

2 The Lindon City Council held a Special Meeting On **Wednesday, October 25, 2006**,
beginning at 6:30 p.m., in the Lindon City Center, Upper Level Conference Room, 100
4 North State Street, Lindon, Utah.

6 Conducting: H. Toby Bath, Mayor ProTem
Invocation: Bruce Carpenter

8 **PRESENT**

ABSENT

10 Eric Anthony, Councilmember
H. Toby Bath, Councilmember/Mayor ProTem
12 Lindsey Bayless, Councilmember
Bruce Carpenter, Councilmember
14 Jerald I. Hatch, Councilmember
Ott H. Dameron, City Administrator/Recorder
16 David Thurgood, City Engineer
Debra Cullimore, Deputy Recorder – *excused at 7:05 p.m.*

Jeff Acerson, Mayor

18 The meeting was called to order at 6:35 p.m.

20 **MINUTES** – No minutes were reviewed at this meeting.

22 **OPEN SESSION** – No comments.

24 **MAYOR’S COMMENTS/REPORT** – Mayor Acerson was not present at the meeting.

26 **CONSENT AGENDA** – No items.

28 **CURRENT BUSINESS** –

- 30 1. **Review and Action** – *Request for Water Considerations and Financial*
32 *Assistance on Creekside Meadows Subdivision – Fieldstone Homes Development.*
This item was continued from the meeting of October 17, 2007 in order to receive
34 more information and an evaluation of Fieldstone Homes water request from
David Thurgood, City Engineer. The request by Griffin Johnson, Fieldstone
36 Homes, is for the Council’s consideration of a different standard of measurement
for the water requirements on the Creekside Meadows Subdivision at
38 approximately 500 North 1700 West. In addition, Mr. Johnson will approach the
Council on the possibility of accepting water from the Utah Lake Distribution
40 Company. Also, Mr. Johnson will request consideration for the City’s financial
assistance with several extraordinary expenses associated with the project.

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44 Councilmember Bayless noted that representatives of Fieldstone Homes were not
present, but that they were aware of the meeting. Councilmember Bath noted that
46 Councilmembers have had the opportunity to review a written request from Fieldstone
Homes, as well as written comments from City Engineer, Dave Thurgood prior to this

meeting. Mr. Dameron explained that the Council had benefit of the Fieldstone Homes presentation regarding this request during the October 17, 2006 meeting.

Councilmember Bath invited Mr. Thurgood to present information relative to the request made by Fieldstone Homes for the City to accept Utah Lake Distribution Company water shares to meet development requirements, as well as the request regarding the required amount of water for this particular development. Mr. Thurgood noted that it has been the practice of the City historically to accept water which has been used within the City boundaries. He noted that the area of this particular development has historically received water from underground wells or from irrigation companies. Mr. Thurgood stated that Lindon City currently has significant underground water rights, and that the addition of a significant amount to the underground water system creates a question of stability of the aquifer. Mr. Thurgood recommended that the City not accept the proposed Utah Lake Distribution Company shares, but continue to accept water that has historically been used in Lindon. He noted that conveyance into the City water system may be problematic. Mr. Thurgood also noted that a significant amount of agricultural property in Lindon currently uses flood irrigation, which requires surface water. Mr. Thurgood recommended that rather than accepting the proposed water shares from Fieldstone Homes, that a relief petition be submitted, and that cash payment be used to meet financial obligations to the Central Utah Project for Jordanelle water rights already owned by the City.

Mr. Thurgood observed that the City Wide Fee Schedule specifies that one share of North Union water is equivalent to seven acre feet of water. He noted that there is an unwritten agreement among irrigation companies and cities to reach some equity in what one share of stock in the company equates to in terms of acre feet of water. He noted that shares are calculated based on usage from April 15th to October 15th each year.

Councilmember Bath inquired as to the procedure to divert additional water into Lindon wells. Mr. Thurgood explained that acquisition of the proposed water would require a change in the point of diversion, as well as change in nature and place of use.

Mr. Thurgood went on to explain that Utah Lake water is not easily usable for culinary purposes. He stated that salt feed into the lake appears to be constant, and that salinity of the water is higher during drought years. Mr. Thurgood explained the geology of the Utah Lake area and the various aquifers which are found in the area.

Councilmember Carpenter observed that the value of each share proposed by Fieldstone Homes is less than seven acre feet per share. He noted that the objective of the seven acre feet requirement is to be conservative and reasonable, but to have adequate water to provide for the needs of the community in all types of water years.

Mr. Thurgood went on to explain that it is necessary to obtain surface water which is used as surface water in order to meet the needs of the community. He noted that surface water shares are no longer readily available. Councilmember Anthony felt that shares may be available if developers are willing to pay an appropriate price, which may be above the current market rate. Mr. Thurgood explained that the majority of land owners are no longer willing to sell water rights separately from the land, due to the fact that it is necessary to have water shares available for development of the property.

Councilmember Carpenter commented on the option of the City to accept cash in lieu of water shares, and the ability this gives the City to meet the financial obligations associated with the Jordanelle water shares. He noted that the availability of desirable

2 water is rapidly disappearing, and that the relief petition process creates a mechanism to
3 generate the necessary revenue to maintain the Jordanelle shares.

