planning
16 Commission meeting did not seem to reflect discussion regarding compatibility standards. Mr.
Cowie stated that while they were not specified as such, possible conflicts with compatibility
18 standards were generally discussed.

20 Councilmember Bayless noted that Craig Brady, owner of the neighboring property to the
west, had addressed the Planning Commission during review of this item. Mr. Brady expressed
concern regarding dust from the Ace Disposals site, which may negatively affect his printing
22 business. She asked if Mr. Brady’s concerns had been adequately addressed. Mr. Cowie stated
that the Planning Commission had required dust control measures in the event that dust becomes
24 problematic. Mr. Cowie observed that it seemed apparent that Mr. Brady’s concerns were
addressed, as he was present during the discussion and had not protested the approval.

26 Mr. Cowie noted that rebuttal testimony would be appropriate at this time. Mayor
Acerson invited Mr. Hamik and Mr. Taylor to give closing remarks.

28 Mr. Hamik noted that he expects Ace Disposal to grow in the future, and that initially it
will not operate at full capacity. Councilmember Anthony inquired as to the projected time
30 frame for the business to reach capacity. Mr. Hamik stated that they expect it will take three to
five years.

32 Mr. Taylor again stated that he felt that the proposed business is not compatible with
approved and permitted uses in the zone, and is hopeful that the City Council will deny the
34 application.

36 Mayor Acerson called for further comments or discussion. Hearing none, he called for a
motion.

38 COUNCILMEMBER CARPENTER MOVED TO DENY THE APPEAL FILED BY
SCHAEFFER INDUSTRIES/SHADOW MOUNTAIN INDUSTRIAL PROPERTIES
40 AGAINST THE ACE DISPOSAL INC. CONDITIONAL USE PERMIT APPLICATION
APPROVAL, FINDING THAT THE PROPOSED USE **ALIGNS WELL WITH A VARIETY**
42 **OF PERMITTED USES AND** IS COMPATIBLE IN THE HI ZONE, AND WITH THE
PLANNING COMMISSION CONDITIONS AMENDED AS FOLLOWS:

44 1. THAT A SIX FOOT FENCE BE INSTALLED AROUND THE PERIMETER OF THE
SITE.

- 2. THAT THE APPLICANT BE RESPONSIBLE TO KEEP THE SITE FREE OF TRASH.
- 3. THAT THE REQUIRED 20 FOOT LANDSCAPING STRIP BE INSTALLED AND MAINTAINED ON THE STREET FRONTAGE.
- 4. THAT NO TRASH BE STORED AT THE SITE.
- 5. THAT NO UNUSABLE CONTAINERS BE STORED AT THE SITE.
- 6. THAT THE LARGE CONTAINERS MAY NOT BE STACKED.
- 7. THAT THE SMALL CONTAINERS BE STACKED NO MORE THAN TWO HIGH.
- 8. THAT DUST CONTROL MEASURES WILL BE USED IF NECESSARY.
- 9. THAT NO MAINTENANCE OF VEHICLES OR CONTAINERS OCCUR AT THE SITE.
- 10. THAT THE CITY CONSIDER RED CURBING IN THE AREA TO ALLEVIATE ON STREET PARKING PROBLEMS.

COUNCILMEMBER BAYLESS SECONDED THE MOTION. THE VOTE WAS RECORDED AS FOLLOWS:

- COUNCILMEMBER ANTHONY AYE
 - COUNCILMEMBER BATH NAY
 - COUNCILMEMBER BAYLESS AYE
 - COUNCILMEMBER CARPENTER AYE
 - COUNCILMEMBER HATCH AYE
- THE MOTION CARRIED (4-1).

~~Councilmember Carpenter noted that this use is compatible in the HI zone, and that it aligns well with a large variety of permitted uses in the HI zone.~~ Mr. Cowie noted that State statute specifies an additional 30 day period in which the Council’s denial of this appeal may be appealed to the courts.

- 3. **Review and Action** – *Cemetery Property – Early Payoff*. This is a request by staff for the Council’s consideration and possible approval of the early payoff for the remaining four acres of cemetery property located at approximately 600 North 200 East.

Councilmember Anthony declared a conflict of interest, and excused himself from discussion and the vote on this item. Mr. Dameron reviewed specifics of the payoff of the cemetery property purchase agreement. The agreement is with Mr. Shirl Tomlinson. Councilmember Bayless asked if there were any staff concerns. Mr. Dameron stated that there are no staff concerns. Mayor Acerson called for further comments or discussion. Hearing none, he called for a motion.

