

2 The Lindon City Council held a regularly schedule meeting on **Tuesday, January 20,**
3 **2009**, beginning at 7:00 p.m. in the Lindon City Center, City Council Chambers, 100
4 North State Street, Lindon, Utah.

5 Conducting: James A. Dain, Mayor
6 Pledge of Allegiance: Adam Cowie
7 Invocation: Jerald Hatch

8 **PRESENT**

9 **ABSENT**

10 James A. Dain, Mayor
11 Eric Anthony, Councilmember
12 Lindsey Bayless, Councilmember
13 Bruce Carpenter, Councilmember
14 Jerald I. Hatch, Councilmember
15 Ott H. Dameron, City Administrator
16 Adam Cowie, Planning Director
17 Debra Cullimore, City Recorder

18 H. Toby Bath, Councilmember

19 The meeting was called to order at 7:00 p.m.

20 **MINUTES** – The minutes of the regular meeting of January 6, 2009 were reviewed.

21 COUNCILMEMBER ANTHONY MOVED TO APPROVE THE MINUTES OF
22 THE MEETING OF JANUARY 6, 2009. COUNCILMEMBER HATCH SECONDED
23 THE MOTION. THE VOTE WAS RECORDED AS FOLLOWS:

24 COUNCILMEMBER ANTHONY AYE
25 COUNCILMEMBER BAYLESS AYE
26 COUNCILMEMBER CARPENTER AYE
27 COUNCILMEMBER HATCH AYE

28 THE MOTION CARRIED UNANIMOUSLY WITH ONE ABSENT.

29 **OPEN SESSION** –

30 Mayor Dain called for comments from any resident present who wished to
31 address an issue not listed as an agenda item. There was no public comment.

32 **MAYOR’S COMMENTS/REPORT** –

33 Mayor Dain commented on the Inauguration Ceremony held earlier in the day as
34 President Barack Obama took office. Mayor Dain noted that regardless of your political
35 affiliation, it is amazing to watch the peaceful transfer of power. He wished President
36 Obama and his administration well in the coming years as they deal with the challenges
37 facing the country.

38 Mayor Dain also reported that the Murdock Canal covering project is scheduled to
39 begin in 2010 at a cost of approximately \$140 million. He noted that utility relocations,

2 trail improvements and landscaping will be the responsibility of each municipality, and
3 that the City's assessment for the project will come in 2011. He noted that all three
4 bridge structures in Lindon will be impacted by the project. Mayor Dain commented that
5 County Commissioner Larry Ellertson has been instrumental in working with all ten
6 shareholders in the canal to find solutions to a variety of issues related to the enclosure
7 project.

8 Councilmember Anthony inquired as to whether the enclosure project would
9 effectively address leakage issues which have affected several residents along the canal
10 route. Mayor Dain stated that problems associated with loss of water through leakage
11 and evaporation will be addressed by the enclosure.

12 Councilmember Anthony inquired as to whether the City's financial assessment
13 will be based on the number of water shares owned by the City. Mayor Dain confirmed
14 that each City will be assessed a portion of the cost based on the number of shares owned
15 by the City, as well as the cost of trail improvements. He stated that assessments will
16 create a budget impact, but that assessments will be fair.

17 Mayor Dain noted that the Utah County Council of Governments invited the 15
18 Legislators to attend a joint meeting to discuss items of interest which may impact
19 communities. Several Legislators attended the meeting.

20 The Aquatics Center fundraising committee is working to complete preparations
21 for the paver project. Information will be on the City website in the coming week, with
22 other promotions planned in the coming weeks.

23 **CONSENT AGENDA** – Ratification of the re-appointment of Matt Bean to a new three
24 year term on the Lindon City Planning Commission.

25 COUNCILMEMBER CARPENTER MOVED TO RATIFY THE
26 APPOINTMENT OF MATT BEAN TO SERVE A THREE YEAR TERM ON THE
27 LINDON CITY PLANNING COMMISSION. COUNCILMEMBER BAYLESS
28 SECONDED THE MOTION. THE VOTE WAS RECORDED AS FOLLOWS:

29 COUNCILMEMBER ANTHONY AYE
30 COUNCILMEMBER BAYLESS AYE
31 COUNCILMEMBER CARPENTER AYE
32 COUNCILMEMBER HATCH AYE

33 THE MOTION CARRIED UNANIMOUSLY WITH ONE ABSENT.

34 **CURRENT BUSINESS** –

- 35
- 36
- 37
- 38 1. **Public Hearing** – *Mid Year Budget Amendments (Ordinance #2009-1-O)*. The
39 City Council will hear public comment and possibly act to approve a request from
40 the Finance Director, Jamie Bennee, for approval of mid-year budget amendments
41 applicable to the Heritage Trail, Property Purchase, Aquatics Center, Police
42 Department, Court Revenue, and Parks.