4 Mr. Dameron noted that it will be necessary for the Council to address three
5 separate issues related to this request. The three issues are whether the City should
6 accept the proposed Utah Lake Distribution Company water shares to meet development
7 requirements, whether the overall water requirement should be reduced as requested, and
8 whether other relief requests related to various aspects of the development should be
9 approved. Mr. Dameron suggested that separate motions be made for each issue, and that
10 motions include justifications and findings for the decisions reached by the Council.

11 COUNCILMEMBER BAYLESS MOVED TO DENY THE REQUEST BY
12 FIELDSTONE HOMES FOR THE CITY TO ACCEPT UTAH LAKE DISTRIBUTION
13 COMPANY WATER SHARES TO MEET DEVELOPMENT REQUIREMENTS FOR
14 THE CREEKSIDE MEADOWS SUBDIVISION BASED ON THE
15 RECOMMENDATION OF THE CITY ENGINEER REGARDING THE TYPE OF
16 WATER WHICH WOULD BE MOST BENEFICIAL TO THE CITY. IT APPEARS
17 THAT THE UTAH LAKE WATER WOULD NOT BE THE MOST BENEFICIAL TO
18 THE CITY. THE APPLICANT HAS THE OPTION TO PROCEED WITH THE
19 RELIEF PETITION PROCESS. COUNCILMEMBER ANTHONY SECONDED THE
20 MOTION. THE VOTE WAS RECORDED AS FOLLOWS:

21 COUNCILMEMBER ANTHONY AYE
22 COUNCILMEMBER BATH AYE
23 COUNCILMEMBER BAYLESS AYE
24 COUNCILMEMBER CARPENTER AYE
25 COUNCILMEMBER HATCH AYE
26 THE MOTION CARRIED UNANIMOUSLY.

27 Councilmember Carpenter noted that he had questions regarding the suggestion
28 made by the developer that storm drainage improvements completed as part of the
29 development provide additional service for areas of the community outside the
30 development. Prior to this meeting, Councilmember Carpenter asked the City Engineer if
31 additional storm drainage was completed above that which would be required for the
32 development. The City Engineer stated that storm drainage installed as part of this
33 development is expected to meet the needs of the development only.
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35 Councilmember Carpenter commented that due to the unique contribution of this
36 development to the moderate income housing plan, that some reduction in the water share
37 requirements may be appropriate. He suggested that the Council consider requiring 220
38 acre feet as opposed to 277 acre feet.

39 Councilmember Bayless suggested that the Council consider the original
40 agreement with the developer. She stated that the Council entered into the development
41 agreement based on the moderate income housing component of the development, and
42 that many concessions, such as smaller average lot size, have already been made. She
43 noted that the Council has compromised in several areas to allow this development, and
44 that additional concessions and allowances are not necessary. She noted that all issues
45 related to the development were discussed extensively prior to entering into the
46 agreement. Councilmember Bath agreed that this development does represent a deviation

2 from City policy which requires larger lots, and that the City has made concessions to
allow the development. Councilmember Bayless stated that she is not in favor of
4 lowering the number of moderate income homes as requested, or in a reduction in water
requirements for the development.

6 Councilmember Carpenter felt that further discussion with the applicant may be
appropriate to determine the exact nature of the cost overruns associated with the
development, and whether further concessions from the City may be appropriate. He
8 observed that due diligence completed by the developer should have anticipated the
majority of cost increases, with the possible exception of the dramatic increase in the cost
10 of water shares. Councilmember Anthony observed that appropriate due diligence should
have indicated the trend in water shares and prompted the developer to purchase shares
12 earlier in the process. He felt that the cost of the full width permanent secondary access
road may have been difficult to anticipate. He suggested that the cost overrun associated
14 with the secondary access may have exceeded expectations, and may be a consideration
in relation to the request for financial assistance. Councilmember Anthony noted that
16 while the City may determine that some type of financial relief may be appropriate, the
City has no responsibility in the cost overruns associated with the development, and that
18 it was incumbent upon the developer to establish accurate cost estimates.

20 Councilmember Carpenter stated that he has a sense that the developer may apply
the expense of cost overruns to the moderate income housing units, which may threaten
the quality of the housing. He also noted that if the City does grant some relief to the
22 developer in order to facilitate the moderate income housing units, there is no guarantee
that the relief funds will be channeled into the moderate income units. Councilmember
24 Anthony suggested that the developer enter into an agreement which would specify that
use of the funds will be used to maintain the quality of the moderate income housing
26 units. Councilmember Hatch noted that the quality of any type of housing will be
commensurate with the cost of the units. He agreed that there may have been excessive
28 cost overruns associated with the secondary access road which the City may want to
consider.

30 Councilmember Carpenter expressed concern regarding the precedent which may
be set if water share requirements are reduced for this particular development. He
32 asserted that if such relief were to be approved, it would be necessary to show a nexus
between the moderate income units and required water shares. Councilmember Anthony
34 noted that as water shares become more difficult to obtain, it will be necessary for the
City to maintain current requirements to ensure that the needs of the community are met.

