

**MINUTES OF TOWN COUNCIL MEETING  
TOWN OF EAGLE MOUNTAIN, UTAH  
1680 E. Heritage Drive  
Eagle Mountain, UT 84043  
December 8, 1998**

**1. Roll Call:**

The meeting was called to order by Mayor Robert E. Bateman at 7:07 p.m.

Councilmembers present: Mayor Robert E. Bateman  
Dan Valentine  
Bill Chipman  
Diane Bradshaw  
Cyril Watt

Town Staff:

Town Administrator: John Newman  
Town Attorney: Jerry Kinghorn  
Town Engineer: Korey Walker  
Town Clerk: Janet Valentine  
Town Treasurer: Jeri Wilson  
Recording Secretary: Vada Hunter  
County Deputy Sheriff: JoAnn Murphy

Also present: Jim Kelley, Sandy; Mitch and Wanda Miller, Murray; Les Miller, Murray; Tom and Maureen Anderton, Town; Hank Allen, Town; Jim Allen, Town; Barry Graff, Orem; Michael Rice, Town; Delwin Davis, Town; Darrin Nilsson, Town; John Wallace, Town; Roxanne Clark, Town; David Lifferth, Town; Paul Vanderwerff, Town; Steve Clark, Town; Edward A. and Utahna White, American Fork; Shana Davis, Town; Glen Zaugg, Town; Bryan and Kristin Martin, Town; Paul Mayes, Town; Quint Schroeder, Town; Laura Lewis, Lewis Young Inc.; Charlotte Ducos, Provo, Jesse Smith, Seattle Northwest Securities; Russell L., Taylorsville; Wayne Bradshaw, Town; Mark Sovine, Town; Scott H., Town; John D, Jacob, Town; Blaine Carlton, Bond Counsel; Nick Berg, Eagle Mountain Properties, Bruce Baird, Eagle Mountain Properties; Debbie Hooge, The Ranches L.C.

**2. Pledge of Allegiance:**

The Pledge of Allegiance was led by Vada Hunter.

**3. Approval of Agenda:**

Mayor Bateman proposed removing the following items from the agenda:

Item 17 – Draw Request for “The Ranches” – not enough information  
Item 21 – Consideration to contract with Corrosion Consulting and Inspection Specialists, Inc., as a third party inspector for the natural gas line – Korey Walker gave a brief explanation

**MOTION**

*Diane Bradshaw moved to approve the agenda as stated with the exception of the removal of items 17 and 21. Dan Valentine seconded. Ayes: 4, Nays: 0. Cyril Watt not present yet. Motion passed.*

4. Approval of Minutes 03/04/98 – Joint Meeting with Planning Commission, and 11/24/98:

Diane Bradshaw was the only member of the Town Council in the meeting of 3-4-98. She had not yet had the opportunity to read through these minutes.

**MOTION**

*Diane Bradshaw moved to table the minutes of 3-4-98 until the next Town Council Meeting. Bill Chipman seconded. Ayes: 4, Nays: 0. Cyril Watt not present yet. Motion passed.*

**MOTION**

*Bill Chipman moved to approve the minutes of November 24, 1998, as amended. Dan Valentine seconded. Ayes: 4, Nays: 0. Cyril Watt not present yet. Motion passed.*

5. General Discussion/Questions/Announcements:

Mayor Bateman announced that there would be a Christmas Potluck and Carol Sing at the Fire Station on Monday, December 21, at 6:00 p.m. He said Santa would be there and encouraged everyone from the town to participate and meet other people from the town and get to know each other. Diane Bradshaw asked for the announcement to be put on the web site.

Mayor Bateman proposed that the Town Council schedule three meetings in January and February to discuss the General Plan. He explained that when the General Plan was put together there were very few people involved. He wants the citizen of the Town to be more aware of what is involved and to get their input concerning the General Plan. He proposed that on January 6, 1999, at 7:00 p.m., there be a Public Hearing to discuss the background of the town utility systems, their ownership, rate structures, and related issues. He stated there would be a meeting on January 14, 1999, entitled Envision Utah, which is put on by the Governor's Office. They discuss various growth scenarios and look at alternatives to managing growth. This would be from 7:00 – 9:00 p.m. at the Fire Station. He said there would then be a follow-up meeting on February 3, 1999, at 7:00 p.m., to discuss growth issues, open space, residential and commercial development, etc.. The purpose is to get the Town's input and get as much feedback as possible to make sure the vision reflects the dreams and visions of the community.