43 COUNCILMEMBER HATCH MOVED TO OPEN THE PUBLIC HEARING
44 TO CONSIDER ORDINANCE #2009-1-O. COUNCILMEMBER ANTHONY

2 SECONDED THE MOTION. ALL PRESENT VOTED IN FAVOR. THE MOTION
3 CARRIED.

4 Finance Director, Jamie Bennee, explained proposed budget amendments to the
5 Mayor and City Council. She stated that changes will be made to the Heritage Trail,
6 Property Purchase, Aquatics Center, Police Department, Court Revenue, and Parks
7 budgets. She reviewed each of the budget amendments as follows:

- 8
- 9 1. Heritage Trail; In the original agreement with UDOT, the City paid \$1,217,021.53
10 as the City's share of the project. After bids were received and construction
11 began, UDOT reimbursed the City \$909,158.35. When final construction costs
12 were calculated, it was determined that the City owed an additional \$209,059 not
13 anticipated in the original costs. To correct this shortfall which was not
14 anticipated in the budget, revenue will be moved from the Aquatics Center fund
15 which was budgeted for an anticipated interest payment in the amount of
16 \$122,292. This amount was included in the budget, but after some clarification it
17 was determined that the first interest payment will not be due until fiscal year
18 2009-2010. The remainder of the needed revenue for the Heritage Trail will be
19 moved from excess revenues budgeted for dispatch fees in the amount of
20 \$127,708.
 - 21 2. Property Purchase; The City has negotiated an agreement with the Church of
22 Jesus Christ of Latter Day Saints to purchase the existing meeting house located
23 on Main Street. The City has agreed to purchase the building for \$700,000, to be
24 used as a cultural arts and senior citizens center. The current budget includes
25 \$100,000 to be used as a down payment on the purchase of the building. The
26 Church is requiring a down payment of \$150,000. To offset this additional cost,
27 revenue budgeted for a down payment on the Redmond Storage building will be
28 reallocated to the down payment budget for the church building. Purchase of the
29 Redmond Storage building will not take place during this budget year. In
30 addition, the purchase price of the right of way obtained through an agreement
31 with the Fellowship Bible Church exceeded budgeted funds by \$1,644. In order
32 to compensate for the extra \$1,644, revenue which was budgeted for the railroad
33 crossing associated with the Heritage Trail will be used to compensate for this
34 shortfall. The rail road crossing will be constructed by the State at part of the
35 Vineyard Connector road project. \$48,356 will remain in the rail road crossing
36 account at this time. Councilmembers noted that purchase of the LDS church was
37 a very cost effective method to obtain an important component of planned
38 recreation facilities. Mayor Dain noted that the structure was built by the hands
39 of Lindon residents, and that it was appropriate to preserve it as a component of
40 the community.
 - 41 3. Aquatics Center; When the budget was originally prepared, the City anticipated
42 \$9,995,000 in bond proceeds. After all fees were paid and the bond amount
43 adjusted due to the annual bonding cap, the City received actual bond proceeds in
44 the amount of \$9,397.038. In addition, separate accounts have been set up for
45 Hogan Construction, other professional services, and CEM Construction. Mr.
46 Dameron explained that the City has entered into an agreement with Hogan

- 2 Construction to provide any additional financing which may be necessary to
complete the project. The agreement provides additional financing up to
\$800,000 if and when it becomes necessary.
- 4 4. Police Department; Chief Cullimore has requested that the lease police vehicles
be added to the City's insurance policy. The cost of insurance will be \$3,000 per
6 year, which will be moved from the \$6,000 Animal Control budget, leaving
\$3,000 in that budget.
- 8 5. Court Revenue; Court revenue was budgeted at \$500,000. AS of December 2008,
\$155,552 has been collected in court revenue. In order to more accurately state
10 anticipated revenue in the court, the budget will be amended to change court
revenue to \$360,000. Mr. Dameron noted that it will be necessary to subsidize
12 the court from the General Fund if revenues do not equal planned expenditure of
approximately \$450,000. He commented that the Court Clerk has indicated that
14 an influx of unpaid fines is typical as people start to receive tax refunds, which
may bring revenues in line with expenditures.
- 16 6. Parks; Revenue was originally budgeted for playground equipment for Pheasant
Brook Park. After consideration, Mayor Dain requested that the equipment be
18 installed in Creekside Meadows Park, due to the isolation of that neighborhood
from other parks in the City. Revenue for the playground equipment will be
20 shown in the budget for Creekside Meadows Park rather than Pheasant Brook
Park.

22 Mayor Dain called for public comment. Hearing none, the Public Hearing was
closed.

24 COUNCILMEMBER ANTHONY MOVED TO CLOSE THE PUBLIC
26 HEARING TO CONSIDER ORDINANCE #2009-1-O. COUNCILMEMBER
BAYLESS SECONDED THE MOTION. ALL PRESENT VOTED IN FAVOR. THE
28 MOTION CARRIED.

