

Adopted Minutes
Spanish Fork City Council Meeting
June 15, 1994

The meeting was called to order at 6:30 pm by Mayor Marie W. Huff for a preliminary review of the agenda. At 7:00 pm the pledge of allegiance was lead by Mr. Ron Davis.

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

Staff Members Present: David A. Oyler, City Manager; Kent R. Clark, Finance Director/Recorder; Richard J. Heap, Engineer/Public Works Director; Dee Rosenbaum, Public Safety Director; S. Junior Baker, City Attorney; and Heather Frost, Recording Secretary.

Citizens Present: Renae Shepherd, Wayne Shepherd, Bill Thompson, Chantal Thompson, Clint Muhlestein, R. Dan Phillips, Ronald Davis, Lorraine Davis, Dick Bastian, Susan Bastian, Doug Nielson, Mary Harris, Scott Sumsion, Dave Olsen, Keith Gardner, Cory Muhlestein, Connie M. Muhlestein, Richard Muhlestein, Bob Johnson, Shirley A. Johnson, Jon O. Hunter, Wayne R. Boothe, Jonathan F. Cope, Harold E. Davis, Jay Rindlisbacher, Maureen Rindlisbacher, Brent R. Sumsion, and Leann Moody, Spanish Fork Press.

Minute Passage

Councilmember Peterson made a **motion** to accept the minutes of the June 1, 1994, regular city council meeting with noted corrections and presented warrants. The **second** was made by Councilmember Shaw, and the motion **passed** with a unanimous vote.

Public Hearing - Leland Area Industrial Zone Changes

Councilmember Peterson made a **motion** to open the public hearing at 7:05 pm. The **second** was made by Councilmember Shaw, and the motion **passed** with a unanimous vote.

Mayor Huff welcomed any new or additional information concerning the Leland area industrial zone changes.

Mr. Heap said it is the recommendation of the Development Review Committee that IFA, Valley Asphalt, and the Leland Mill be zoned I-2. The Planning Commission made the same recommendation including H.E. Davis & Sons in the I-2 zone. Both the Development Review Committee and the Planning Commission recommended the two parcels on each side of Main Street, owned by Fritz of Utah, be zoned C-2 and the remaining property remain I-1. He said this would be in accordance with the Comprehensive General Plan amendments recently adopted by the city council.

Mrs. Chantal Thompson, Leland, said she felt it would be in the best interest of the city if H.E. Davis (currently I-1) remain I-1. She felt changing them to I-2 would allow future growth that might become a problem. She also mentioned if they were zoned I-2 they would be allowed to have a rock crusher and she was against that.

Mr. Ron Davis of Leland asked who would be required to control the noise and dust ordinances if they were passed.

Mr. Oyler suggested reviewing the proposed noise ordinance and the proposed fugitive emissions and dust ordinance in conjunction with the public hearings. He then reviewed the fugitive emissions and dust ordinance.

A question was raised regarding Harry filling his water truck with the fire hydrant. Mr. Oyler said that issue was addressed in the rate structure. A flat rate will be charged per 1000 gallons.

Mr. Clint Muhlestein, Leland, asked what kind of chemicals could be used to control dust. Mr. Oyler said salt or oil base.

Mr. Baker said it would be a class C misdemeanor plus damages for violation of the proposed ordinances. Mr. Baker said the maximum penalty would be a \$500.00 fine or 90 days in jail. He said the minimum penalty could be any decision by the judge. Mr. Oyler said if the problem went to court, the city would not have control of what the fine would be.

Mr. Scott Sumsion, Valley Asphalt, asked who would be responsible for the court case. Mr. Baker said both parties involved in the case.

Mr. Oyler said he had been to Leland several times in the past four days to monitor the noise with a sound meter and also to monitor the dust situation. He said when the big wind came up there were minimal dust problems with Valley Asphalt because they had been watering. He said the screener was going, and some dust came out of it, but there was no dust on the roads. He noticed quite a bit of dust from H.E. Davis & Sons. Mr. Jonathan Cope, H.E. Davis & Sons, said there are other factors to look at, two examples he gave were the fact the ground had recently been worked near Harry's property and there is an alkali flat nearby.

Mrs. Muhlestein asked what could be done about diesel fumes. Mr. Oyler referred her to Debbie Olsen at the air quality office at the Utah County Health Department. He said the city doesn't have the expertise to handle health issues. Mr. Clint Muhlestein suggested having the people from the health department come out and monitor the industries. Mr. Brent Sumsion, Valley Asphalt, said Ms. Olsen comes by two or three times per year to see that Valley Asphalt is in compliance. He said there has not been any problems.

