

Adopted Minutes
Spanish Fork City Council Meeting
April 6, 1994

The meeting was called to order at 7:00 pm by Mayor Marie W. Huff. Local boy scout Brady Dansie lead the pledge of allegiance.

Elected Officials Present: Mayor Marie W. Huff, and Councilmembers Jerald M. Chapple, Thora L. Shaw, Kim H. Peterson, Rex Woodhouse, and Clyde A. Swenson.

Staff Members Present: David A. Oyler, City Manager; Richard J. Heap, Engineer/Public Works Director; Dee Rosenbaum, Public Safety Director; S. Junior Baker, City Attorney; Mary-Clare Maslyn, Administrative Assistant; and Heather Frost, Recording Secretary.

Citizens Present: Cornelia deBruin, Daily Herald and Salt Lake Tribune; Carol Ford, Brady Dansie, Brad Ford, Josh Dansie, Keith Dansie, Gary R. Bradford, Becky Bradford, Larry Duffin, Bonny Duffin, Gregory Duffin, Beverly Bearnson, Robert L Bearnson, Nathaniel Mills, Casey Nielsen, M. James Hancock, Jeremy Hancock, Bryan Hancock, Chad Carter, and Reed Larson.

Minute Passage

Councilmember Swenson made a **motion** to accept the presented warrants and the minutes of the March 16, 1994, regular city council meeting, with noted corrections. The **second** was made by Councilmember Woodhouse. The motion **passed** with a unanimous vote.

"The Future is in Your Hands" Award

Mayor Huff presented youth Craig Duffin and Deavon LeBaron with "The Future is in Your Hands" Award. This is a new award to honor youth who contribute their skills and talents to better the community.

Bids for Concrete Work

Mr. Heap explained more information was needed. The bids will be presented at the council meeting on April 20, 1994.

Hughes Annexation: Ordinance Z-106, and Resolution A-7

Mr. Heap explained a public hearing was held two weeks ago on this annexation and no one at the meeting was opposed to the annexation. The staff recommended the area along Main Street be zoned C-2, with the remainder being zoned R-A-5. Mayor Huff asked if septic tanks would be allowed in single homes. Mr. Heap said one home would be permitted, but any more than one would fall under the subdivision ordinance.

Councilmember Peterson made a **motion** to accept the Hughes annexation: Ordinance Z-106 and Resolution A-7. The **second** was made by Councilmember Jerald Chapple, and the motion **passed** with a unanimous vote.

Water Park Rates and Policies

Mr. Oyler reviewed rates and hours of operation of the new water park, (see attached). Mr. Oyler said the planned opening day is June 1, 1994, at 1:00 pm. Mayor Huff asked if the rates were comparable to those of other cities. Councilmember Chapple said these rates were comparable with other rates in the county.

Councilmember Chapple made a **motion** to accept the water park rates and policies as outlined. The **second** was made by Councilmember Shaw, and the motion **passed** with a unanimous vote.

Ordinance 12-94: Outdoor Burning

Mr. Rosenbaum requested an amendment to the current outdoor burning ordinance, which will allow the public safety department more power in controlling outdoor burning.

Councilmember Shaw made a **motion** to accept Ordinance 12-14: an amendment to Title 8.28.040(c). The **second** was made by Councilmember Peterson, and the motion **passed** with a unanimous vote.

Property Sale at the Airport

Councilmember Shaw made a **motion** to table the property sale at the Airport to provide more time to consider the issue. Mr. Heap described the property location. He also mentioned the airport board made a recommendation that the council accept this acquisition. Councilmember Woodhouse said it also had to be approved by Springville. The **second** was made by Councilmember Peterson, and motion **passed** with a unanimous vote.

Resolution 94-05: Nebo School District Building Bond

Mayor Huff recommended voting in favor of Resolution 94-05 because of the overpopulation of the schools in Spanish Fork. She encouraged citizens to vote on this issue and to show their support.

Councilmember Woodhouse made a **motion** to adopt Resolution 94-05, Support of the Nebo School District Building Bond. A **second** was made by Councilmember Swenson, and the motion **passed** with a unanimous vote.

Miscellaneous

Councilmember Woodhouse mentioned the possibility of purchasing new equipment for wood chipping at the transfer station.

Public Hearing - Finch Annexation

Councilmember Chapple made a **motion** to open the public hearing at 7:30 pm. The **second** was made by Councilmember Shaw, and the motion **passed** with a unanimous vote. Mr. Heap explained Mr. George Finch requested annexation to be zoned R-A-1. He mentioned the planning commission recommended approval of the annexation. Councilmember Shaw asked why it had been recommended R-A-5 rather than R-A-1 as requested. Mr. Heap explained proper utilities and the proper zone were needed to meet city requirements.

Mayor Huff then asked for public input. No input was received. The public hearing ended at 7:38 pm.