30 Mayor Dain called for further comments or discussion. Hearing none, he called
for a motion.

32 COUNCILMEMBER ANTHONY MOVED TO APPROVE ORDINANCE
34 #2009-1-O AMENDING VARIOUS SECTIONS OF THE LINDON CITY BUDGET
FOR FISCAL YEAR 2008-2009. COUNCILMEMBER CARPENTER SECONDED
36 THE MOTION. THE VOTE WAS RECORDED AS FOLLOWS:

COUNCILMEMBER ANTHONY AYE
38 COUNCILMEMBER BAYLESS AYE
COUNCILMEMBER CARPENTER AYE
40 COUNCILMEMBER HATCH AYE

THE MOTION CARRIED UNANIMOUSLY WITH ONE ABSENT.

- 42
- 44 2. **Review and Action** – *Fund Transfer Corrections (Resolution #2009-1-R)*. This
is a request by the Finance Director, Jamie Bennee, for approval of fund transfer
46 corrections the City did not complete in fiscal year 2007/2008 which need to be
recorded in this current fiscal year.

2 Ms. Bennee explained that several fund transfers which were not completed last
fiscal year will be completed at this time at the recommendation of the City's Auditor,
4 Mike Stoddard. Mr. Dameron explained that by law, the City is required to keep a
minimum of 5% of the budget in reserve in the General Fund, with a maximum of 18%
6 being held in reserve. These transfers will maintain the City within the required reserve
percentage. He noted that the transfers will reimburse the General Fund for
8 administrative fees from the previous year. Mayor Dain called for further comments or
discussion. Hearing none, he called for a motion.

10 COUNCILMEMBER CARPENTER MOVED TO APPROVE THE FUND
12 TRANSFER CORRECTIONS. COUNCILMEMBER BAYLESS SECONDED THE
MOTION. THE VOTE WAS RECORDED AS FOLLOWS:

14 COUNCILMEMBER ANTHONY AYE
COUNCILMEMBER BAYLESS AYE
16 COUNCILMEMBER CARPENTER AYE
COUNCILMEMBER HATCH AYE

18 THE MOTION CARRIED UNANIMOUSLY WITH ONE ABSENT.

- 20 3. **Review and Action** – *Agreement for Legal Services*. This is a request by staff to
22 formalize, by agreement, the City's relationship with Brian K. Haws, Esq. for
civil and court legal services. Mr. Haws has changed firm affiliation and the
24 desire of the City staff is to keep Mr. Haws as the City Attorney due to his
extensive experience handling the City's legal matters.

26 Mayor Dain recommended that this item be continued to allow some discussion
with Mr. Haws regarding some potential cost cutting measures prior to finalizing the
28 agreement. He called for a motion to continue this item.

30 COUNCILMEMBER BAYLESS MOVED TO CONTINUE REVIEW OF THE
AGREEMENT FOR LEGAL SERVICES TO THE MEETING OF FEBRUARY 6, 2009.
32 COUNCILMEMBER HATCH SECONDED THE MOTION. THE VOTE WAS
RECORDED AS FOLLOWS:

34 COUNCILMEMBER ANTHONY AYE
COUNCILMEMBER BAYLESS AYE
36 COUNCILMEMBER CARPENTER AYE
COUNCILMEMBER HATCH AYE

38 THE MOTION CARRIED UNANIMOUSLY WITH ONE ABSENT.

- 40 4. **Review and Action** – *Development Agreement between Black Scot Development,*
42 *LC and Lindon City*. This is a request by staff and Chad Clifford of Black Scot
Development, LC for approval of a development agreement in which Black Scot
44 agrees to sell the right of way to the City for the future extension of 1200 East
street.

Mr. Cowie explained that this agreement has been in discussion for several years. The agreement will allow the City to purchase the right of way for the future extension of 1200 East. Mr. Cowie noted that this development, including the purchase of the right of way, was approved approximately six years ago. However, due to internal conflicts between the developers, construction did not begin prior to expiration of the approvals.

Mr. Cowie explained that at the time of initial approval, the City was able to acquire approximately \$180,000 in corridor preservation funding from UDOT. Due to the delay in development, those funds were lost. However, the City has applied for \$430,000 in grant funding through Mountainland Association of Governments to purchase the right of way. The City anticipates being awarded those funds in the coming weeks. The agreement with Black Scot Development provides a three year payment schedule if grant funds are not awarded.

Mr. Cowie noted that the final purchase amount shown in the agreement as presented will be revised slightly as final figures are determined. He suggested that the Council approve the agreement, and authorize staff to amend the final purchase price, which will be approximately \$455,000 when all costs are included. A small additional area of property will also be included in the property description. He noted that Black Scot Development has approved the terms of the agreement.

Councilmember Anthony requested clarification regarding interest which will be charged if the City purchases the right of way over the three year period. Mr. Cowie explained that no interest will be charged if final payment is received by the final due date, which is shown as the first week of August, 2011. Mr. Dameron noted that the interest will not be a consideration if the expected grant funds are awarded.