Mayor Bateman said the Public Works Board would be in attendance as well as the Town Staff to help answer questions at the January 6<sup>th</sup> meeting.

Jerry Kinghorn, Town Attorney, said he needed to advise the Town Council of some necessary updates for the Capital Facilities Plan; specifically, the Transportation Plan and the Water System Plan need updating to incorporate some items that are developing as credits for the Impact Fee. They need to be incorporated in the Capital Facilities Plan so that the credits can be figured. One of them involves land acquisition costs for the Town. The town has acquired some land and promised to pay for it so we need to incorporate those land acquisition costs into the Capital Facilities Plan. The other is the Eagle Mountain Boulevard Special Improvement District (SID). That SID was not incorporated into the Capital Facilities Plan. The last one has to do with the Town well. He said they had been unable to resolve the water agreement issues between The Ranches and Cedar Valley Water Company. He said they now propose to put that well into the Capital Facilities Plan to find a different payment mechanism to resolve the issues of that water agreement. He recommended that the Town Council authorize Epic Engineering to re-open the Capital Facilities Plan with respect to the Transportation and Water System plans and proceed forward to incorporate these three items into it.

Jerry said he would work closely with Korey Walker, Town Engineer, to bring back a short proposal by the next Town Council Meeting, December 15<sup>th</sup>, to present to the Council for their approval.

Bill Chipman, Councilmember, asked if the Council could have some sort of a summary before the next meeting to review the situation.

Mayor Bateman asked the members of the Council to be thinking about what items should be on the agenda for 1999 as far as what is most important. He also asked them to be thinking about their goals for 1999. He said the water issue should be of a high priority.

**6. Warrant Register/Jeri Wilson:**

Mayor Bateman commented that he appreciated the work Jeri Wilson had done on the Warrant Register. He also asked that on page 2, General Fund, #13600 for Dunex in the amount of \$10,000 be held for the present time.

Diane Bradshaw had a question on page 1, General Fund, #101 for Airtouch Cellular and what that pertained to. Mayor Bateman explained that this was an issue of a cell phone purchase that was billed incorrectly by Airtouch. Part of the amount was a cell phone purchased by Janet Valentine. She was reimbursing the town for the amount she owed. Diane also asked Jeri how much more the town owed to Lythgoe & Steinbach after the payment of \$5,100.00 was made. Jeri told her the balance was \$100.00.

Dan Valentine asked about the payment to U.S. Bank Trust Company. He wanted to know if this was a monthly payment. Jeri said the amount was an annual payment.

Bill Chipman asked how the U.S. Bank Trust money was allocated and Jeri explained how she allocated it.

Diane Bradshaw also asked why the Employee Benefits money was coming out of the water fund. Jeri explained that this was for Bob Wren. She said she was working on which fund should be used for him so that it would be the same each time.

Dan Valentine had questions about the Tasco Engineering expenses on page 4, Electric Fund expenditures. Jerry Kinghorn explained that this was for the 1998 RBANS only. Dan also had questions on page 2 of the Unpaid Invoice Report. He wanted to know why the payment had not been made to Santec Corporation for the \$29,592.00 invoice. Korey Walker, Town Engineer, explained that this amount is 10% of what is left on the proposed contract. This will not be paid until everything is hooked up. Korey said he has also requested a categorized breakdown of the entire bill from Santec. He also had a question on page 6 for the item 5240570000 in the amount of \$191,567.77. Diane verified that this was the Condie Construction bill.

**MOTION**

*Diane Bradshaw moved to approve the Warrant Register with the exception of the Dunex bill in the amount of \$10,000.00. Bill Chipman seconded. Ayes: 4, Ayes: 0. Cyril Watt not present yet. Motion passed.*

**7. Public Comment:**

Delwin C. Davis, 2109 E Fall St, stated that he had lived in Eagle Mountain for two months now. He asked if it would be possible to have a bike rack put up by the school bus stop. He said his children like to ride their bikes to the stop and then lock them up then when they are dropped off after school they can ride their bikes back home. He had brought some literature with him about various styles of bike racks. Nick Berg, Eagle Mountain Properties, said they had a bike rack in storage that could be used.