Public Hearing - Taylor Homes Zone Change

The public hearing opened at 7:39 pm. Mr. Heap explained Taylor Homes is presently zoned R-A-1 and the requested zone change is for R-1-9.

Mr. Karl Hansen, Taylor Homes, approached the council with two problems which he felt the council might have with the zone change. He explained if there was a problem with the sewer capacity, Taylor Homes would be willing to subsidize the sewer: The subsidy would be by prepaid fees, or by giving the city some of the money to go toward the sewer line. Mayor Huff explained the problem with the sewer is not directly in front of Taylor Homes' property, but it is the lower sewer trunk line. Mr. Heap explained the current line is at capacity at the current time. Councilmember Shaw stated a study was done by Bruce Hall and the anticipated cost would be \$1,300,000. She explained the city will not have funds this year for the project. She asked how much Taylor Homes was willing to pay.

Mr. Hansen said Taylor Homes would be willing to sit down at a later date and discuss numbers. He would not make any amount public because he thought other developers might want to contribute also. He said the council might be surprised at what Taylor Homes would be willing to pay. Councilmember Swenson suggested the contractors get together and get an idea of what kind of money would be made available for the sewer line project, and asked how many homes they would like to build. Mr. Hansen said 70-80 homes. Mr. Heap mentioned the planning commission had recommended against the zone change at this time.

Councilmember Woodhouse suggested getting all of the landowners along that area together to support the zone change, and work something out with the city. He also mentioned another problem, the zone change would cause a leap frog effect, and there would be areas without sidewalk, curb, and gutter. Mr. Hansen said he would like to know if the city council will recommend the zone change. Councilmember Woodhouse expressed concern because of the current sewer capacity. Councilmember Chapple said he would be interested in seeing financial figures of the contractors in the area who may consider assisting with the sewer line installation.

Councilmember Chapple made a **motion** to table a decision on this zone change to the first meeting in May, when more information could be made available. The **second** was made by Councilmember Swenson. Mr. Heap mentioned if the council wanted them to review the numbers, the utility board meeting is April 27, 1994. Councilmember Swenson asked what the current contractor agreement is. Mr. Oyler said at the current time, everyone pays a portion of the sewer per hookup. Councilmember Shaw suggested Mr. Hansen discuss the issue of raising money with the Nebo School District. Discussion was held concerning the approximate amount of money that would be needed for the sewer line. Mr Oyler said it would be between 1.3 to 1.7 million dollars. The motion **passed** with a unanimous vote. The public hearing ended at 8:02 pm.

Public Hearing - South Main Annexation

The public hearing opened at 8:03 pm. Mr. Heap showed the area requested for annexation. He stated the zone requested is R-A-1 in a C-2 zone. He mentioned the planning commission had recommended the annexation be denied because there is no sewer.

Mayor Huff asked for comments from the public. There were no comments. The public hearing ended at 8:07 pm.

Public Hearing - Electric Impact Fees on Certain Areas of Spanish Fork City

Mr. Oyler read Resolution 94-06. He then turned the time over to the public for their comments.

Mrs. Kenna Anderson, Spanish Fork, approached the council with questions about how Spanish Fork and Strawberry Electric Service District (SESD) initially got into this conflict. She asked who was responsible for the conflict. Mr. Oyler gave a brief history of the relationship between Spanish Fork City and SESD. He said state law allows Spanish Fork City to service customers within the city limits. He explained six customers had been hooked up by the city without SESD permission, and by order of the court, they would now be served by SESD. Mrs. Anderson asked who made decisions for Spanish Fork City at that time; she felt those responsible should have asked SESD for permission to service those six homes. Mr. Oyler said the mayor, city council, city manager, and power superintendent were responsible for making decisions at that time.

Councilmember Peterson stated Spanish Fork City and SESD had overlapped service areas. Mrs. Anderson stated she felt the conflict should have been taken care of in the beginning, and that it was her feeling it shouldn't have had to go as far as court. She felt the city was losing money to court costs that could have been used for the sewer system. She said many people in her area of the city were worried that the sewer is past its capacity and the city just keeps approving more development. Mrs. Anderson asked if the impact fee would be retroactive. Mr. Oyler explained the city would have to pay on the 37 homes that have been built after 1985. He further explained that in the future, for each house built on property annexed into the city after 1985, the city would have to pay SESD an \$1,108.50 service fee.

Councilmember Shaw explained that the thing that bothered her about losing the lawsuit is that a State Senator had come to the city council in the past and asked that the city support SESD. The city council agreed that there would not be a problem, but the judge did not see it our way, and now citizens will have to pay. Mrs. Anderson said she was worried she would have to pay. Mr. Oyler explained that the fee would be added to building permits.