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

COUNCILMEMBER HATCH MOVED TO APPROVE THE AGREEMENT BETWEEN BLACK SCOT DEVELOPMENT AND LINDON CITY FOR PURCHASE OF THE RIGHT OF WAY FOR THE FUTURE EXTENSION OF 1200 EAST, AND AUTHORIZE STAFF TO COMPLETE MODIFICATIONS TO THE FINAL PURCHASE PRICE IN THE AMOUNT OF APPROXIMATELY \$455,000, AND TO AMEND THE PROPERTY DESCRIPTION TO INCLUDE AN ADDITIONAL AREA NOT CURRENTLY INCLUDED IN THE AGREEMENT, WITH FINAL APPROVAL BY THE MAYOR. COUNCILMEMBER CARPENTER SECONDED THE MOTION. THE VOTE WAS RECORDED AS FOLLOWS:

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

THE MOTION CARRIED UNANIMOUSLY WITH ONE ABSENT.

- Review and Action** – *Development Policy Manual Updates (Resolution #2009-2-R)*. This is a request by staff for the City Council’s review and approval of the annual updates to the City’s Development Policy Manual. The meeting with contractors and developers will not be held this year, but the entire manual, including proposed amendments. Will be available on-line through the City’s web

2 page. This action is another attempt at cutting costs during this time of economic
stress. Correspondence will be sent to regular attendee explaining the City's
action.

4

6 City Engineer, Mark Christensen, was present to discuss proposed Policy Manual
Updates for 2009. Mr. Cowie presented a written summary of proposed amendments.
He explained that the manual is typically updated on an annual basis, and an annual
8 meeting with contractors is held to review changes. He stated that the meeting will not
be held this year, due to the minor nature of changes. Notices will be mailed to all
10 developers who would receive a notice of the annual meeting. The correspondence will
notify developers that changes are available on the City web site. Mr. Christensen noted
12 that the Development Review Committee has discussed all changes extensively, and that
the City Council previously approved the more significant changes, including the
14 hammerhead turnaround street cross section, and street lighting design.

16 Mayor Dain called for further comments or discussion. Hearing none, he called
for a motion.

18 COUNCILMEMBER CARPENTER MOVED TO APPROVE RESOLUTION
#2009-2-R; DEVELOPMENT POLICY MANUAL UPDATES. COUNCILMEMBER
20 ANTHONY SECONDED THE MOTION. THE VOTE WAS RECORDED AS
FOLLOWS:

22 COUNCILMEMBER ANTHONY AYE
COUNCILMEMBER BAYLESS AYE
24 COUNCILMEMBER CARPENTER AYE
COUNCILMEMBER HATCH AYE

26 THE MOTION CARRIED UNANIMOUSLY WITH ONE ABSENT.

28 6. **Preliminary Plat** – *Canberra Estates Residential Subdivision*. This is a request
by Dale DeLlamas and Oscar Rosales for preliminary plat approval of Canberra
30 Estates Residential Subdivision, Plat "A", 9 lots, in the R1-12/Hillside Overlay
zone at approximately 400 North 1200 East. The Planning Commission
32 recommended approval with conditions.

34 Dave Ackley and Oscar Rosales were present as representatives for this
application. Mark Christensen was also present to answer any questions regarding
36 engineering for the proposed development. Public Works Director, Don Peterson, was
also present to discuss utility locations. Mayor Dain observed that due to the complexity
38 of issues related to this application which will require extensive discussion, it may be
appropriate to schedule a field trip to visit the site. He suggested that the Council discuss
40 relevant issues with the applicant at this meeting, schedule a field trip, and consider final
action on this application at the next City Council meeting. The Council expressed
42 general agreement with this approach to the application.

44 Councilmember Anthony stated for the record that he is a personal friend of the
developer, Dale DeLlamas, and worked with Mr. DeLlamas' wife for a period of years.
He explained that he has no financial interest in this development, but wanted to declare
46 his personal relationship with the applicant to avoid any perception of a conflict of

interest. Councilmember Carpenter noted that members of the Council are frequently familiar with applicants who come before them, but that knowing an applicant would not represent a conflict of interest if there is no financial involvement.

Mr. Cowie went on to review specific issues related to this application. He noted that Mr. Christensen has reviewed each of the issues extensively. Mr. Cowie noted that the original application included 12 lots, but that three lots have been removed due to identified geo hazards which were not adequately mitigated at this time. The development will include the extension of 1200 East to the north to approximately 380 North.

Mr. Cowie presented an aerial photograph of the development site. He noted that the development will have two access roads. The area is encumbered by a 150 foot exclusive easement owned by the Metropolitan Water District. The easement accommodates a 69 inch diameter underground aqueduct which delivers water to approximately 750,000 residents in Salt Lake County. The easement runs approximately 1/3 the width of the property. Mr. Cowie explained that most of the issues related to development of this property are the result of restrictions imposed in the easement area. Any improvement which is deemed a structure by the Metropolitan Water District, including fire hydrants and inlet boxes, can not be constructed in the easement area. As a result of restrictions, the applicant is requesting multiple exceptions to typical utility locations for this development.