Diane Bradshaw said she would work with John Jacobs, Cedar Pass Ranches, in communicating with the Alpine School District concerning problems with the school bussing.

Darrin Nilsson, Cedar Pass Ranches, wanted a clarification of the Impact Fee. He felt like the Impact Fee had tripled in three years. Mayor Bateman asked Korey Walker, Town Engineer, to give a brief explanation of the Impact Fee. Korey stated that a study had been done to determine what kind of

utilities would be needed for the growth of Eagle Mountain over the next five years. He said that based on the facility plan and the projected growth of the town an Impact Fee is generated upon those facilities. He clarified that the Impact Fee would not quadruple in the next few years.

Mayor Bateman explained that the State of Utah has very strict requirements about what needs to go into justifying an Impact Fee. He said it is a process that requires a lot of time to do. This is why the town is enacting Impact Fees for the first time according to the state procedure.

Korey Walker explained that the bigger burden of the Impact Fee would be placed on the new people coming in and not the existing homeowners. He talked about credits the master developers are fronting from monies of their own. Those credits will help offset some of the Impact Fee.

Mayor Bateman stated that the Impact Fee must be calculated on a case by case basis because the credits differ for each development.

Paul Vanderwerff, P. O. Box 188, West Jordan, said he would be building next spring. He voiced his concern about the densities of some of the developments. He also had some concerns about the water usage issues. He wanted to know if there was a long-term outline for the development. He is looking forward to the town meetings and learning more about the future of Eagle Mountain. Mayor Bateman said the water issue was very complex and that it would be explained at one of the meetings in January or February.

Les Miller, 5916 Sanford Dr, Murray, stated that he had purchased a lot in Overland Trails and when he applied for a building permit he was told about the Impact Fee. He was frustrated because he had not been able to find out about credits he could use to lower the Impact Fee. He had asked several people but had had no success.

Nick Berg, Eagle Mountain Properties, asked if there could be a meeting between the developers and the Town to discuss the credits. He feels that a lot of the developers are confused about how the credits work. John Newman, Town Administrator, said he would set the meeting up and that Jerry Kinghorn, Town Attorney, would attend to help with any questions that would be asked.

## **8. Protest Hearing:**

### **A. Public hearing to receive comments and/or protests regarding the creation of Eagle Mountain, Utah, Special Improvement District 98-2 (Cedar Pass):**

Mayor Bateman explained that SID 98-2 was an initiative started by Mayor Hooge as she felt like this was something that the people of Cedar Pass Ranch needed. However, Mayor Bateman said that because of the number of protests that have been received it was clear that there are a number of questions that needed to be addressed on this still and he recommended to the Town Council at this time that they not approve the SID.

Dave Lifferth, Cedar Pass Ranches, said he was representing the Homeowners Association. He is the President of the Homeowners Association for Cedar Pass Ranches. Dave said that the seeds of mistrust have been planted deep in the ground at Eagle Mountain. He feels like the Town Council does not listen to the citizens. He asked that in the future the wording in the SID's not be worded so negative. Jerry Kinghorn, Town Attorney, explained that the wording comes from the State requirements.

Bill Chipman expressed his appreciation for the work the Town Council had done to try to make things better for the Town of Eagle Mountain.

Dave said he was not trying to offend anybody. He was just relaying how the people feel.

Roxanne Clark, Cedar Pass Ranch, talked about how she had contacted 115 people about this protest. She said that the people feel that the Town is just not listening to them.

Mayor Bateman spoke about how there were only 18 people involved in the original General Plan. There was a lot of frustration in the early days. He said he is glad that people are taking interest. He asked that people come to the meetings and take more interest in what is going on. He said there is a lot of misinformation out there.

Roxanne said the citizens just want to be heard.

Bill Chipman said that the only reason the Town had started this SID for natural gas is that some citizens came to the Town and said they wanted the natural gas.

