

2 The Lindon City Council held a Special Meeting on Monday, **November 12, 2007**  
beginning at 5:30 p.m. at the Lindon City Center, City Council Chambers, 100 North  
State Street, Lindon, Utah.

4 Conducting: James A. Dain, Mayor  
6 Pledge of Allegiance: Jerald Hatch  
Invocation: Eric Anthony

8 **PRESENT**

**ABSENT**

10 James A. Dain, Mayor  
12 Eric Anthony, Councilmember  
H. Toby Bath, Councilmember  
14 Lindsey Bayless, Councilmember  
Bruce Carpenter, Councilmember  
16 Jerald I. Hatch, Councilmember  
Ott H. Dameron, City Administrator  
18 Adam Cowie, Planning Director  
Debra Cullimore, City Recorder  
20 Mark Christensen, City Engineer  
Brian Haws, City Attorney

22 The meeting was called to order at 5:35 p.m.

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

26 **OPEN SESSION** –

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

32 **MAYOR’S COMMENTS/REPORT** –

34 Mayor Dain gave no report at this meeting.

36 **CONSENT AGENDA** –

38 No items.

40 **CURRENT BUSINESS** –

- 42 1. **Review and Action** – *Interlocal Agreement between Lindon City and Vineyard*  
44 *Town – Provision of Water Services*. This is a proposed agreement between  
Lindon City, Vineyard Town, and Anderson/Geneva Development for provision  
of water services to an area generally north of the extended 1600 North Street

2 (Orem) from Geneva Road to 2000 West. This item was continued from the  
November 6, 2007 meeting.

4 Dennis Astill of Anderson/Geneva Development was present as the representative  
for this item. Mayor Dain explained that a group of City officials and City staff  
6 conducted a site visit and walked the proposed trail location. He stated that at this point,  
it seems that a workable route had been identified through the property. He invited Mr.  
8 Christensen to describe the route to the Council. Mr. Christensen presented and overhead  
map of the proposed trail location, which he noted appears to be an agreed upon  
10 alignment for the trail. He noted that there were two areas outside of the specific trail  
alignment which were depicted on the map in pink. He explained that while these areas  
12 are not necessary to accommodate the trail alignment, they are areas which should be  
preserved to protect the character of the area.

14 Mr. Astill stated that Anderson/Geneva is in agreement with the proposed  
alignment and preservation of specific areas, with the exception of the area depicted in  
16 pink on the west end. He stated that he currently has an interested buyer for the property,  
and that he is not at liberty to sell a portion of the property without the permission of the  
18 perspective buyer. Mr. Dameron clarified that the property can not be sold until a plat is  
recorded, and that the plat can not be recorded until water service is agreed upon.

20 Councilmember Anthony inquired as to whether the City intends to use the pink  
areas in association with the trail. Mr. Dameron stated that the areas are not necessary for  
22 the trail, but that the intent is to preserve the habitat in the areas. Councilmember Bath  
noted that in the west area, if the ditch is allowed to flow naturally it may be problematic  
24 to the property owner. Mr. Astill stated that he is aware that there is a prescriptive  
easement to maintain flows in the ditch, but that the question is how to make the best use  
26 of the area. Mayor Dain observed that it is his impression that Vineyard also wants to  
preserve wetlands in the area as much as possible.

28 Councilmember Anthony noted that there are several areas around the trail  
corridor with piles of fill material. He inquired as to whether there may be any liability  
30 issues associated with the existing fill piles in relation to wetlands in the area. Mayor  
Dain stated that liability issues are unlikely, but that a hold harmless clause will be  
32 included in the agreement which will exclude Lindon from any liability associated with  
possible environmental hazards in the fill material. Mr. Haws explained that the  
34 agreement clarifies that any contamination occurred prior to Lindon acquiring the  
property. Mr. Astill noted that the fill was dumped at the site prior to enactment of the  
36 Clean Water Act. Mr. Cowie presented photographs of the area of fill, which show the  
piles of fill overgrown with natural vegetation.