Councilmember Carpenter inquired as to the depth of the aqueduct in this location. Mr. Cowie stated that the aqueduct is actually above ground in one location, and is within ten feet of the surface in many areas. He reiterated that most of the issues related to this development are a result of limitation imposed on the easement area.

The Council went on to review specific development issues related to this application. They discussed non- standard utility locations, with close proximity of multiple lines on the west side of the street. Utility lines are typically located in the street right of way to allow access for maintenance and repairs. The proposed locations meet legal separation requirements for safety issues. Fire hydrants are proposed 60 feet off the curb next to the homes on the east side of the street. Orem Fire Department has approved the proposed location provided visibility of the hydrants from the street is maintained. Maintenance and repair of utility lines is the primary concern due to the close proximity of the lines.

Pump and grinder sewer systems are proposed at each residence. Mr. Christensen explained that sewer will be pumped uphill to connect with the existing gravity feed sewer lines. Individual homeowners will own the pumps, and will be responsible for repair and maintenance. The Planning Commission recommended a homeowners association be established to own and maintain the 800 feet of non-standard sewer lines which will connect to the existing system. The Council discussed projected life span of the system, as well as potential maintenance issues. Mr. Christensen stated that he spoke with staff at Springdale City, and that they indicated they have several similar systems functioning in that City which have not been excessively problematic. He noted that the first systems installed were owned by the City, with subsequent systems being owned and maintained by home owners associations. Mr. Christensen indicated that the proposed pump and grinder system appears to be a reasonable solution to the development constraints associated with this particular development. Mayor Dain observed that a note

2 should be included on the plat, or some other similar documentation, alerting property
owners that they or the home owners association own and are responsible for the pumps
and associated sewer system.

4 Water lines are proposed along the west side of the roadway. There is some
concern regarding channeling of water should a water line break occur. The applicant is
6 proposing that water lines be installed below the sidewalk level, and encased in a
flowable fill material to act as a barrier in the event of a water line break. The sidewalk
8 will be designed to force water into the street and down the storm drainage system in the
event of a water line break. Mr. Ackley stated that since the last City review of this
10 application, a new barrier has been considered. He stated that he is considering a
material similar to those used to line the bottom of reservoirs and landfills to eliminate
12 any seepage. The trench around the water lines could be lined with the material, which
would force water up and into the roadway in the event of a leak or break.

14 Mr. Peterson stated that a ten inch water main broke in the area of Geneva Road
over the weekend, causing a significant amount of water to flow above ground. Mayor
16 Dain asked Mr. Christensen if he had any practical experience with this type of barrier
system. Mr. Christensen stated that while he does not have any practical experience with
18 this system, if the barrier is designed correctly with adequate space between the barrier
and the line, it could be successful.

20 Councilmember Carpenter requested clarification on the exact location of the
water lines. Mr. Ackley stated that the lines will be located within the easement on the
22 west side of the roadway, in essentially the same location as was approved in 1999. He
explained that when the road is built, the slope from the west side of the road will be
24 unusable for any other purpose for a distance of approximately 20 feet. The Metropolitan
Water District has agreed to allow the lines to be installed 18 to 20 feet beyond the
26 sidewalk on the west side. The area will be filled, and utilities installed in the approved
area inside the easement. He stated that the final location of other utilities, including
28 water, gas, power, sewer, cable and storm drainage, is still being determined, but that the
park strip area between the curb and the sidewalk will be used for some utilities.

30 Mr. Cowie presented a cross section drawing of utility locations as currently
proposed. Mayor Dain expressed concern regarding the fill in the area where utilities
32 will be installed, and the possibility that the area could be disturbed by subsequent
property owners who are unaware that the utilities are in that location. Mr. Ackley
34 described the retained earth system which would be used in the filled areas. He noted
that similar systems are used on various projects. Mr. Christensen stated that he is
36 comfortable with this retention method, but noted that a surface erosion system will also
be necessary in the filled areas. Mayor Dain reiterated his concern, and expressed that it
38 would be necessary to make sure subsequent property owners are aware of the utility
locations in the filled area. Mr. Ackley stated that the information could be included as a
40 note on the plat.

Mr. Cowie presented a photograph of the proposed lots. He noted that the
42 development area is affected by the Hillside Overlay which prohibits construction on
hillsides which exceed a 30% slope, and also prohibits cuts and fills which exceed ten
44 feet. He noted that some lots on the west side will require fill in excess of the allowable
ten feet. Mayor Dain noted that in order to allow fill which exceeds ten feet, the
46 applicant will be required to receive a variance approval from the Board of Adjustments.

2 Mayor Dain observed that the Hillside Overlay requirements were developed for a
3 specific purpose. He expressed concern that if a variance is granted for allowable cuts
4 and fills, that there may be some liability on the part of the City if there is a failure of the
5 slope. Mr. Christensen explained that there would be specific circumstances in which
6 excessive cuts or fills may not be desirable. He noted that excessive fill at the top of a
7 slope can add weight and create problem for property below the fill. He explained that
8 this request would be to increase the fill between the homes and the street, which would
9 not present any specific concern for adjoining properties. Mr. Christensen noted that
10 there are circumstances where specific areas should be excluded from Hillside Overlay
11 requirements if development would be precluded.