John Jacob, 9155 North Cedar Pass Road, voiced his frustration about how he was approached by Roxanne in talking about the SID. He wanted to know what the mistrust is. He feels like if the SID is voted down it would be a miscarriage of justice.

Mayor Bateman said that people need to understand the utility system. They need to talk about the issues to resolve the concerns.

John Jacob wanted to know if the SID was voted down now, would this delay the system or would the Town have to start all over again. He wanted to know how much money had been spent so far.

Mayor Bateman said the engineering would not have to be done again.

Glen Zaug, 9138 N Deerfield Circle, stated that he had received the notices about the natural gas proposal and was happy about that. He didn't know that it wasn't going to be Questar. He wants to see more information to compare rates.

Mayor Bateman explained that the rates were the same as Questar. He said the town had approached Questar when the gas system was first proposed, but they were not interested or they gave an extremely high price. He said Mayor Hooge had done a good job of setting up the SID for this gas line.

Mayor Bateman asked Jerry Kinghorn, Town Attorney, what the town's options were on the issue at this point.

Jerry Kinghorn advised the Council to close the Public Hearing and table item 8b while they analyze the protests to see if they can develop some more public information before a vote is taken. He said they may have to decline it.

John Jacob hoped that it could be tabled until some information could be given to the concerned citizens.

Roxanne Clark said she would like to form a fact-finding committee.

Charlotte Ducos, Provo, said she had heard things from both sides. She said she wants natural gas when she gets out to Cedar Pass. She hopes the item can be tabled until the protests have been evaluated. She asked if a letter could be written to withdraw a protest.

Jerry Kinghorn said to close 8a, table 8b, count the protests, and then get a report back to the Town Council.

Blaine Carlton, Bond Counsel, said the Utah Statute allows for protests to withdraw.

Bill Chipman asked if they could continue the Public Hearing until January 19, 1999.

Diane Bradshaw clarified that they can table 8b, but if they count the protest votes and they are more than 51% then the item is dead. Jerry Kinghorn said that was correct.

**MOTION**

*Dan Valentine moved to table the action on item 8b until the next Council meeting, December 15, 1998, at which time we will hear a report and make a decision at that point and have a procedure. Bill Chipman seconded.*

*Dan Valentine amended to continue the Public Hearing indefinitely, and to place on the next agenda a discussion of the actual vote tabulation. Ayes: 4, Nays: 0. Motion passed.*

**9. Consideration and Approval of a Resolution authorizing the issuance and sale of not to exceed \$5,090,000.00 Special Assessment Bonds, Series 1998 (Eagle Mountain, Utah Special Improvement District No. 98-3) (Sweet Water Road/Storm Drainage Phase I); fixing interest rates and maturity dates; and related matters:**

Jerry Kinghorn gave a presentation on this issue. He handed out material to the Council for reference. He said this is a formal action to be taken to authorize the sale of the bonds in the Eagle Mountain Properties under SID 98-3. There were some changes that needed to be taken. Some of the names were wrong on the cover sheet.

Blaine Carlton, Bond Counsel, stated that on page 8 the schedule was wrong. He passed out a corrected copy for the Council to reference. He then gave a brief explanation of the contract. The Bond Purchase Agreement is with Seattle-Northwest Securities Corporation.

Cyril Watt arrived at 9:00 p.m.

Jesse Smith, Seattle-Northwest Securities Corporation, also gave a brief explanation of the agreement. He urged the Council to act on the resolution. He said that tonight the two things that needed to be done was to approve the resolution and give it a number, and to sign the Bond Purchase Agreement between Seattle-Northwest Securities Corporation and the Town of Eagle Mountain. He said the funds would be available December 15, 1998.

Laura Lewis, Lewis Young Inc., also spoke to the Council. She said that failure to act on this resolution could cause a failed closing and this would be very detrimental to the Town.