Councilmember Swenson said another option would be to pay for the service out of the budget, so every citizen would have to pay. Using the map, Mr. Oyler showed the areas annexed into the city after 1985. Councilmember Peterson mentioned that Payson, Salem, St. George, and Logan are also having conflicts. Mr. Oyler said there would be a final ruling by the judge on this matter in about two weeks. If the area is annexed into the city after the court ruling, the city will have to go to SESD and ask permission to serve that area. If the city and SESD cannot agree, that particular case will go back to court.

Mayor Huff asked Mr. Oyler to explain the sewer capacity to Mrs. Anderson. Mr. Oyler explained that four hundred more building lots have been approved, and after those were used, the sewer will have reached its capacity. Mr. Heap mentioned the sewer would then be 60% full, and it would not be allowed to go beyond that point in order to provide for peak capacity times. Mr. Oyler further explained that there are currently new lines being developed.

Mr. Chris Child, Spanish Fork, asked how the judge arrived at the amount and who would have to pay the impact fees. Mr. Oyler explained that the judge sided with SESD's expert witness and that is how he arrived at the amount the city owes SESD.

Mr. Marion Hancock asked why there was a moratorium on building permits. Mr. Oyler explained the moratorium was placed on building permits until the final decision was made by the judge. The city could then review that decision with the city attorney, and the proposal was made to put an impact fee on the affected areas.

Mr. Howard Creer, Leland, said that when he was on the city council, he had worked with SESD, and they had a good working relationship at that time, he gave some examples of projects they had worked on together and worked well together. He said power is a great source of revenue for the city and for SESD, and that could cause conflict.

Councilmember Woodhouse stated that every city has the constitutional right to service power to residents of that city. He said the city is responsible for providing recreation programs, and other services for the residents, and a main source of revenue is power. Councilmember Swenson stated it would cost the city money to have people in the city that are not on city power, therefore, the council would have to look at new annexations closely.

Mr. Kent asked how long the moratorium on building permits would last. Councilmember Peterson said, once the decision is made on the impact fees, the moratorium could possibly be lifted. Mr. Oyler said if SESD were to service customers in the city, there would be no impact fee. Mr. Chris Child made the statement that the city would lose profits. He then suggested the option of the city charging the impact fee on all building permits rather than only on the affected areas of the lawsuit. The options of utility rates being raised, or the money being taken out of the budget were also discussed.

Mayor Huff explained that annexations are requested by people outside of the city, the city does not go to them. If annexed into the city, the city then has to provide recreation, garbage pickup, police services, and street services, all of which cost money.

Mrs. Anderson suggested a franchise tax be charged to the people affected by the lawsuit. Mr. Oyler explained a franchise tax could not be charged to some people in the city, and not to others.

Mayor Huff asked the gentlemen representing Strawberry if they had any input. They did not feel it would be appropriate to say anything at this time.

Councilmember Swenson asked if a large industry were to come to the city, would the city have to pay the amount SESD charged up-front. Mr. Oyler explained the city would have to pay the amount up-front, then they would hope to get the money back through power sales and property taxes. He said the city may not have the revenue source to be able to give large industry the incentives to come to Spanish Fork depending on the amount the city would have to pay to SESD.

Councilmember Shaw made a **motion** to close the public hearing at 9:21 pm. The **second** was made by Councilmember Woodhouse, and the motion **passed** with a unanimous vote.

Councilmember Swenson made **motion** to adopt Resolution 94-06: A resolution adopting impact fees for electrical service in locales affected by the Strawberry Electric Service District Decision, and to lift the moratorium on building permits. The **second** was made by Councilmember Woodhouse, and the motion **passed** with a unanimous vote.

Adjournment

Councilmember Woodhouse made a **motion** to adjourn the regular session of council meeting at 9:30 pm and to go into executive session. The **second** was made by Councilmember Shaw, and the motion **passed** with a unanimous vote.

EXECUTIVE SESSION

The executive session began at 9:35 pm.

Elected officials present: Mayor Marie W. Huff, and Councilmembers Jerald M. Chapple, Kim H. Peterson, Rex Woodhouse, Clyde A. Swenson, and Thora L. Shaw.

Staff members present: David A. Oyler, City Manager; Richard J. Heap, City Engineer/Public Works Director; and S. Junior Baker, City Attorney.

Councilmember Chapple made a **motion** to go out of executive session, and back into regular session. The **second** was made by Councilmember Woodhouse, and the motion **passed** with a unanimous vote.

H.E. Davis Boundary Line Agreement

A boundary line agreement was presented between the city property east of the dripping rock area on Spanish Fork river east of the golf course and the H.E. Davis property. Councilmember Chapple made a **motion** to authorize the Mayor to sign the agreement. The **second** was made by Councilmember Woodhouse, and the motion **passed** with a unanimous vote.

Adjournment

Councilmember Chapple made a **motion** to adjourn. The **second** was made by Councilmember Woodhouse, and the motion **passed** with a unanimous vote.