12 Mayor Dain inquired as to whether there would be any specific soil specification
13 for the filled area. Mr. Christensen stated that some soil types would not be appropriate
14 for the filled area, but that a broad spectrum of soil types would be allowable.

15 Mr. Ackley reviewed the proposed retention system which will be used in the
16 filled areas. He stated that a similar system was used in constructing a cul-de-sac as part
17 of a project he worked on 16 years ago. He stated that that the cul-de-sac has not settled
18 during the subsequent time period, and that the retention system is used in highway
19 projects in a variety of locations. He noted that the cul-de-sac structure is 28 feet high
20 with a greater slope than would be found on any of the lots associated with this
21 development. Mr. Christensen stated that it may be appropriate to require a geo technical
22 engineer on site to make sure the slopes are constructed appropriately. Councilmember
23 Carpenter suggested that the City Attorney be consulted regarding potential liability
24 issues if a variance were granted for allowable fill.

25 Mr. Cowie observed that the slope issues in question are a result of the street
26 design. He stated that the utility exceptions being requested are specifically related to the
27 development, but that the slope issues would exist when the road is constructed whether
28 or not the development is approved.

29 Mr. Cowie presented additional photographs of the site, including the identified
30 geo-hazard area located above lots 6 and 7. He noted that the area has been closely
31 monitored since the hazard was identified in 2005, and that no visible movement has
32 occurred recently. However, the City felt that any potential issues had not been
33 adequately addressed to allow development of the lots at this time.

34 Mr. Cowie reviewed the proposed road design. He noted that several sections of
35 the roadway are split due to the slope and necessary driveway accesses. He stated that
36 there is up to an 8 foot vertical difference in some locations, with a split median that will
37 prohibit left hand turn movements. Mayor Dain inquired as to whether the split median is
38 a function of the road design, or is specifically related to the development. Mr.
39 Christensen explained that the slope on the west side is a function of the road design, but
40 the slope on the east side is based on creating necessary driveway accesses.

41 Mr. Cowie stated that a section of the Bonneville Shoreline Trail is located on the
42 east side of the roadway. Because of the easement restrictions, the ten foot asphalt trail
43 will be located outside of the area of the aqueduct pipe, and constructed along developed
44 lots several feet behind the curb. Councilmember Bayless inquired as to the setback to
45 the homes from the trail. Mr. Ackley estimated that the setback would be approximately
46 35 feet. Mayor Dain inquired as to whether landscaping would be installed between the
47 curb and the trail. Mr. Ackley stated that the area will be landscaped.

2 Mr. Cowie outlined proposed building pad locations and shared driveway
3 locations. He noted that the proposed shared driveways are necessary due to the
4 limitations imposed by the aqueduct. He noted that shared driveways are not prohibited
5 by City ordinance.

6 Mr. Cowie also noted that the developer has agreed to construct a new access road
7 to the underground City water tank located east of the development. The existing
8 roadway will be removed, and a new gravel access road will be constructed by the
9 developer.

10 Mr. Cowie noted that pressurized irrigation is not shown on the current plans.
11 The applicant intends to request a relief petition to exempt this development from the
12 secondary water system. The applicant would be required to turn in the necessary water
13 shares for the development or pay cash payment in lieu of water shares. This request is
14 due to the restrictions placed on the development by the aqueduct easement. The
15 applicant feels that this limited number of lots could be adequately served by culinary
16 water. The relief petition would be submitted as a separation application to be considered
17 by the City Council.

18 Mr. Cowie went on to discuss water pressure in the development. He noted that
19 the elevation of the water tank in relation to the development is likely to result in lower
20 than normal water pressure. Water pressure will meet minimum state requirements and
21 fire suppression requirements. The developer has made an offer to install pressure
22 booster pumps in each residence. Mayor Dain expressed concern that purchasers of the
23 homes may not be aware of the water pressure concerns. He suggested that some
24 mechanism be put in place to ensure homeowners are aware of the water pressure issues
25 prior to purchasing homes.

26 Mr. Cowie noted that the proposed hammerhead turnaround cross section has
27 been approved for use in specific circumstances. He stated that while this situation does
28 not meet the current criteria, the hammerhead meets emergency turnaround and access
29 requirements. He explained that a full cul-de-sac bulb can not be installed due to the
30 location of the easement. He noted that the hammerhead will be a temporary turnaround
31 until the through street is completed in the future.

32 Councilmember Anthony inquired as to the number of vehicles which would be
33 expected to use the turnaround. Mr. Cowie stated that the street will have a fifty foot
34 asphalt width, and that most vehicles will be able to turn around on the street. Larger
35 vehicles, such as snow plows and garbage trucks, would use the hammerhead area to turn
36 around.