38 Mr. Astill noted that there may be issues associated with the trail location adjacent  
to the FedEx site. He stated that the proposed trail corridor may encroach onto the FedEx  
40 site. Following review of the site plan in relation to the proposed trail alignment, it  
became apparent that the trail will not encroach onto the FedEx site, or disrupt the site  
42 plan submitted by FedEx.

44 Councilmember Bayless observed that the proposed trail corridor appears to  
mutually agreed upon. She noted that only remaining question is the cost to Lindon City  
to acquire the property. Mr. Cowie reviewed changes to the trail alignment since the  
46 previous meeting, including the areas depicted in pink designated for habitat protection.

2 She asserted that Lindon is choosing to provide water to accommodate this proposed  
development. She expressed concern regarding equity to Lindon City at the proposed  
4 price for the trail corridor. Mr. Astill observed that there may be a difference in  
perspective. He clarified that Vineyard does have an existing contract with CUP to  
6 provide water to the area, and that it is a matter of time until service from that source can  
be established. Mr. Astill reviewed various phases of the negotiation process for the  
8 water provision. He stated that Anderson Geneva initially agreed to provide a fifteen foot  
trail easement along the north boundary of the property in exchange for a credit towards  
annual payments for water service. A proposed lump sum price of \$150,000, to be  
10 realized as credit toward annual payments, for the fifteen foot easement was proposed.  
Mr. Astill stated that the City requested a much larger corridor than the original fifteen  
12 foot right of way. He explained that the property could be sold on the open market at  
approximately \$4.50 to \$5.00 a square foot, and that from the perspective of  
14 Anderson/Geneva it is reasonable to charge Lindon fair market value price for the  
additional square footage. He noted that any land used for the trail can not be sold as part  
16 of the commercial lots, and that selling the property at a lower price would result in a loss  
of revenue to Anderson/Geneva. He noted that the cost of a fifteen foot right of way  
18 along the northern boundary (total square footage 66,000 square feet) was calculated  
based on total square footage at \$2.27 a square foot. Anderson/Geneva is willing to sell  
20 the additional square footage requested by Lindon at the fair market price of \$4.50 per  
square foot.

22 Councilmember Carpenter noted that if areas of specific lots which would require  
costly reclamation were removed from the overall square footage, it may be possible to  
24 sell the lots at a higher price. Mayor Dain noted that a significant area of the FedEx site  
is shown as undeveloped area on the site plan. Mr. Astill explained that those areas are  
26 reserved for future growth of the company.

The Council went on to discuss the areas depicted in pink on the map which the  
28 City would like to acquire in order to preserve the character of the area. Councilmember  
Anthony suggested that preservation of habitat in the area should be a joint effort  
30 undertaken by both Lindon City and Vineyard Town. The Council discussed whether it  
would be appropriate for Lindon to acquire the property now at the proposed price, or to  
32 negotiate with property owners as lots are sold, and work cooperatively with Vineyard on  
preservation issues. Mr. Cowie stated that in his professional opinion, it is likely that  
34 much of the pink area will be designated wetlands, which would require mitigation if  
developed.

36 Mr. Haws cautioned the Council that Vineyard does not have authority to exact  
property from developers as land is developed unless the exaction is proportional to the  
38 development. He explained that there may not be a nexus between the pink areas and the  
development, and that unless there is a reasonable relationship and rough proportionality,  
40 Vineyard may not have the ability to preserve the areas. He explained that Lindon has  
the ability to purchase the property as part of this private contract, but that Vineyard may  
42 not have the ability to preserve the areas in the future. He noted that land can not be  
condemned to allow construction of trails. Mayor Dain commented that while property  
44 can not be exacted, it is possible that the Lindon and Vineyard can negotiate with private  
property owners to obtain area outside the trail corridor for preservation purposes.  
46 Following further discussion, the Council felt that it would be appropriate to secure only

2 the area necessary for the trail at this time, and negotiate to acquire additional property at  
a later date.

4 Councilmember Anthony inquired as to whether funds are available in the budget  
to allow purchase of the property. Mr. Dameron stated that this item is not specifically  
6 addressed in the budget, but that reserve funds can be used if necessary. He noted that  
there are other funding options which the City will explore, such as repayment of loans  
from Orem City.