36 Councilmember Carpenter inquired as to whether there was any interest among
the Council to consider some form of financial relief to the developer as a result of the
38 cost overruns associated with the development. Councilmember Anthony suggested that
if any consideration is given to relief, it should not be associated with water shares. He
40 inquired as to whether any "credit" could be given to developer in relation to completion
of the secondary access road. Councilmember Bayless noted that it would be necessary
42 for any relief given as a result of cost overruns associated with construction of the road to
be directly related to the road, and that it would not be possible to tie the relief to
44 moderate income housing requirements. Councilmember Bath suggested that the Council
consider an adjustment to impact fees. Mr. Dameron noted that there is no nexus
46 between construction of the road and water, sewer, or park impact fees associated with

2 the development. Mr. Dameron explained that existing road impact fees are intended to
4 fund construction of 700 North and the I-15 interchange, and are not directly related to
6 the roads associated with this development. Councilmember Bayless stated that it would
be necessary to document that any impact fee reduction is tied to construction of the
roadway, and not to the R3 Overlay. Mr. Dameron stated that it may be difficult to draw
a nexus between impact fee reduction and the associated amenities.

8 Councilmember Carpenter suggested that the developer be informed that the City
Council is not convinced based on current arguments that a reduction in fees would be
10 appropriate. Councilmember Bayless noted that care must be taken to avoid setting a
precedent regarding the requested reduction in water shares. Following further
discussion, the following motion was made:

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14 COUNCILMEMBER ANTHONY MOVED TO DENY THE REQUEST FOR
ANY ADJUSTMENT TO WATER SHARE REQUIREMENTS FOR THE CREEKSIDE
MEADOWS SUBDIVISION. COUNCILMEMBER HATCH SECONDED THE
16 MOTION. THE VOTE WAS RECORDED AS FOLLOWS:

18 COUNCILMEMBER ANTHONY AYE
COUNCILMEMBER BATH AYE
COUNCILMEMBER BAYLESS AYE
20 COUNCILMEMBER CARPERNTER AYE
COUNCILMEMBER HATCH AYE

22 THE MOTION CARRIED UNANIMOUSLY.

24 Councilmember Carpenter stated that he is still inclined to believe that there may
be some justification for the relief request. He stated that he is willing to continue the
26 discussion regarding the request, or invite the developer to present additional information
which may clarify the basis for the request. Councilmember Bayless stated that she felt it
28 would be appropriate to allow the developer to present any additional information which
may assist the Council in coming to an appropriate decision. Councilmember Carpenter
30 stated that there may be some misleading information in the current request, such as that
the City misrepresented the price of moderate income units. He observed that it would be
32 necessary for the developer to provide new information, and not simply review the
information which has already been presented. Councilmember Anthony noted that
34 detailed information related to the benefit the developer may realize as a result of rising
property values should also be provided. Councilmember Carpenter noted that the
36 moderate income housing component may make it more difficult to absorb cost overruns
in the development. Following discussion, the Council felt that a decision to provide
38 some form of financial relief to the developer would not be appropriate based on the
information currently before the Council. The Council felt that it may be appropriate to
40 revisit the request if new information which may clarify the request were submitted by
the developer.

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44 COUNCILMEMBER CARPENTER MOVED TO DENY THE REQUEST FOR
FINANCIAL RELIEF ASSOCIATED WITH THE CREEKSIDE MEADOWS
SUBDIVISION WITH THE OPTION THAT THE DEVELOPER MAY SUBMIT
46 ADDITIONAL RELEVANT INFORMATION FOR FURTHER CONSIDERATION.

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

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

THE MOTION CARRIED UNANIMOUSLY.

COUNCIL REPORTS –

WATER SEWER, SOLID WASTE, HOUSING CONSORTIUM –

Councilmember Hatch had no items to report.

TRAILS, PLANNING, ZONING BD OF ADJUSTMENTS, ADMINISTRATION –

Councilmember Bayless had not items to report.

PUBLIC SAFETY, COURT, BUILDING INSPECTIONS –

Councilmember Bath had no items to report.

PARKS, RECREATION, ENGINEERING, LINDON FAIR, NEWSLETTER –

Councilmember Anthony had no items to report.

GENERAL PLAN, STREETS & SIDEWALKS, PUBLIC BUILDINGS –

Councilmember Carpenter reported on a meeting held earlier in the day with VCBO Architects to begin the feasibility study regarding the Community Center and Aquatics facility.

ADMINISTRATOR'S REPORT –

Mr. Dameron had no items to report.

ADJOURN -

COUNCILMEMBER HATCH MOVED TO ADJOURN THE MEETING AT 7:40 P.M. COUNCILMEMBER BAYLESS SECONDED THE MOTION. ALL PRESENT VOTED IN FAVOR. THE MOTION CARRIED.

APPROVED – November 14, 2006

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Ott H. Dameron, City Administrator/Recorder

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Jeff Acerson, Mayor

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