

**Adopted Minutes
Spanish Fork City Council Meeting
May 20, 1997**

The meeting was called to order by Mayor Marie W. Huff at 6:30 pm for a preliminary review of the agenda. At 7:00 pm, the pledge of allegiance was led by Gordon Jones

Elected Officials Present: Mayor Marie W. Huff, and Councilmembers Matthew D. Barber, Sherman E. Huff, Thora L. Shaw, and Clyde A. Swenson. Councilmember Rex Woodhouse was excused.

Staff Members Present: David A. Oyler, City Manager; Richard J. Heap, Engineer/Public Works Director; Gregory A. Comstock, City Planner; S. Junior Baker, City Attorney; Kent R. Clark, Recorder/Finance Director; Dee Rosenbaum, Public Safety Director; and Gina Peterson, Deputy Recorder.

Citizens Present: Karen Payne, *Chamber of Commerce*; Susan Romero, *President, Chamber of Commerce*; John Bennett, Ellis Taylor, Pam Starley, Robert Starley, Dennis Stone, Lynn Leifson, Roger Reid, Dian Reid, Dorcas Hawkes, Jerry Hawkes, Angella Bennett, Leon A. Hansen, Wes Harris, James Demita, Diane Erickson, Joel Erickson, Jeanette H. Taylor, Sharlee Kuhni, Kevin Kuhni, Sharon Olson, Jeff Olson, Katie Lundell, Craig Lewis, Donald Palmer, Lisa Walton, Kira Christensen, Mark Petersen, Rich Burness, Andrew Rose, Mark Howard, Gordon Jones, Vic Deauvono, Joel Harris, Glen Gardner, Roxanna Johnson, *Spanish Fork Press*; and Carin Green, *Daily Herald*.

Minutes

Councilmember Shaw made a **motion** to approve the May 6, 1997, minutes of the Spanish Fork City Council as presented. Councilmember Swenson **seconded** the motion, and it **passed** with a unanimous vote.

Councilmember Shaw made a **motion** to approve the May 13, 1997, minutes of the Spanish Fork City Council as presented. Councilmember Swenson **seconded** the motion, and it **passed** with a unanimous vote.

Agenda Request - Chamber of Commerce

Ms. Susan Romero, 1997 Chamber of Commerce President, addressed the Council to propose a change in the City's membership dues to the Chamber. Previously, the Chamber of Commerce has received approximately \$5,000 from the City annually to put toward a specific project or projects that benefit the community and help with economic development. The Chamber proposes that the membership dues from the City be equal to one-third of their budget. This will be used to help offset the cost of starting up and continuing some of the Chamber projects that benefit the community. The Chamber of Commerce has a total budget of approximately

\$14,240 for 1997. Ms. Romero reviewed the Chamber of Commerce mission statement as well as current, and proposed projects. The Council feels the Chamber of Commerce should serve to benefit the community. Councilmember Swenson made a **motion** to approve the change in the City's Chamber membership dues as recommended by Chamber President Susan Romero. The **second** was made by Councilmember Shaw, and the motion **passed** with a unanimous vote.

Agenda Request - Scenic Drive Residents

Mr. Ellis Taylor reviewed erosion problems in the southeast corner of Spanish Fork City, specifically at Scenic Drive. Mr. Taylor stated the hillside at Scenic Drive is very fragile. Groundwater which comes in July and continues until September adds to the infirmity of the hill.