37 Mr. Cowie noted that approximately 2,000 feet of dedicated roadway will be
38 completed by the developer as part of this subdivision. If the three additional lots are
39 approved at some time in the future, an additional 500 feet of roadway will be completed.
40 Mr. Cowie noted that during discussion with the Planning Commission, he requested that
41 the Commission provide a general opinion as to whether the public benefit of the
42 development justifies the requested exceptions. In addition to completing the roadway, a
43 new access road to the water tank and the Bonneville Shoreline Trail section will also be
44 completed by the developer.

45 Mr. Cowie noted that the Planning Commission has discussed this application
46 during three Public Hearings. He stated that at the last meeting, several residents of
47 Queensland Court expressed concern regarding traffic safety and noise impacts to their

neighborhood, specifically to lots located below the future street elevation. Residents requested that some type of barrier be considered along 1200 East, which is a Master Planned collector street. Mr. Christensen stated that he and Mr. Ackley have discussed appropriate barriers, and that it appears that a cable barrier would be appropriate in this particular circumstance.

Councilmember Carpenter inquired as to whether any other issues were raised by residents that the Council may not be aware of. Mr. Cowie stated that the lot located on the corner of 380 North and 1200 East may be impacted. He explained that the lot has an existing retaining wall at or near the property line. Road construction will require the installation of an additional retaining wall adjacent to the existing wall. Mr. Ackley stated that alternatives for engineering of the second retaining wall will be reviewed and approved by the Metropolitan Water District. He explained that a retained earth system which will be less likely to disturb the existing wall is being proposed at this time. Mr. Ackley also explained that the aqueduct was turned over to the Metropolitan Water District by the Bureau of Reclamation approximately two years ago, and that enforcement of the easement area, including possible removal of retaining walls which were installed without permission, are being addressed more proactively.

Mr. Cowie presented a photograph of the existing retaining wall. He noted that the new retaining wall will extend approximately eight feet above the existing wall in order to accommodate the roadway. Mr. Cowie stated that the property owner is aware of the location of the roadway, and the need to install the additional retaining wall. Mr. Ackley confirmed that he has met with the property owner personally, and that they are aware of the road design.

An audience member who stated that he lives on the corner of 140 North and 1200 East expressed concern that the developer is making a request to not be required to connect to the secondary water system. He stated that other residents have been required to connect to secondary water, and that with frequent drought conditions, it may be unfair to allow this development to irrigate with culinary water. Mayor Dain stated that point was well taken, and that consideration would be given to the request at the time an application is submitted. Mr. Ackley reiterated that the reason for the request is limitations imposed by the easement.

Mayor Dain asked Mr. Ackley if this development is still economical feasible given the multiple development constraints. Mr. Ackley stated that the development is still feasible at this point. Councilmember Bayless inquired as to projected time lines to start the development. Mr. Ackley stated that given the current economic climate, there may be some delay in construction. Expiration of approvals would be one consideration in the timing of the development. Councilmember Carpenter expressed concern regarding the cumulative effect of the various exceptions. He noted that at some point, the potential detrimental effects of the exceptions may outweigh the public benefit of the development.

Mayor Dain invited Public Works Director, Don Peterson, to comment on the utility locations. Mr. Peterson stated that the biggest concern which has been discussed with the developer in Development Review Committee meetings is a barrier for the water line, and a three foot separation between each utility to allow crews to access lines for maintenance and repair. He stated that discussions with Mr. Ackley indicate that there is some consideration at this point to moving the storm drain location under the curb, which

would require removal of curb and gutter structures to repair or maintain drains. Mr. Peterson stated that he has significant concerns regarding the number of exceptions being requested. He stated that the water line will break at some point in the future, and that the reason lines are typically located in the street is to contain the water and prevent damage to surrounding properties. Mr. Peterson also expressed concern regarding the proposed location for the traffic barrier adjacent to Queensland Court. He stated that the cable barrier location would not allow adequate space to get necessary equipment into utility locations for repair and maintenance work, and that it may be necessary to remove the barrier to complete periodic work.

Mr. Ackley noted that he had neglected to discuss a retention type system on individual lots, which will consist of swale type retention areas at the rear of lots to funnel ground water away from homes. He agreed that no matter what steps are taken, there is always a potential for flooding. Mr. Peterson reiterated that if the water lines are located in the roadway, water would be contained in the street and funneled into the storm drainage system, significantly reducing the likelihood of property damage.