COUNCILMEMBER BAYLESS MOVED TO APPROVE THE EARLY PAYOFF OF THE REMAINING FOUR ACRES OF CEMETERY PROPERTY LOCATED AT APPROXIMATELY 600 NORTH 200 EAST IN THE AMOUNT OF \$61,483.47. COUNCILMEMBER HATCH SECONDED THE MOTION. THE VOTE WAS RECORDED AS FOLLOWS:

- COUNCILMEMBER BATH AYE
- COUNCILMEMBER BAYLESS AYE
- COUNCILMEMBER CARPENTER AYE
- COUNCILMEMBER HATCH AYE

2 THE MOTION CARRIED UNANIMOUSLY WITH ONE EXCUSED.

4 4. **Review and Action** – *Modification of the Lindon City Heritage Trail*. This is a request by
6 staff for the Council’s consideration and possible approval of a change in the time line for
8 funding and construction of the Lindon Heritage Trail.

10 Councilmember Anthony returned to the stand for this item. Mr. Dameron reviewed
12 handouts which outlined the budget amendment for the trail. He also showed the Council the
14 new proposed time line for completion of the trail. He stated that it would be necessary to have
16 funds available at the appropriate times in order to meet the target construction schedule, and in
18 that regard, the City has communicated with MAG through a letter requesting the appropriate
funding allocation changes be made. Mayor Acerson called for further comments or discussion.
Hearing none, he called for a motion.

COUNCILMEMBER BAYLESS MOVED TO APPROVED THE CHANGE IN THE TIME
LINE FOR CONSTRUCTION AND THE AMENDED BUDGET FOR FUNDING OF THE
LINDON HERITAGE TRAIL. COUNCILMEMBER ANTHONY SECONDED THE
MOTION. ALL PRESENT VOTED IN FAVOR. THE MOTION CARRIED.

20 **COUNCIL REPORTS** –

22 **WATER, SEWER, SOLID WASTE, HOUSING CONSORTIUM**

24 Councilmember Hatch reported that trash will be trucked to Tooele in the event that the rail
26 contract under which the transfer station operates is terminated. He also informed the Mayor and
Council that the landfill has adopted a new fee schedule **which reflects a decrease in the fee
charged per pick up truck load.**

28 **TRAILS, PLANNING, ZONING, BOARD OF ADJUSTMENTS, ADMINISTRATION**

30 Councilmember Bayless inquired as to whether any flooding had occurred as a result of
32 recent storms. Mr. Dameron stated that he was unaware of any flooding. Councilmember
34 Bayless stated that the ditch adjacent to her home had exceeded capacity during the storm, and
that water had flowed through her property onto neighboring property. No damage was reported.

36 **PUBLIC SAFETY, COURT, BUILDING INSPECTIONS**

38 Councilmember Bath reported that the stop sign located at 630 East Center Street appears to
40 have been hit, and is leaning to one side. He also reported a hole in the street at the intersection
of Center Street and State Street. Mr. Dameron will follow up with Public Works.
42 Councilmember Bath inquired as to the status of the Utah Auto Sales sign on the east site. He
noted that the City Council had required the size of the sign to be reduced as a condition of
44 approval for the larger sign on the west site. Councilmember Bath also commented on other
signs displayed at Utah Auto Sales which may not be in compliance with City code. Code
Enforcement Officer, Gary Hoglund, will follow up on the matter.

2 **PARKS, RECREATION, ENGINEERING, LINDON FAIR, NEWSLETTER**

4 Councilmember Anthony reported that the culinary pump located at 200 East is pumping into
the North Union Canal. Mr. Dameron will follow up on this matter.

6

GENERAL PLAN, STREETS & SIDEWALKS, PUBLIC BUILDINGS

8

10 Councilmember Carpenter reported that the paving on the recently completed road
project on 200 South in the area of 900 East is sinking on the south side of the road. Mr.
Dameron will follow up with Orem City, as the problem appears to be on the Orem side of the
12 road.

14 **ADMINISTRATORS REPORT –**

16 Mr. Dameron reported on the following items:

- 18 1. The Council reviewed the project tracking list.
- 20 2. Recycling accounts are currently at 327.
- 22 3. Pipe Inspection Services will begin lateral repairs on the sewer system this week,
PEC will begin main line repairs next week.
- 24 4. Review of the audit has been rescheduled to the January 17, 2006 meeting.

22

24 COUNCILMEMBER BATH MOVED TO APPROVE THE PAY VOUCHERS.
COUNCILMEMBER HATCH SECONDED THE MOTION. ALL PRESENT VOTED IN
FAVOR. THE MOTION CARRIED.

26

28 COUNCILMEMBER BAYLESS MOVED TO RATIFY APPROVAL OF THE PAY
VOUCHERS OF THE DECEMBER 20, 2005 MEETING. COUNCILMEMBER CARPENTER
SECONDED THE MOTION. ALL PRESENT VOTED IN FAVOR. THE MOTION
30 CARRIED.

32 **ADJOURN –**

34 COUNCILMEMBER HATCH MOVED TO ADJOURN THE MEETING AT 9:40 P.M.
COUNCILMEMBER BATH SECONDED THE MOTION. ALL PRESENT VOTED IN
36 FAVOR. THE MOTION CARRIED.

38

APPROVED – January 17, 2006

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Ott H. Dameron, City Administrator/Recorder

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Jeff Acerson, Mayor