Bruce Baird, Eagle Mountain Properties, spoke to the Council. He talked about the hopes and dreams for the Town. He said they have a vision but they need to work through some issues with the Town so that everybody is working toward the same goals. Some of the goals they have are:

- 2,000 homes by year 2000
- cooperation between Town and developers
- prompt, fair processing of applications
- utility system healthy
- money spent wisely on SID's
- review Capital Facility Plan
- re-visit elements of Capital Facility Plan

Jerry Kinghorn, Town Attorney, read Resolution 28-98:

**A RESOLUTION AUTHORIZING THE ISSUANCE AND PROVIDING FOR THE SALE OF \$5,090,000 TOWN OF EAGLE MOUNTAIN, UTAH SPECIAL ASSESSMENT BONDS, SERIES 1998 EAGLE MOUNTAIN, UTAH SPECIAL IMPROVEMENT DISTRICT NO. 98-3 (SWEET WATER ROAD/STORM DRAINAGE PHASE I) (THE "ONDS"), FIXING THE**

INTEREST RATES TO BE BORNE THEREBY, PRESCRIBING THE FORM OF BOND AND INTEREST RATES, MATURITY AND DENOMINATION OF SAID BONDS; CREATING A DEBT SERVICE RESERVE FUND AS PROVIDED BY STATUTE; AND RELATED MATTERS.

**MOTION**

*Dan Valentine moved to approve Resolution 28-98 as read by the Town Attorney and as amended by Bond Counsel in prior discussion. Diane Bradshaw seconded. Ayes: 5, Nays: 0. Motion passed.*

10. Consideration and Approval of a Resolution authorizing the issuance and sale of not to exceed \$1,470,000. Water and Sewer Revenue Bond Anticipation Notes, Series 1998; authorizing the execution of a Note Purchase Contract and all other documents required in connection therewith; authorizing the taking of all other actions necessary to consummate the transactions contemplated by the Bond Resolution, Supplemental indenture and other related documents; and related matters:

Blaine Carlton and Jesse Smith gave brief explanations of the three resolutions that would fall under items 10, 11, and 12. The resolutions were passed to the Council and they were advised not to make any notations on them. These documents set forth the conditions of the Special Assessment Bonds talked about under item 9. He said there is one Purchase Note Agreement to cover all three resolutions.

Jerry Kinghorn read the first resolution which is entitled Resolution 29-98:

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF EAGLE MOUNTAIN, UTAH COUNTY, UTAH AUTHORIZING THE ISSUANCE AND SALE OF ITS WATER AND SEWER REVENUE BOND ANTICIPATION NOTES, SERIES 1998 IN A TOTAL PRINCIPAL AMOUNT OF \$1,470,000; AUTHORIZING THE EXECUTION BY THE TOWN OF A SECOND SUPPLEMENTAL INDENTURE, A NOTE PURCHASE CONTRACT, AN OFFICIAL STATEMENT AND OTHER DOCUMENTS REQUIRED IN CONNECTION THEREWITH; AND AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS RESOLUTION, THE SECOND SUPPLEMENTAL INDENTURE, THE NOTE PURCHASE CONTRACT AND THE OFFICIAL STATEMENT; PROVIDING A SEVERABILITY CLAUSE; REPEALING RESOLUTIONS IN CONFLICT; PROVIDING AN EFFECTIVE DATE; AND RELATED MATTERS.**

There were some names changes that needed to be taken care of in the resolution copies.

Diane Bradshaw had some questions about some of the dollar amounts. These were clarified by Jesse Smith and Jerry Kinghorn. The difference in the totals would come from The Ranches.

**MOTION**

*Cyril Watt moved to approve Resolution 29-98 as read by the Town Attorney. Diane Bradshaw seconded. Ayes: 5, Nays: 0. Motion passed.*

11. Consideration and Approval of a Resolution authorizing the issuance and sale of not to exceed \$570,000. Telecommunications Revenue Bond Anticipation Notes, Series 1998; authorizing the taking of all other actions necessary to consummate the transactions contemplated by the Bond Resolution, Supplemental Indenture and other related documents; and related matters:

There was a discussion about having all three resolutions under one Note Purchase Contract.