Mr. Cowie reviewed the conditions of approval set forth by the Planning Commission as follows:

1. Utility variation are permitted as proposed, with the requirement that a Home Owners Association be established and be responsible for maintenance of the 2” pressurized sewer mainline, up to the point where it connects to the gravity fed system.
2. The applicant shall comply with any additional City Engineering and/or Public Works recommendations regarding utility installation and design.
3. The temporary hammerhead turn around is acceptable given the constraints caused by the easement restrictions.
4. Lots 5, 6 and 7 have been withdrawn and are not proposed in the current plans. These lots should not be granted preliminary approval as part of this application. The City has not received enough information to verify that the slopes will not adversely affect buildable areas, and that the identified geologic hazards will not adversely affect the lots. Approval of these lots will require a separate subdivision approval process.
5. The developer shall provide a hazard free, maintenance free ground cover in medians, such as large landscape boulders or other decorative elements.
6. Cross easement as needed shall be shown on the (or a separate legal instrument) between all lots with shared driveway accesses.
7. The developer shall install individual pressure increasing pumps in each dwelling. (Water pressures are proposed to meet State required minimums, but will not be at typical pressures found in Lindon. The developer has offered to install pump systems in each dwelling unit to increase water pressures. Given the developers willingness to install them, individual pressure increasing pumps should be required in each dwelling.)
8. Approval of the currently proposed subdivision is contingent on the developer obtaining a “relief petition” in order to have the request for not connecting to the pressurized irrigation system considered. The developer will be required to submit a separate Relief Petition application. If denied, the pressurized irrigation system must be installed for the subdivision. Given the proposed use of the

2 culinary water system for irrigation, low water use landscaping is recommended
3 for all lots in the development.

4 9. Approval of the subdivision is contingent on the developer receiving a variance
5 on cut and fill limitations imposed by the Hillside Overlay ordinance. The
6 developer shall apply to the Board of Adjustment for a separate variance request
7 for any cuts and fills that exceed ten feet.

8 10. Any agency having existing easement or utilities on the property easements or
9 utilities on the property will be required to sign the final plat and/or approve the
10 construction design of the roadway (i.e. B.O.R., Metropolitan Water District,
11 Rocky Mountain Power, etc.).

12 The Council discussed including a condition that appropriate barriers approved by
13 the City Engineer be installed adjacent to Queensland Court along the new section of
14 1200 East. A site visit was scheduled to tour the property Thursday, January 29th at 4:00
15 p.m. Mayor Dain called for a motion to continue this item.

16 COUNCILMEMBER CARPENTER MOVED TO CONTINUE THE
17 CANBERRA ESTATES SUBDIVISION REQUEST. COUNCILMEMBER BAYLESS
18 SECONDED THE MOTION. ALL PRESENT VOTED IN FAVOR. THE MOTION
19 CARRIED.

20

21 **COUNCIL REPORTS –**

22

23 **COUNCILMEMBER HATCH** – *Water, Sewer, Solid Waste, Housing Consortium.*

24

25 Councilmember Hatch discussed the possibility of the City applying for the
26 Healthier Legacy Award. He noted that the City is taking pro-active steps to improve the
27 health of the community.

28

29 **COUNCILMEMBER ANTHONY** – *Parks, Recreation, Engineering, Lindon Fair,*
30 *Newsletter.*

31

32 Councilmember Anthony had no items to report.

33

34 **COUNCILMEMBER BAYLESS** – *Trails, Planning, Zoning, Board of Adjustments,*
35 *Administration.*

36

37 Councilmember Bayless reported that a member of the Planning Commission has
38 apologized for comments made during review of the aquatics center. Councilmember
39 Bayless apologized to the Commissioner for not involving them to a greater extent in the
40 planning process.

41

42 Councilmember Bayless also reported that the Healthy Lindon Committee is
43 making plans for future events.

44

45 **COUNCILMEMBER CARPENTER** – *General Plan, Streets & Sidewalks, Public*
46 *Buildings.*

Councilmember Carpenter invited other Councilmembers to attend the annual Public Officials Day at the State Legislature on January 24th. He also reported that he is working on educational information regarding possible property tax adjustments which could be distributed to residents during the coming months.

COUNCILMEMBER BATH – *Public Safety, Court, Building Inspections.*

Councilmember Bath was not present at this meeting.

ADMINISTRATOR’S REPORT –

Mr. Dameron reported on the following items:

1. Engineering Coordination Meeting will be held January 21, 2009 at noon at the Public Works Complex.
2. Staff and officials from Pleasant Grove, Lindon and Orem will meet on Tuesday, January 27 at 3:30 to discuss an Interlocal Agreement regarding storm water issues on the west side of the City.
3. The annual Council retreat is scheduled for Saturday, February 7th at 7:30 a.m. at the Veterans Memorial Building.
4. The Parks and Recreation Director position has been advertised. Applications will be accepted until Friday, January 30, 2009 at 5:00 p.m.
5. Construction has slowed somewhat on the aquatics center due to the winter weather conditions, but work is progressing in many areas.

COUNCILMEMBER BAYLESS MOVED TO APPROVE THE PAY VOUCHERS. COUNCILMEMBER HATCH SECONDED THE MOTION. THE VOTE WAS RECORDED AS FOLLOWS:

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

THE MOTION CARRIED UNANIMOUSLY WITH ONE ABSENT.

ADJOURN –

COUNCILMEMBER ANTHONY MOVED TO ADJOURN THE MEETING AT 10:17 P.M. COUNCILMEMBER BAYLESS SECONDED THE MOTION. ALL PRESENT VOTED IN FAVOR. THE MOTION CARRIED.

Approved – February 3, 2009

Debra Cullimore, City Recorder

James A. Dain, Mayor