Mr. Taylor reviewed a document recorded in 1984 and signed by Vernon Frazier which states nothing will be done to disturb the character of the hillside. He stated the groundwater is not a new problem, but an existing problem that is not being carefully watched by the City. He reviewed recent history of the hill stating in 1993, Mr. J. Lee Butler was given a permit by the County with which he removed the toe of the hill. Due to the large removal of ground at the hill, Mr. Taylor feels four houses are now at the risk of falling off the hill. The City is aware of this problem. Last year the Kuhni residence was at risk, the City took emergency measures to save the Kuhni home. Mr. Taylor suggested the City take legal action against Mr. Butler, or pursue State and Federal funds for use in stabilizing the area. He asked if the Council has inspected the site. He asked questions regarding mitigation of future problems. Mr. Taylor feels he and the other three City residents on the hill are victims of the landslide problem. He stated they do not put the water in the ground, they do not use the water, and they have not aggravated the hillside as he feels Mr. Butler has. Mr. Leon Hansen, a geologist contracted by the residents to offer his opinion on the hillside was introduced by Mr. Taylor. Mr. Hansen reiterated previous history given on the hill. He feels the present state of the hillside is a danger to existing residents. Mr. Hansen recommended buttressing, and fill with a drainage system installed take place as soon as possible to stabilize the hillside. He stated he does not agree with the proposed finger drain system as was recommended by Terracon. Mr. Hansen restated that a solution needs to begin as soon as possible. He feels the County should be held responsible for issuing the building permit to Mr. Butler. Mr. Taylor expressed the lack of involvement by the County. Attorney Baker explained the City could not legally get involved in a lawsuit with various parties on the citizens behalf. He stated because City property has not been damaged, the City has no standing to enter into a lawsuit against the other parties. Much discussion took place on liability and possible funding for solutions of the erosion in the area. Mr. John Bennett asked if the City would take legal action if the City's road slid off the hill. Attorney Baker answered if the City receives damage, they will seek reimbursement for the damaged items. Mr. Heap stated last year the City previously paid approximately \$50,000 to stabilize the area at the Kuhni residence. He recommended the City front the money to fix the situation, and enter into a contract with the property owners to be reimbursed the money at a future time. Mr. Heap stated if Mr. Butler is involved in a settlement, he possibly could not be involved in any potential future litigation. Mr. Oyler stressed the issue of lack of time to resolve the problem. Mr. Taylor stated the residents would like the City to use their taxpayer dollars to resolve the situation until liability is determined. Councilmember Shaw does not feel it is fair to others in the City to use taxpayer dollars when everyone is not affected by the landslide problem. A lengthy discussion

took place on the issue.

Councilmember Huff made a **motion** to authorize City staff to front money needed to complete the stabilization of the hillside at Scenic Drive. Councilmember Swenson **seconded** the motion, and it **passed** with a unanimous vote.

Councilmember Shaw stated she feels the City Council has a commitment to all citizens to protect the entire citizenry's welfare. She **moved** to amend the original motion made by Councilmember Huff, that the City staff be authorized to front the necessary money, and the City will have the option to enter into contract with the residents to regain the money which will be disbursed or the City will seek other recourse. Councilmember Huff **seconded** the amendment to the motion, and it **passed** unanimously.

Utility Line Replacement "A" Bid

Mr. Heap explained the bids for the Utility Replacement Schedule "A". He recommended approval of the low bid from H.E. Davis & Sons.

Councilmember Barber **moved** to accept the low bid from H.E. Davis & Sons in the amount of \$477,692.50 for utility line replacement Schedule "A". Councilmember Shaw **seconded**, and the motion **passed** with a unanimous vote.

Other Bids Received: *Kenny Seng Construction*, \$585,222.35;
H & H Excavating Inc., \$527,329.25; *Condie Construction Company*, \$549,719.26;
and *Nelson Engineering*, \$604,000.00.

Seven Mountain - Plat C - Revised Preliminary Plat

Mr. Heap reviewed Seven Mountain Plat C with the City Council. He noted Lots 3 and 4 will be used as a twin home lot. Conditions previously set by the Development Review Committee have been met, and approval was recommended by the Planning Commission. A **motion** was made by Councilmember Barber to approve the Seven Mountain Plat C Revised Preliminary. The **second** was made by Councilmember Swenson and the motion **passed** with a unanimous vote.

Pinecrest Manufactured Home Park - Preliminary Plat Willowbrook Manufactured Home Park - Preliminary Plat

Mr. Comstock explained because the Pinecrest and Willowbrook projects are side by side and very similar, they will be reviewed together. The Planning Commission conducted a public hearing on the conditional use permit application on May 7, 1997, and recommended approval of it together with the preliminary plat subject to the following conditions:

1. A letter from the Army Corp of Engineers detailing the management of the wetlands area needs to be obtained prior to the City Council's approval of the preliminary plat.
2. The entire sewer system will be maintained by the Park owner.

3. The roads within the development will be private and maintained by the Park owner.
4. Water system mains and secondary irrigation mains will be maintained by the City.
5. All drainage from 1100 East must be accommodated within the development. Water must not drain to the west or north of the project.
6. Landscaping, common area improvements, perimeter fencing, skirting material, setbacks and building coverage, and architectural diversity shall be in accordance with the plans and materials submitted in conjunction with the conditional use permit application.

Mr. Comstock reviewed Park regulations set forth in the Community Development Guidelines. Councilmember Swenson expressed concern with enforcing the maintenance of the private sewer lines to avoid sewer back-ups and other problems. Mr. Heap explained all sewer plans have to be approved and inspected before the development is complete. The engineering study addressing ground settling and methane gas was reviewed. Perimeter fencing will consist of a high quality vinyl and landscaped berm.

