

Mayor
Kenneth Romney

**City Engineer/ Land
Use Administrator**
Kris Nilsen

City Recorder
Remington Whiting

**City Council
Representative**
Dell Butterfield

WEST BOUNTIFUL PLANNING COMMISSION

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West Bountiful, Utah 84087

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Chairman
Alan Malan

Vice Chairman
Corey Sweat

Commissioners
Laura Mitchell
Dennis Vest
Robert Merrick
Tyler Payne

**THE PLANNING COMMISSION WILL HOLD A REGULAR MEETING
AT 7:30 PM ON TUESDAY, JUNE 10TH, 2025 AT THE CITY OFFICES.**

Invocation/Thought – Commissioner Malan

Pledge of Allegiance – Commissioner Sweat

1. Confirm Agenda
2. Discuss Business Use Classifications Process.
3. Open Meeting Training.
4. Approve Meeting Minutes from May 27th, 2025.
5. Staff Reports.
6. Adjourn.

*This agenda was posted on the State Public Notice website (Utah.gov/pmn), the city website (WBCityut.gov),
and posted at City Hall on June 6th, 2025 by Remington Whiting, City Recorder.*

MEMORANDUM



TO: Planning Commission

DATE: June 4th, 2025

FROM: City Staff

RE: Discussion – Business Use Classifications Process

This memo introduces for discussion new state law requirements related to listed permitted and conditional uses.

Senate Bill 179 from 2025 (attached) requires cities to adopt a formal process for addressing proposed businesses that are not currently listed as permitted businesses within the city. The intent is to provide a consistent method for addressing business activities that do not exactly match the code as new types of businesses and technologies are developed.

The new process must be adopted into the land use code and include:

- How an applicant must submit a classification request.
- A set of defined criteria on how the city will review the request.
- Allowing the proposed use to proceed if it “aligns with an existing use”.
- If the proposed use is determined to be “new”, define how the city council will review the request and provide a timeline.
- An appeal process is the applicant disagrees with the classification determined by the land use authority.

Staff are searching for examples of codes that provide all the required processes, but as this is new legislation, we haven’t been able to find any examples yet. Questions that the planning commission may want to start discussing include:

- A. Do you have recommendations for what you would want included in an application for a “classification request”, or what should the city review to determine a business’s classification?
- B. Should all new businesses be required to submit a “classification request” or only new businesses that do not fit very obviously into a permitted or conditional use?
- C. Who should act as the land use authority for classification requests? Examples include the zoning administrator and the planning commission.
- D. What timeframe do you believe is reasonable for the city council to approve or deny a new or unlisted business use?
- E. Now that a new process must be in place, should the city consider removing language such as found in WBMC 17.32.030(M), where a business becomes an entitled conditional use if it is “Other retail businesses which are similar to those listed in this section and Section 17.32.020, as determined by the planning commission.”
- F. Do you have any other recommendations or questions on this topic?

Local Regulation of Business Entities Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Calvin R. Musselman

House Sponsor: Karen M. Peterson

LONG TITLE

General Description:

This bill enacts provisions related to local classification and approval of new and unlisted business uses.

Highlighted Provisions:

This bill:

- defines terms; and
- requires each municipality and county to enact a land use regulation establishing a process for reviewing a business use not listed as an approved use in existing ordinances.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

10-9a-507.5, Utah Code Annotated 1953

17-27a-506.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **10-9a-507.5** is enacted to read:

10-9a-507.5 . Classification of new and unlisted business uses.

(1) As used in this section:

- (a) "Classification request" means a request to determine whether a proposed business use aligns with an existing land use specified in a municipality's land use ordinances.
- (b) "New or unlisted business use" means a business activity that does not align with an existing land use specified in a municipality's land use ordinances.