Mr. Thompson asked Mr. Oyler if the industries had been notified of his visits to Leland. Mr. Oyler said they had not been notified. He said in monitoring the noise with the sound meter, the highest reading was 55 decibals. Mr. Oyler then reviewed the noise ordinance.

Mr. Clint Muhlestein suggested requiring a lower decibal reading at night. Mr. Oyler then reviewed the hour restrictions in the noise ordinance.

Mr. Richard Muhlestein said he had been to the health department and obtained information on noise levels. He said noise becomes a nuisance when there is loss of sleep or irritability due to the noise. He said noise could cause permanent hearing loss if level of sound exceeds 30 decibals and noise can cause headaches or nervousness at 50 decibals on average. He suggested looking at the high and low ranges and agree on a happy medium.

Mr. Dan Phillips, Leland, suggested after a decision was made, a trial period of six months was set, after which everyone could discuss what did or did not work. Mr. Clint Muhlestein suggested a three

month trial period. He said he felt the residents should be entitled to at least 12 hours of peace and quiet per day.

Mrs. Renae Shepherd said she has been a resident of Leland for 24 years and she has watched businesses come in and out of the area. She said she moved there because she wanted to have animal rights and she preferred the Leland area to other areas in the city. She said her concern is if limitations are set on the industries, when will limitations be set on the residents. She said she paid for her land they paid for their land and she wondered how the city could decide how they should use their land. She said the residents chose to move to Leland, and for the most part, they knew what existed. She said she agreed the residents and the industries should try to agree on a happy medium.

Councilmember Shaw made a **motion** to close the public hearing at 8:10 pm. The **second** was made by Councilmember Chapple. Councilmember Peterson said he felt if people had additional comments, they should be allowed to voice their opinion. Councilmember Shaw **withdrew** the motion.

Public Hearing - Amendments to Standard Land Use Chart, Appendix A, Title 17 - Animal Hospitals, Veterinary Services, Rock Crushers

Mr. Heap said after adopting the conditional use ordinance, some items on the standard land use chart should be reviewed. He said the first item to consider is animal hospitals and veterinarian services. He said the planning commission recommended animal hospitals and veterinarian services be conditional uses in the C-1 zone.

Dr. Hunter, Nebo Animal Clinic, said he would like to be zoned C-2 so the Nebo Animal Clinic is conforming. Councilmember Chapple mentioned neighbors of Nebo Animal Clinic are concerned if Nebo is zoned C-2, they will be able to build storage sheds on their property. Councilmember Chapple said a conditional use permit does not prevent adding on to the building. Councilmember Peterson said his concern with zoning Nebo Animal Clinic C-2 would be the possibility of future uses after the Nebo Animal Clinic is gone. Dr. Hunter expressed his concern with coming before the council anytime a change over \$500.00 is made at the clinic, which would be required to get a conditional use permit.

It was indicated rock crushers needed to be classified in the land use chart. This had been discussed in conjunction with the H.E. Davis and Valley Asphalt items. The industries desired it to be a permitted use, the residents wanted it to be a conditional or non-permitted use in the I-2 zone.

Councilmember Peterson made a **motion** to close the public hearing at 8:50 pm. The **second** was made by Councilmember Chapple, and the motion **passed** with a unanimous vote.

Canyon Ridge - Plat F - Final

Mr. Heap said there is a ditch that cuts across the southeast corner for a short distance. He said the irrigation company wants the developers to donate the money rather than piping the ditch. He said before the plat is recorded, we will have to have a dollar amount from East Bench Irrigation Company. He said the money must be made available or a bond will be required until a decision is made. He said we must have a letter that states the ditch has been abandoned.

Councilmember Peterson made a **motion** to approve Canyon Ridge - Plat F - Final subject to the following conditions: 1) An agreement with the irrigation company is made; and 2) A letter is

received which states the ditches have been abandoned. The **second** was made by Councilmember Shaw, and the motion **passed** with a unanimous vote.

Western Park - Plat F - Preliminary

Mr. Heap said lots 24-27 are scheduled for a public hearing for a zone change, but the developers would like to get approval on the other lots until that time. He said lots 24-27 are affected by the Strawberry Electric Service District dispute. Mr. Heap suggested approving the plat with the exception of lots 24-27.

Councilmember Chapple made a **motion** to approve Western Park - Plat F - Preliminary with the exception of lots 24-27, and subject to a drainage easement. Councilmember Peterson made the **second**, and the motion **passed** with a unanimous vote.