Jerry Kinghorn read Resolution 30-98:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF EAGLE MOUNTAIN, UTAH COUNTY, UTAH AUTHORIZING THE ISSUANCE AND SALE OF ITS TELECOMMUNICATIONS REVENUE BOND ANTICIPATION NOTES, SERIES 1998 IN A TOTAL PRINCIPAL AMOUNT OF \$570,000; AUTHORIZING THE EXECUTION BY THE TOWN OF A SECOND SUPPLEMENTAL INDENTURE, A NOTE PURCHASE CONTRACT, AN OFFICIAL STATEMENT AND OTHER DOCUMENTS REQUIRED IN CONNECTION THEREWITH; AND AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS RESOLUTION, THE GENERAL INDENTURE, THE SECOND SUPPLEMENTAL INDENTURE, THE NOTE PURCHASE CONTRACT AND THE OFFICIAL STATEMENT; PROVIDING A SEVERABILITY CLAUSE; REPEALING RESOLUTIONS IN CONFLICT; PROVIDING AN EFFECTIVE DATE; AND RELATED MATTERS.

MOTION

*Diane Bradshaw moved to approve Resolution 30-98 as read by the Town Attorney. Bill Chapman seconded. Ayes: 5, Nays: 0. Motion passed.*

12. Consideration to approve a Resolution authorizing the issuance and sale of not to exceed \$2,830,000. Gas and Electric Revenue Bond Anticipation Notes, Series 1998; authorizing the execution of a Note Purchase Contract and all other documents required in connection therewith; authorizing the taking of all other actions necessary to consummate the transactions contemplated by the Bond Resolution, Supplemental Indenture and other related documents; and related matters.

Bill Chipman pointed out that there was a discrepancy in the amount of this resolution listed on the top of the Note Purchase Contract (\$2,825,000) and in the resolution (\$2,830,000). Jesse Smith clarified the correct amount is \$2,830,000. He said the correct amount is listed on the original contract.

Jerry Kinghorn read Resolution 31-98:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF EAGLE MOUNTAIN, UTAH COUNTY, UTAH AUTHORIZING THE ISSUANCE AND SALE OF ITS GAS AND ELECTRIC REVENUE BOND ANTICIPATION NOTES, SERIES 1998 IN A TOTAL PRINCIPAL AMOUNT OF \$2,830,000; AUTHORIZING THE EXECUTION BY THE TOWN OF A SECOND SUPPLEMENTAL INDENTURE, A NOTE PURCHASE CONTRACT, AN OFFICIAL STATEMENT AND OTHER DOCUMENTS REQUIRED IN CONNECTION THEREWITH; AND AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS RESOLUTION, THE GENERAL INDENTURE, THE SECOND SUPPLEMENTAL INDENTURE, THE NOTE PURCHASE CONTRACT AND THE OFFICIAL STATEMENT; PROVIDING A SEVERABILITY CLAUSE; REPEALING RESOLUTIONS IN CONFLICT; PROVIDING AN EFFECTIVE DATE; AND RELATED MATTERS.

MOTION

*Bill Chipman moved to approve Resolution 31-98 as read by the Town Attorney. Diane Bradshaw seconded. Ayes: 5, Nays: 0. Motion passed.*

Jesse Smith explained a little more about the importance of signing the Note Purchase Contract tonight in order to sell the notes to Seattle-Northwest Securities Corporation.

Bill Chipman had a question about White Ranch listed in the contract. Jerry Kinghorn verified that this was not the White Ranch the Town is working with about annexing into the town. This is property owned by Walden.

Bill Chipman wanted to know why there was only one contract instead of three. Jesse explained that because the town is selling all three notes as one package to Seattle-Northwest Securities Corporation, there was only one contract to cover all three resolutions.

Mayor Bateman brought to their attention several changes that needed to be made on the documents that referred to the gender of "her" as far as the mayor was concerned and it should be "him".

**13. Consideration and Approval of the Development Agreement with The Ranches, LLC for R-1 N-7 Crittenden Corner Subdivision:**

Mayor Bateman expressed some concern over a section of this packet which is Exhibit 4, Special Conditions. The condition states: Off site storm water improvements are required to be constructed as part of the Master Developer's responsibilities. These improvements should be constructed prior to occupancy within the subdivision.

Debbie Hooge, DMH Group, represented The Ranches on this item.

There was a discussion about having all of the information concerning the development be included with the packet so that the Council knows what has been taken care of in the past.