- (2)(a) Each municipality shall incorporate into the municipality's land use ordinances a process for reviewing and approving a new or unlisted business use and designating an appropriate zone or zones for an approved use.
- (b) The process described in Subsection (2)(a) shall:
- (i) detail how an applicant may submit a classification request;
 - (ii) establish a procedure for the municipality to review a classification request, including:
 - (A) providing a land use authority with criteria to determine whether a proposed use aligns with an existing use; and
 - (B) allowing an applicant to proceed under the regulations of an existing use if a land use authority determines a proposed use aligns with that existing use;
 - (iii) provide that if a use is determined to be a new or unlisted business use:
 - (A) the applicant shall submit an application for approval of the new or unlisted business use to the legislative body for review;
 - (B) the legislative body shall consider and determine whether to approve or deny the new or unlisted business use; and
 - (C) the legislative body shall approve or deny the new or unlisted business use, within a time frame the legislative body establishes by ordinance, if the applicant responds to requests for additional information within a time frame established by the municipality and appears at required hearings;
 - (iv) provide that if the legislative body approves a proposed new or unlisted business use, the legislative body shall designate an appropriate zone or zones for the approved use; and
 - (v) provide that if the legislative body denies a proposed new or unlisted business use, or if an applicant disagrees with the land use authority's classification of the proposed use, the legislative body shall:
 - (A) notify the applicant in writing of each reason for the classification or denial; and
 - (B) offer the applicant an opportunity to challenge the classification or denial through an administrative appeal process established by the municipality.
- (3) Each municipality shall amend each land use ordinance that contains a list of approved or prohibited business uses to include a reference to the process for petitioning to approve a new or unlisted business use, as described in Subsection (2).

Section 2. Section **17-27a-506.5** is enacted to read:

17-27a-506.5 . Classification of new and unlisted business uses.

(1) As used in this section:

(a) "Classification request" means a request to determine whether a proposed business use aligns with an existing land use specified in a county's land use ordinances.

(b) "New or unlisted business use" means a business activity that does not align with an existing land use specified in a county's land use ordinances.

(2)(a) Each county shall incorporate into the county's land use ordinances a process for reviewing and approving a new or unlisted business use and designating an appropriate zone or zones for an approved use.

(b) The process described in Subsection (2)(a) shall:

(i) detail how an applicant may submit a classification request;

(ii) establish a procedure for the county to review a classification request, including:

(A) providing a land use authority with criteria to determine whether a proposed use aligns with an existing use; and

(B) allowing an applicant to proceed under the regulations of an existing use if a land use authority determines a proposed use aligns with that existing use;

(iii) provide that if a use is determined to be a new or unlisted business use:

(A) the applicant shall submit an application for approval of the new or unlisted business use to the legislative body for review;

(B) the legislative body shall consider and determine whether to approve or deny the new or unlisted business use; and

(C) the legislative body shall approve or deny the new or unlisted business use, within a time frame the legislative body establishes by ordinance, if the applicant responds to requests for additional information within a time frame established by the county and appears at required hearings;

(iv) provide that if the legislative body approves a proposed new or unlisted business use, the legislative body shall designate an appropriate zone or zones for the approved use; and

(v) provide that if the legislative body denies a proposed new or unlisted business use, or if an applicant disagrees with a land use authority's classification of the proposed use, the legislative body shall:

(A) notify the applicant in writing of each reason for the classification or denial;
and

(B) offer the applicant an opportunity to challenge the classification or denial

97 through an administrative appeal process established by the county.
98 (3) Each county shall amend each land use ordinance that contains a list of approved or
99 prohibited business uses to include a reference to the process for petitioning to approve a
100 new or unlisted business use, as described in Subsection (2).

101 Section 3. **Effective Date.**

102 This bill takes effect on May 7, 2025.

UTAH OPEN & PUBLIC MEETINGS ACT

UTAH CODE ANN. §52-4-101et seq.

Annual Training Per UCA §52-4-104
June 4, 2024

Declaration of Public Policy

- West Bountiful City exists to aid in the conduct of the people's business.
 - **Actions will be taken openly**
 - **Deliberations will be conducted openly**

ALL THOSE IN FAVOR
OF WHAT WE DISCUSSED
IN OUR E-MAIL THREAD
AND AT LARRY'S SON'S
BIRTHDAY PARTY SAY 'AYE'

'Aye'

'Aye'