Cambridge Estates - Final - Plat A & B

Mr. Heap said a temporary turnaround is needed at 100 South and 150 South. He said the drainage would be worked in conjunction with Southgate drainage, the drainage will be handled by the open areas in the Southgate development. He said there is also an irrigation ditch on 200 North that either must be piped or abandoned. Cambridge has agreed to install sewer upgrades on 600 East from Center to 200 North, and he recommends this is done by October of this year. The developer said there would be no problem with installing those upgrades by October of this year.

Councilmember Peterson made a **motion** to approve Cambridge Estates -Final - Plat A & B subject to the following conditions: 1) A temporary turnaround be installed at 100 South and 150 South; 2) The irrigation ditch issue is resolved; and 3) The sewer be upgraded on 600 East from Center to 200 North by October, 1994. The **second** was made by Councilmember Shaw, and the motion **passed** with a unanimous vote.

Canyon South - Preliminary

Mr. Heap said the developer has agreed to upgrade the 100 East sewer trunkline from 600 North to 900 North as a condition of this development, and the sewer will connect to the Wolf Hollow area. He said sections of ditch along the west half of the north property line and along 1700 East will need to be piped. He said the developer will be responsible to obtain all necessary easements for the sewer extensions. He explained the master plan for the storm drainage for this area has been to work in conjunction with the school district immediately south of this development; but the school district has since indicated that they do not want the storm drainage to drain into their property, so the developers are proposing to handle 25-year storms through sumps, and the excessive runoffs on storms will then flow to a retention area on Lots 19 & 20. When the property to the west develops, a similar area will need to be improved as a retention area making approximately 200 foot square retention and play area.

Councilmember Shaw made a **motion** to approve Canyon South - Preliminary subject to the following conditions: 1) The sewer upgrade be completed on 100 East from 600 North to 900 North with a connector agreement, and a sewer line be completed to the Wolf Hollow area; 2) The section of ditch along the west half of the north property line is piped; 3) The issue of the retention pond be resolved, with additional dialogue with the school district; 4) The ditch along 1700 East is piped; and 5) The developer obtain all necessary easements. Councilmember Peterson **seconded**, and the motion **passed** with a unanimous vote.

Dover Estates - Preliminary

Mr. Heap recommended some type of fencing be installed along 214.

Councilmember Chapple made a **motion** to approve Dover Estates - Preliminary subject to the satisfaction of the ditch company and west property line and property along 214 be fenced and temp turnaroud be installed on lot 106. The **second** was made by Councilmember Shaw, and the motion **passed** with a unanimous vote.

Councilmember Chapple made a **motion** amend the motion on Western Park to include lots 18-22 along the freeway be fenced.

East Canyon Village - PRD Preliminary

Councilmember Shaw made a **motion** to table East Canyon Village - PRD Preliminary. The **second** was made by Councilmember Peterson, and the motion **passed** with a unanimous vote.

Wolf Hollow - Plat E - Final

Mr. Heap said the area is zoned R-1-9. He said the Strawberry Electric fee of \$1,108.50 would have to be paid per lot upon development before the plat could be recorded.

Councilmember Peterson made a **motion** to approve Wolf Hollow - Plat E - Final on the condition the \$1,108.50 fee is paid prior to the recording of the plat. The **second** was made by Councilmember Shaw, and the motion **passed** with a unanimous vote.

Mt. Loafer - Plat Q - Final

Councilmember Chapple made a **motion** to approve Mt. Loafer - Plat Q - Final. The **second** was made by Councilmember Shaw, and the motion **passed** with a unanimous vote.

Change Order on 900 North Sewer Line

When the contractor started to excavate for the boring pit on 900 North (west of Main Street), they encountered gasoline in the soil and on the groundwater surface. The contractor had to stop the work because of the unsafe conditions. His subcontractor doing the boring also had to stop. Chevron Oil and Southland Corporation (7-Eleven) were both notified of the contaminated soils and immediately sent representatives to the site. Both companies have environmental consultants which have already been working in the area trying to analyze the extent of the contamination. These consultants determined the petroleum product was coming from the south, which put the responsibility on Southland Corporation. They immediately ordered equipment to treat the water and pursued a program with the State on how to handle the contaminated soils. Their first system was too small and would not adequately handle the amount of groundwater required. They ordered in a second system with larger pumps and a larger tank which is handling the problems. The boring contractor was

scheduled to go to Las Vegas and would not be back for three months; therefore, his equipment was sitting idle as we waited for the area to be cleaned up.

Mr. Heap said this is an unforeseen condition, and according to the contract, the contractors are entitled to extra money. Mr. Heap said he had talked to Southland Corporation and they had agreed to reimburse the city.

Councilmember Chapple made a **motion** to approve the change order on 900 North sewer line. The **second** was made by Councilmember Shaw, and the motion **passed** with a unanimous vote.