Jerry Kinghorn, Town Attorney, said they are trying to simplify the paperwork to make things easier at the Council meetings. He also asked that a sentence be added to paragraph 2.4 on page 2 of the Development Agreement. This paragraph deals with the Town not having sufficient utility capacity to deliver services to the Owner/Developers project and the duties of the Town to provide services are expressly conditioned upon the Ranches L.C. providing the financial sponsorship of the Special Assessment District for offsite utilities to the property as required by the Town to service the project. The Parties intend that the rights granted to Owner/Developer under this Development Agreement are both contractual and as provided under the common law concept of "vested rights." Jerry wanted to change some of the language in this regarding the absence of the Town to furnish utilities. He said that he would like the phrase added which disclaims liability for providing utilities if something happens.

Jerry also brought up the subject of a 10-acre park. He wanted to know when that park was going to be completed and how. He asked that a timeframe be submitted for completion along with the plan for the park.

Debbie Hooge, representing The Ranches, said she would need to talk with the developer before any decision was made concerning the park.

Mayor Bateman left the meeting for a few minutes and appointed Dan Valentine as Mayor Pro-Tem.

Debbie said the 1-acre park was already designed but not a 10-acre park. There was some discussion about who was responsible for building the 10-acre park.

Diane Bradshaw asked when the Council could see the plans. Debbie said she would bring copies to the Council.

Bruce Baird, Eagle Mountain Properties, said he believed the approval of these development agreements for these two subdivisions, Crittenden Corner and Rockwell Village, is a violation of both law and public policy. He said they are in violation of their own Development Code because there is no development agreement. He talked about how some of the small lots are not even realistic for development because of their size. He spoke about utilities to the developments into The Ranches. He questioned the financing of The Ranches. He said The Ranches had not come up with an SID yet.

Jesse Smith from Seattle-Northwest Securities met with Bruce Baird privately to talk about the funding that was being prepared for The Ranches.

Jerry Kinghorn said that there were some things that needed to be done before there could be any people moving into homes in The Ranches. He said that there have been disclosures put in the building permit applications so that people would know the risks they were taking.

Bruce Baird talked about "paper" lots.

Jerry Kinghorn said that much is being done to secure all of the funding and to take care of the utilities for The Ranches. He said they were working hard to complete the Master Development Agreement for The Ranches. He said the pieces are coming together. He said he hoped the Master Development Agreement is completed before they approve anymore subdivisions for The Ranches.

Bill Chipman asked when this would be completed. Jerry said they did not have a date but hoped it would be soon.

Mayor Bateman came back but he asked that Dan Valentine remain Mayor Pro-Tem until item 13 was completed.

Mayor Bateman asked Jerry Kinghorn if the law was being broken as far as The Ranches were concerned. Jerry responded that he would not allow the law to be broken. Mayor Bateman said he was not comfortable with approving subdivisions for The Ranches without a completed Master Development Agreement. Jerry said that the water issue was one of the items keeping them from finalizing the agreement. John Jacob said he was very near completion of transferring water rights to The Ranches.

**MOTION**

*Bill Chipman moved to approve the development agreement with The Ranches L.C. for R-1 N-7 Crittenden Corner Subdivision with the addition of a disclaimer put in on paragraph 2.4 with relation to the utilities as outlined and accepted by the Town Attorney. Diane Bradshaw seconded.*

Dan Valentine asked if there could be a word added under Article III, Basic Building Restrictions, Section 3.01. At present the wording of the last sentence reads: Each lot shall be used solely for residential purposes. Dan asked if the sentence could read: Each lot shall be used solely for single family residential purposes. Dan also asked if Section 7.08 under Article VII could be changed to read: Homes shall have the appearance of single family residences. No Lot and no residence on any lot shall be used for any purpose other than for a single family residence. However, nothing in this Declaration shall prevent the rental of a Lot by the Owner thereof for single family residential purposes, on either a short or long-term basis subject to all the provisions of this Declaration and the requirement that all such leases shall be in writing and that a violation of any of the restrictions, covenants, and conditions set forth herein shall be a default under such Lease.