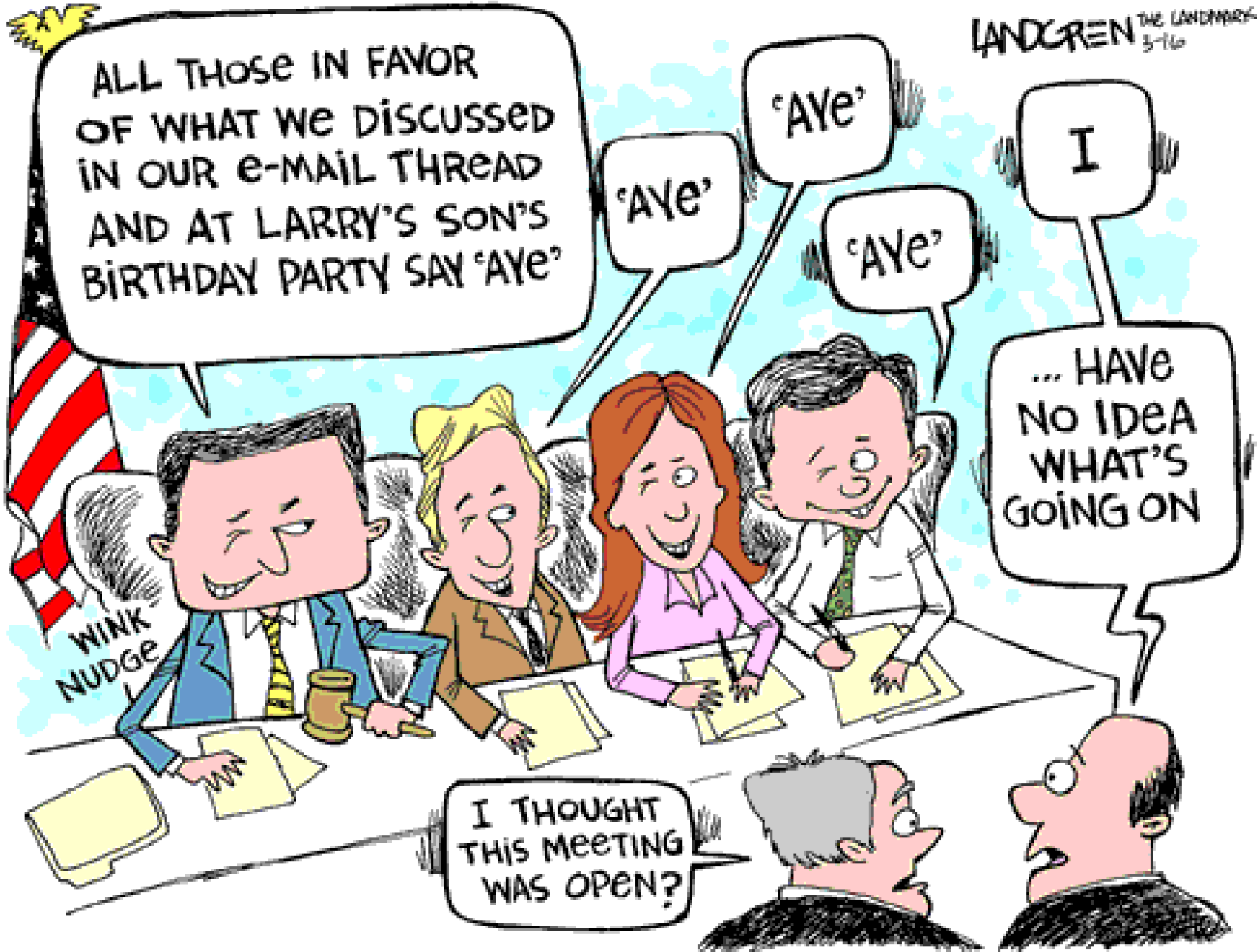
'Aye'

I

... HAVE
NO IDEA
WHAT'S
GOING ON

I THOUGHT
THIS MEETING
WAS OPEN?

WINK
NUDGE



To Whom Does the Law Apply

- Any administrative, advisory, executive, or legislative body that:
 - Was created by statute, rule, ordinance, or resolution; and
 - Expends, disburses, or is supported in whole or in part by tax revenue; and
 - Is vested with the authority to make decisions regarding the public's business (including recommendations to the City Council)

For West Bountiful, This Includes:

- City Council
- Planning Commission
- Emergency Preparedness Advisory Committee
- Arts Council
- Youth City Council

What Is a Meeting?

- Quorum must be present
 - Including workshops
 - In person or electronically
- You are there to:
 - Discuss, or
 - Receive Comment, or
 - Act on anything you have jurisdiction or advisory authority over.

What is Not a Meeting?

- A chance meeting
- A social meeting
- Convening a public body with both legislative and executive responsibilities where no public funds are appropriated and meeting solely for discussion or to implement administrative/operational matters

Meetings

- Must be open to the public unless properly closed;
- Must be properly noticed;
- Must be properly recorded.