Councilmember Swenson made a **motion** to approve the Preliminary Plats of the Willowbrook Manufactured Home Park and the Pinecrest Manufactured Home Park subject to the six conditions for each park as set forth by the Planning Commission. Councilmember Shaw **seconded** the motion, and it **carried** with a **majority** vote of 3:1. Councilmembers Huff, Shaw, and Swenson voted in favor of the motion; and Councilmember Barber was opposed.

Spanish Trails - Preliminary Plat

Mr. Comstock stated fairly minor revisions have taken place from the original conceptual plan seen by the Council. The plat contains 99 single family lots, 58 condo units, and 46 townhouses for a total of 203 total units. The density is just under six units per acre. Mr Heap stated fencing issues dealing with the Nielsen property to the north need to be resolved. Mr. Comstock reviewed conditions of approval from the Planning Commission. Mr. Deauvono noted buildings will be kept a minimum of twenty feet from the Millrace Canal. A meeting will take place with the irrigation company to discuss what will be done with the Millrace.

A **motion** was made by Councilmember Huff to approve the Spanish Trails Preliminary Plat subject to the following conditions as recommended by the Planning Commission:

1. Development will be consistent with the Development Agreement entered into between DJ Elite and Spanish Fork City on December 18, 1996.
2. Curb, gutter and sidewalk (per UDOT standards) is to be installed adjacent to the property on 100 South, together with a six foot planter strip.
3. A detailed landscape plan be provided which shows plant materials, two-inch caliper trees, street corner plantings which comply with sight visibility triangles, and the irrigation system.
4. Original CC&R's be submitted for recording with the plat.

Councilmember Barber **seconded**, and the motion **passed** with a unanimous vote.

Ordinance 10-97: An Ordinance Adopting a Municipal Energy Sales and Use Tax

Attorney Baker explained Spanish Fork City has had a Franchise Use Fee attached to citizens

power and gas bills. The Legislature has now repealed the enabling act allowing cities to collect the Franchise Fee, but they have enacted a Municipal Energy Sales and Use Tax. State law mandates the maximum of this tax remain the same as the maximum Franchise Fee. If adopted, the Municipal Energy Sales and Use Tax will be enacted in place of the Utility Franchise Fee on June 30, 1997. At Councilmember Shaw's questioning, Attorney Baker explained Mountain Fuel was one of the main lobbyist's for the change. A competitive disadvantage was being caused when large users bought gas at out of State wellheads making the Utility Franchise Fee unable to be assessed. Councilmember Shaw noted citizens will receive a savings on their electric bill due to this ordinance. Attorney Baker affirmed that a residential electric rate decrease has been recommended in the FY 98 budget. Councilmember Shaw **moved** by Ordinance 10-97 that the City adopt a Municipal Energy Sales and Use Tax. Councilmember Huff **seconded**, and the motion **passed** unanimously.

FY 98 Budget Review

According to law, last week the City Council received a copy of the FY 98 Budget. Copies of the Budget are available to the public. Mr. Oyler reviewed the Taxes, Fees & Rates section of the budget including electric rates, recreation fees, and library fines. He briefly reviewed the Capital Facilities Budget and outlined projects such as Crab Creek, Library basement remodel, and the proposed fairgrounds addition. The Council discussed the timetable for future budget revisions.

Adjournment to Executive Session

Councilmember Huff **moved** to adjourn the regular session of the Spanish Fork City Council and convene the Executive Session at 9:55 pm to discuss legal issues and the sale of property. Councilmember Barber **seconded** the motion, and it **passed** with a unanimous vote.

Adjournment of Executive Session

Councilmember Shaw **motioned** to adjourn the executive session and reconvene the regular session at 11:25 pm. Councilmember Huff **seconded** the motion, and it **passed** unanimously.

Other Business

The Mayor asked the City Council's feelings on a request from the Fire Department to take the new fire truck to St. George for display purposes. The consensus from the Council was no. Concern was expressed that the trip will give the new truck too much road exposure. Councilmember Shaw stated the fire truck was purchased to be available for use in Spanish Fork City. The Mayor will report the decision to the Fire Department.

The Council reviewed the City's water policy on water leaks.

Fingerhut has told the City they will begin hiring in July of 1997.

Adjournment

Councilmember Shaw made a **motion** to adjourn the meeting at 11:30 pm. The motion was **seconded** by Councilmember Huff, and it **passed** with a unanimous vote.