*Bill Chipman amended the motion to accept the above condition. Diane Bradshaw accepted the amendment. Ayes: 5, Nays: 0. Motion passed.*

**14. Consideration and Approval of the Development Agreement with The Ranches, LLC for R-1 N-8 Rockwell Village Subdivision:**

Mayor Bateman took back his duties from Dan Valentine.

There was some discussion about the water rights being transferred from John Jacob. John said this is being done by his attorney. John said this had been a very delicate matter but was finally being settled and should be available soon.

**MOTION**

*Dan Valentine moved to approve the development agreement for The Ranches Rockwell Village Subdivision as written with the following additions:*

- 1. That included under Exhibit 4, Special Conditions, that one acre of grass park with a tot lot be completed and installed by September 1, 1999.*
- 2. That an additional utilities language disclaimer, acceptable to the Town Attorney, be added to paragraph 2.4.*
- 3. That the overall park development plan and phasing expectations be turned into Ken Leetham, Town Planner, before the subdivision is recorded.*
- 4. That Article III, Section 3.01 be modified to add the words "single family" before residential purposes, and the same exact language be added to Section 7.08.*

*Diane Bradshaw seconded. Ayes: 5, Nays: 0. Motion passed.*

**15. Report to the Town Council on the White Ranch Annexation/Janet Valentine:**

Janet Valentine reported that the White Ranch Annexation had met everything that is required by statute to annex as far as the State law is concerned.

Jerry Kinghorn explained that the next step would be to publish in the newspaper a notice that the Town had received the petition and that it has been filed with the Town. This is published once a week for three consecutive weeks. Then within 20 days the Town has an extensive mailing that needs to be done. The Town needs to mail to the county, to the school district, to the Town of Cedar Fort, and to the property owners of the unincorporated area that is in the area proposed for annexation. Jerry said there are quite a few of those people. After the notice period runs out then they have 30 days to file their protest with the Town to the annexation. If the Town gets a lot of protests from the county, such as the school district or from landowners covering 15% of the assessed evaluation, it triggers a Boundary Commission Hearing before the Utah County Boundary Commission. At that point the Town really needs to make a decision whether we want to proceed with that any further because the Town would be required to post part of the costs of the feasibility study for the annexation. Jerry advised that at this point they needed to start the process and go from there. He said the Town should also advise the petitioners that the petition was certified and that the Town is going forward with the notice process; and if they want to get started with some kind of Master Development Plan, disclose the ownership, disclose what arrangements they have on the ownership and that sort of thing, they could start bringing those things to the Planning Commission and try to get something considered.

There was some discussion concerning water rights.

Jerry Kinghorn explained what the requirements of the notice are:

- a. have received the petition and it has been filed
- b. the date of the notice of certification which is today (December 8, 1998)
- c. described the area proposed for annexation
- d. say that the annexation petition is available for inspection and copy at the office of the recorder
- e. may or may not grant the petition and annex the area
- f. unless the Town receives written protests the Town has to state the address of a Boundary Commission

Jerry said the Town does not have to set up a Public Hearing.

**MOTION**

*Diane Bradshaw moved to authorize the Town Clerk to proceed with publishing the notice as required by the Statute for Annexation with the State. Dan Valentine seconded. Ayes: 5, Nays: 0. Motion passed.*

**MOTION**

*Dan Valentine moved to table items 18, 19, 20, 22 until the Town Council Meeting on December 15, 1998, and to adjourn the Town Council Meeting of December 8, 1998. Bill Chipman seconded. Ayes: 5, Nays: 0.*

The Town Council Meeting of December 8, 1998, adjourned at 11:00 p.m.

Approved: \_\_\_\_\_ Date: \_\_\_\_\_  
                    **Mayor Robert E. Bateman**

**MOTION**

*Dan Valentine moved to table items 18, 19, 20, 22 until the Town Council Meeting on December 15, 1998, and to adjourn the Town Council Meeting of December 8, 1998. Bill Chipman seconded. Ayes: 5, Nays: 0.*

The Town Council Meeting of December 8, 1998, adjourned at 11:00 p.m.

Approved: Robert E. Bateman Date: 12/15/98  
Mayor Robert E. Bateman