Disruption of Meetings

- A person may be removed from a meeting if they willfully disrupt the meeting to the extent that orderly conduct is seriously compromised. UCA § 52-4-301

Notice

- Must be Posted at City Office, City Website, and Utah Public Notice Website at least 24 hours before the meeting and include:
 - Agenda, Date, Time, Location
- May be provided to a Newspaper within Geographic Jurisdiction, or Local Media Correspondent
- Post Annual Notice of Meetings Scheduled for the year

Electronic Meetings

- A resolution, rule, or ordinance “governing the use of electronic meetings” must be adopted by Public Body
- Can meet by phone, computer, or other electronic means
- Notice requirements still apply
- Public must be able to attend or participate

Agenda

- “Shall provide reasonable specificity to notify the public as to the topics to be considered at the meeting”
- “Each topic shall be listed under an agenda item”
- Items not on the agenda that are raised by the public may be discussed, but cannot be acted upon.

Minutes

- Minutes For All Open Meetings Must Include:
 - Date, time, place;
 - Names of members present and absent;
 - Substance of all matters proposed, discussed, or decided;
 - Record, by individual member, of each vote taken;
 - Name of each individual giving testimony or comments, and a summary of what was said; and
 - Any additional information requested by a member.

Minutes, continued

- Body must establish and implement procedure for approval of minutes
- Pending minutes must clearly indicate that the public body has not approved the minutes and are subject to change, e.g., “Pending” or “Not Yet Approved”
- Pending minutes, Approved Minutes, and a Recording of a public meeting are public records under GRAMA
- Must be available to the public within 3 days of approval
- Minutes must be retained permanently

Audio Recordings

- Each meeting must be recorded
- Recording of open meetings must be available to the public
- Recording of closed meetings are protected records under GRAMA

Emergency Meetings

- Emergency means emergency
- Must give as much notice as possible
- Must attempt to notify all members
- A majority of members must approve the meeting
- Minutes must include a statement of the unforeseen circumstances that made the meeting necessary.

Questions/Concerns?

**West Bountiful City
Planning Commission Meeting**

May 27, 2025

PENDING – NOT APPROVED

Posting of Agenda - *The agenda for this meeting was posted on the State of Utah Public Notice website, on the West Bountiful City website, and at city hall on May 23, 2025, per state statutory requirement.*

Minutes of the Planning Commission of West Bountiful City held on Tuesday, May 27th, 2025, at West Bountiful City Hall, Davis County, Utah.

MEMBERS ATTENDING: Chairman Alan Malan, Commissioners Corey Sweat, Dennis Vest, Laura Mitchell, Tyler Payne (Alternate), and Council member Dell Butterfield.

MEMBERS/STAFF EXCUSED: Robert Merrick

STAFF ATTENDING: Kris Nilsen (City Engineer), Remington Whiting (Community Development), and Debbie McKean (Secretary).

PUBLIC ATTENDING: John Janson, Mike Sowby

Assignments for the Prayer/Thought and Pledge were reassigned for this evening meeting.

Thought/Invocation Council member Butterfield gave the thought and pledge of Allegiance.

1. Confirm Agenda

Chairman Malan reviewed the proposed agenda. Laura Mitchell moved to approve the agenda as presented. Dennis Vest seconded the motion. Voting was unanimous in favor among all members present.

2. Public Hearing – Update to West Bountiful City’s General Plan Regarding Moderate Income Housing.

Commissioner packets included a memorandum from Staff dated May 23, 2025, with Updates to City’s General Plan Moderate Income Housing Element.

Remington Whiting explained that Utah Code 10-9a-403 charges the planning commission with making recommendations to the city council for a general plan. In combination with Utah Code 10-9a-408, the city must include a moderate-income housing element within the general plan and annually report on the progress made toward adopted strategies selected from a list provided in code.

The planning commission was able to discuss and consider potential strategies on Tuesday, December 10th, 2024 and January 10th, 2025, and the city council reviewed these suggestions on December 17th, 2024.

The last time the city updated the moderate-income housing element in 2022, it adopted the following strategies:

- Amend land use regulations to eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;
- Reduce, waive, or eliminate impact fees related to moderate income housing;
- Develop and adopt a station area plan in accordance with Section 10-9a-403.1

Since then, the city worked diligently and adopted code changes in 2023 and 2024 to accomplish and report on all three strategies.

The planning commission reviewed a draft at the May 13th meeting and discussed and suggested changes. Staff prepared a proposed update for the commission to review this evening and present to the public.

ACTION TAKEN:

Corey Sweat moved to open the public hearing at 7:38 pm to hear public comment on Update to West Bountiful City's General Plan Regarding Moderate Income Housing. Dennis Vest seconded the motion and voting was unanimous in favor.

Public Comment:

No Public Comment was made.