Finch Annexation

Mr. Oyler said 4 of the 5 councilmembers had to be present to vote on the annexation.

Councilmember Shaw made a **motion** to table the Finch Annexation request. The **second** was made by Councilmember Chapple, and the motion **passed** with a unanimous vote.

Utah Valley Consortium Fair Housing

Mr. Heap said the city had a three year contract with Utah Valley Consortium Fair Housing, and it is up for renewal. He said he is not aware of any problems.

Councilmember Shaw made a **motion** to adopt Resolution 94-11. The **second** was made by Councilmember Peterson, and the motion **passed** with a unanimous vote.

Title 17, Animal Ordinance

Mr. Oyler reviewed the recommendations of the animal control officer and the planning commission. He said the council would be unable to act on Title 17, Animal Ordinance, until a public hearing is held, but he wanted to make the information available before they review Title 6.

Title 6, Animals

Mr. Rosenbaum reviewed the proposed amendments to Ordinance 14-94, Title 6, Animals.

Councilmember Peterson made a **motion** to adopt Ordinance 14-94, Amendments to Title 6, Animals. The **second** was made by Councilmember Shaw, and the motion **passed** with a unanimous vote.

Fairway Meadows

Councilmember Shaw made a **motion** to accept Fairway Meadows - Revised Preliminary. The **second** was made by Councilmember Chapple, and the motion **passed** with a unanimous vote.

Utah State Supreme Court Appeal, Strawberry Electric Service District

Mr. Baker said the Strawberry order was entered last Friday. This gives the city 30 days within which to file an appeal. Mr. Baker said he would recommend giving authorization to Gary Dodge to file an appeal and to seek a full stay of execution. This will require the posting of a supersedeas bond. Mr. Baker and Mr. Dodge recommend that the city seek a stay and ask that the supersedeas bond of approximately \$41,000.00 be paid to the court. This will be returned if Spanish Fork City prevails on

the appeal. The disadvantage is that interest will continue to accrue. Posting the bond eliminates risk that the issue becomes moot by paying Strawberry. In addition, Spanish Fork City would not have to pay Strawberry yet. Councilmember Peterson asked who grants the stay. Mr. Baker answered Judge Harding would grant or deny. If he denies, we can seek a stay from the appellate court. The supersedeas bond is automatic, but the judge would set the amount to be posted with the court. Judge Harding may grant a stay since his initial ruling was in Spanish Fork City's favor. Judge Harding mentioned that the matter would be appealed. The trial court didn't know what the supreme court would do since the statute has not been interpreted. Councilmember Shaw asked if Mr. Dodge recommended posting a supersedeas bond or not. Mr. Baker said Mr. Dodge's feelings are to seek a full stay of the injunction, with the posting of a supersedeas bond.

Councilmember Shaw made a **motion** to file notice of appeal with the district court and seek a stay of execution and post a supersedeas bond by paying cash to the court. The **second** was made by Councilmember Peterson, and the motion **passed** with a unanimous vote.

A discussion ensued regarding the S.E.S.D. dispute.

Adopt FY 95 Budget - Rates, Fees, and Taxes

Mr. Oyler said there had been no public input had been received as to recommended changes in the budget. He asked the city council if they had any changes or recommendations before the budget was adopted.

Councilmember Chapple made a **motion** to adopt FY 95 Budget with noted amendments. The **second** was made by Councilmember Shaw, and the motion **passed** with a unanimous vote.

Impact Fee Resolution

Councilmember Peterson made a **motion** to adopt Resolution 94-12: Impact Fee Resolution. The **second** was made by Councilmember Chapple, and the motion **passed** with a unanimous vote.

Electric Rate Changes

Mr. Oyler said the electric rate change would be revenue neutral.

Councilmember Chapple made a **motion** to adopt all of the amended electric rates with the exception of the large power schedule. The **second** was made by Councilmember Peterson, and the motion **passed** with a unanimous vote.

Electric Utility Revenue Tax

Councilmember Peterson made a **motion** to adopt Ordinance 17-94; establishing an electric utility revenue tax. The **second** was made by Councilmember Chapple, and the motion **passed** with a unanimous vote.

Councilmember Chapple made a **motion** to have the amended rates and utility tax go into effect on the August bill. The **second** was made by Councilmember Peterson, and the motion **passed** with a unanimous vote.

Adjournment

Councilmember Chapple made a **motion** to adjourn the regular session of the council meeting to go into a Redevelopment Agency meeting at 11:00 pm. The **second** was made by Councilmember Shaw, and the motion **passed** with a unanimous vote.