8 Councilmember Anthony asked for clarification on the time line for payment to  
Anderson/Geneva. Mr. Astill stated that the Vineyard Town Council has approved the  
10 agreement subject to approval of the Lindon City Council. Mr. Haws stated that the  
contract calls for payment to be made at the time the property is deeded to the City. The  
12 cash payment portion of the agreement will be due at the time of closing.

14 The Council discussed specific language which should be included in the motion  
to approve the agreements. Mr. Haws explained that it will be necessary to specify  
survival of the merger with the warranty deed to clarify that the warranty deed is not the  
16 controlling document. Mayor Dain called for further comments or discussion. Hearing  
none, he called for a motion.

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20 COUNCILMEMBER BATH MOVED TO APPROVE THE INTERLOCAL  
AGREEMENT BETWEEN LINDON CITY AND VINEYARD TOWN TO PROVIDE  
CULINARY WATER SERVICE TO A SPECIFIC AREA OF VINEYARD BASED ON  
22 THE AGREED UPON FEE. COUNCILMEMBER HATCH SECONDED THE  
MOTION. THE VOTE WAS RECORDED AS FOLLOWS:

24 COUNCILMEMBER ANTHONY            AYE  
COUNCILMEMBER BATH                AYE  
26 COUNCILMEMBER BAYLESS            AYE  
COUNCILMEMBER CARPENTER        AYE  
28 COUNCILMEMBER HATCH             AYE  
THE MOTION CARRIED UNANIMOUSLY.

30  
32 COUNCILMEMBER CARPENTER MOVED TO APPROVE THE  
DEVELOPMENT AGREEMENT BETWEEN LINDON CITY AND ANDERSON  
GENEVA DEVELOPMENT WITH THE FOLLOWING CONDITIONS:

- 34 1. THAT EXHIBITS BE ATTACHED TO THE DOCUMENT WHICH SPECIFY  
THE EXACT SQUARE FOOTAGE AND THE COST PER SQUARE FOOT.  
36 2. THAT THIS AGREEMENT SURVIVE THE MERGER AS THE GUIDING  
DOCUMENT (RATHER THAN THE WARRANTY DEED).  
38 3. THAT THE AGREEMENT INCLUDE A HOLD HARMLESS CLAUSE  
EXCLUDING LINDON FROM LIABILITY ASSOCIATED WITH ANY  
40 ENVIRONMENTAL HAZARDS FOUND IN THE AREAS OF FILL  
LOCATED ON THE SITE.  
42 4. THAT AT THE POINT THAT THE TRAIL CORRIDOR CROSSES THE  
DITCH, THE CITY WILL PURCHASE ONLY THE TRAIL RIGHT OF WAY  
44 SHOWN IN THE LIGHT BLUE LINES.  
46 5. THAT LINDON CITY AND ANDERSON GENEVA BOTH APPROVE THE  
EXHIBITS.

COUNCILMEMBER ANTHONY 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.

The Council briefly discussed potential future development in the area specified to receive water service. Mr. Astill expressed appreciation to the Council for their time and consideration.

**COUNCIL REPORTS** –

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

Councilmember Hatch gave no report at this meeting.

**TRAILS, PLANNING, ZONING, BD OF ADJ., ADMINISTRATION** –

Councilmember Bayless gave no report at this meeting.

**PUBLIC SAFETY, COURT, BUILDING INSPECTIONS** –

Councilmember Bath gave no report at this meeting.

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

Councilmember Anthony gave no report at this meeting.

**GENERAL PLAN, STREETS & SIDEWALKS, PUBLIC BUILDINGS** –

Councilmember Carpenter gave no report at this meeting.

**ADMINISTRATOR'S REPORT** –

Mr. Dameron gave no report at this meeting.

**ADJOURN** –

COUNCILMEMBER BAYLESS MOVED TO ADJOURN THE MEETING AT 7:00 P.M. COUNCILMEMBER ANTHONY SECONDED THE MOTION. ALL PRESENT VOTED IN FAVOR. THE MOTION CARRIED.

Approved – November 20, 2007

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Debra Cullimore, City Recorder

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James A. Dain, Mayor

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