ACTION TAKEN:

Laura Mitchell moved to close the public hearing at 7:39 pm to hear public comment. Tyler Paine seconded the motion and voting was unanimous in favor.

3. Consider Proposed Updates to West Bountiful City's General Plan Regarding Moderate Income Housing Recommendation.

Mr. Jansen took the stand and explained briefly each of the three strategies below with the steps and implementations that were proposed by the commissioners. He stated the state has asked for a five- year plan and some of these things could take that long or not. He informed the commissioners of the state housing plan they are working on policies and strategies, and it is not known at this time if it will replace the moderate-income housing plan or if it will just mesh. Mr. Jansen noted it is important to offer some kind of incentive to each of these strategies. He encouraged them to review the detached ADU plan.

STRATEGY 1 – Create or allow for, and reduce regulations related to, accessory dwelling units in residential zones Steps and Implementation.

Timeline

1. Adopt General Plan goals. Begin research for a detached ADU ordinance (2025)
2. Create a draft detached ADU ordinance for review by the Planning Commission and City Council (2026)
3. Consider adoption of a detached ADU pilot program ordinance (2027)
4. Conduct public information campaign and monitor progress in terms of permits issued (2028)
5. Consider extending the detached ADU program to additional zones or lot sizes (2029)

STRATEGY 2 – Consider general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the City Steps and Implementation

Timeline

1. Adopt General Plan goals. Begin research on the fees that could be reduced through City Council modification to fee schedule (2025)
2. Adopt first set of graduated fee reductions for moderate-income housing projects (2026)
3. Conduct public information outreach. Monitor and track use of fee reduction program. (2027)
4. Adopt second set of graduated fee reductions for moderate-income housing projects. (2028)
5. Monitor progress and re-evaluate if needed (2029)

STRATEGY 3 – Implement zoning incentives for low to moderate income units in new developments Steps and Implementation

Timeline

1. Adopt General Plan goals. Review ordinances where affordable housing could be encouraged (2025)
2. Consider update to the PUD code to provide a density bonus for affordable units (2026)
3. Consider update to the Housing in Certain Commercial Areas (HCCA) overlay code to increase housing density bonuses for affordable housing projects (2027)
4. Review and consider additional zoning incentives such as additional flexibility in setbacks and parking in the PUD and HCCA codes (2028)
5. Monitor progress and re-evaluate if needed (2029)

Council member Butterfield mentioned the Dessert Housing project which would have control over certain areas of city plans. There are some creative ways of making housing more affordable in our state.

Some discussion took place regarding affordable housing and what the current median income would be compared to the cost of current housing. Mr. Jansen will provide information back to the commission regarding the median cost of income to housing.

The following changes were made:

Laura Mitchell suggested to change Strategy #2- Item #2 -striking the language “first set of” and Item #4 – replace adopt to “Consider adopting”.

Tyler Payne suggested to change Strategy #3 – Item #3 striking the language “density bonuses for affordable housing projects” to “including affordable units”.

All commissioners concurred with the proposed changes.

ACTION TAKEN:

Corey Sweat moved to forward the proposal for the General Plan Moderate Income Housing Element with the recommended changes to the city council for their consideration with a positive recommendation. Laura Mitchell seconded the motion and voting was unanimous in favor.

4. Approve Meeting Minutes from May 13th, 2025.

Action Taken:

Dennis Vest moved to approve the minutes from May 13, 2025 Planning Commission Meeting as presented. Corey Sweat seconded the motion, and voting was unanimous in favor.

5. Staff Reports

Community Development (Remington Whiting)

- Still working on code enforcement with lots of yard violations.
- Working on building permits and updating them.
- Declaration of candidacy June 2nd 8:00 am to the 6th at 5:00 pm. Mayor and 2 Councilmembers (Preece and Enquist).

Engineering (Kris Nilsen)

- No word from Ivory since the City Council met. The City Council drilled them on traffic and how it can be mitigated.
- Highgate #2 Phase 1 trying to get approved.
- Projects are underway and going well. Steve is in the process of trying to get the disposal of fluoride.
- Power poles removed on 1100 West so concrete can be poured. Driveways be next.
- 660 West push to finish culinary water. Behind schedule but okay
- 500 South scheduled to be finished late fall. Will soon open intersection when not working.

6. Adjourn.

Action Taken:

***Corey Sweat moved to adjourn the regular session of the Planning Commission meeting at 8:25 pm.
Tyler Payne seconded the motion. Voting was unanimous in favor.***

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The foregoing was approved by the West Bountiful City Planning Commission, by unanimous vote of all members present.