

**Adopted Minutes
Spanish Fork City Council Meeting
October 21, 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 Councilmember Sherman E. Huff.

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

Planning Commission Members Present: Chair David Ludlow, Vice-Chair Doug Christensen, and Matthew D. Barber.

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

Citizens Present: C. Timothy Ernst; Craig Johnson, Kris Johnson, Bruce Hall, Ray Allen Swenson, Carol Swenson, Doug Barber, Vern D. Tanner, Everett Kelepolo, Lil Shepherd, Christy Ann Stephenson, and Maria Peterson.

Public Hearing - James Nielsen Zone Change from C-1 to C-2 (Z-03-97)

Mr. Jim Nielsen submitted a request for rezoning from C-1 (Neighborhood Commercial) to C-2 (General Commercial) on property at approximately 1300 East Center Street, just west of US Highway 6. Mr. Comstock explained Mr. Nielsen proposes to change the zoning to allow more flexibility for the types of uses which can locate in his strip shopping center which is currently under construction. Both the Development Review Committee and Planning Commission recommended approval of the zone change.

Mayor Huff opened the meeting for public comment. No public comments were received.

Councilmember Woodhouse **moved** to approve Z-03-97: James Nielsen Zone Change from C-1 to C-2. Councilmember Shaw **seconded** the motion, and it **passed** with a unanimous vote.

Joint Public Hearing - To Consider the Proposed Final Plan for the Swenson Economic Development Area

Councilmember Woodhouse made a **motion** to open Joint City Council / Redevelopment Agency meeting and public hearing as well as the Joint Public Hearing with the Planning Commission at 7:16 pm. Councilmember Huff **seconded**, and the motion passed with a unanimous vote.

Mr. Craig Smith from Nielsen & Senior reviewed steps that would be taken in tonight's meeting including a resolution to be adopted by the Planning Commission which notes their review of the

Report for the Swenson Economic Development Area, and that the Planning Commission has found the report to be in conformance with the General Plan. Various resolutions will be approved including Owner Participation Rules and Relocation Rules. The final step will be adoption of the plan by the City Council by ordinance.

Mr. Smith noted the Swenson area in an economic development area, and not a redevelopment project area. He stated the agency does not have authorization of eminent domain, but the City retains the use of eminent domain for the purpose of public utilities, but not for economic development purposes.

Mr. Smith stated the primary purpose of the Report for the Swenson Economic Development Area is to ensure with adoption of the Plan, the goals of City's General Plan are being achieved in the development of this light industrial area. The Plan is in conformance with zoning ordinance. The City currently does not have specific industry or project to be developed in the area, but the Swenson Economic Development Area will help encourage industry to locate in Spanish Fork City. Proposed projects for the EDA will come back before the Redevelopment Agency for approval. Mr. Smith asked for any questions or comments. None were received.

Mr. Smith reviewed Resolution 97-15 to be adopted by the Planning Commission. Planning Commission Vice-Chair Doug Christensen **motioned** to approve Resolution 97-15: Adopting the Report and Recommendations of the Spanish Fork City Planning Commission Concerning the Proposed Swenson Economic Development Project Area Plan and its Accompanying Report. Commissioner Barber **seconded**, and the motion **passed** with a unanimous vote.

The Owner Participation Rules and Relocation Rules were reviewed. Mr. Rex Woodhouse made a **motion** to approve RDA Resolution 97-07: A Resolution Adopting Participation Rules to Govern the Swenson Economic Development Project Area. Mr. Sherman Huff **seconded** the motion, which **passed** with a unanimous vote. NOTE: Mr. Clyde Swenson abstained from voting.

Councilmember Rex Woodhouse **moved** to approve Resolution 97-16: A City Council Resolution Approving Owner Participation Rules for the Swenson Economic Development Project Area. Councilmember Matt Barber **seconded**, and the motion **passed** unanimously. NOTE: Councilmember Clyde Swenson abstained from voting.

A **motion** was made by Mr. Rex Woodhouse to approve RDA Resolution 97-08: A Resolution Adopting Relocation Rules to Govern the Swenson Economic Development Project Area. The motion was **seconded** by Mr. Sherman Huff, and it **passed** with a unanimous vote. NOTE: Mr. Clyde Swenson abstained from voting.

Councilmember Thora Shaw **motioned** to approve Resolution 97-17: A City Council Resolution Approving Relocation Rules for the Swenson Economic Development Project Area. Councilmember Sherman Huff **seconded** the motion, and it **passed** with a unanimous vote. NOTE: Councilmember Clyde Swenson abstained from voting. Discussion took place regarding the Report to accompany the Plan. Verbiage on page eight of

the report was clarified and corrected. General loan information from the City to the Agency was discussed. Mr. Smith noted the maximum term for money loaned from the City to the Agency was twelve years. Planning Commission Chair David Ludlow asked how the loan interest was set. Mr. Smith stated interest is determined by what the City and the Agency feel is fair, but recently has been most typically in five to six percent range. Further discussion took place regarding the Report.

With amendments as stated to page eight of the Report, Ms. Thora Shaw **moved** to approve *RDA Resolution 97-09: A Resolution Accepting and Approving the Report to Accompany the Swenson Economic Development Project Area Plan, Concurring In, Accepting and Making the Findings Contained in the Report, and Authorizing the Report to Be Transmitted to the Spanish Fork City Council for its Consideration.* Mr. Sherman Huff **seconded** the motion, and it **passed** with a unanimous vote. NOTE: Mr. Clyde Swenson abstained from voting.

Councilmember Thora Shaw made a **motion** to approve *Resolution 97-18: A City Council Resolution Concurring with the Recommendations Made by the Redevelopment Agency of Spanish Fork City, with Respect to the Proposed Economic Development Plan for the Swenson Economic Development Project Area and/or the Report and Feasibility Study to Accompany the Economic Development Plan* with modifications as so stated. Councilmember Huff **seconded** the motion, and it **passed** unanimously. NOTE: Councilmember Clyde Swenson abstained from voting.

Before moving to discussion regarding the Swenson Economic Development Plan, Mr. Smith asked for any comments from the public. He stated questions could be asked at anytime by anyone during the hearing. Mr. Smith made reference to the Hearing Attendance and Participation form which was passed out to citizens in attendance prior to the meeting. He noted the form had a place to note conflicts to the EDA if any. The Hearing forms were collected.

Mr. Keith Williams asked how the irrigation ditches going through property in the EDA boundaries will be handled. Mr. Smith stated nothing within the Economic Development Plan addresses irrigation ditches, and the Plan itself will not have affect on irrigation ditches. If an area in the EDA does develop, the ditches will be dealt with them as in other areas of the City. Mr. Richard Heap noted as urbanization takes place, ditches may need to be moved, or may no be longer needed.

Mr. Cole Durham, Counsel for the City in regards to the Swenson EDA, asked if the City had received any other written comments directed to the EDA. City Manager David Oyler stated written opposition was received from Mr. Ray Allen Swenson. The opposition stated that due to personal property interests, Mr. Ray Allen Swenson requested a portion of his property not be included in EDA. Councilmember Huff clarified Ray Allen Swenson was in favor of the EDA, but does not want development occurring on his specified property until the personal conflicts are resolved. Mr. Durham will draft document for Ray Allen Swenson to sign which clarifies Mr. Ray Allen Swenson's desires regarding the EDA.

Mr. Smith asked for further questions.

Planning Commission Chair David Ludlow stated in the EDA Plan it mentions that commercial items or interests may be entertained in the area. He noted the I-1 zoning district does not really allow commercial use. Chair Ludlow asked if the area was meant to be I-1/C-2 combined or strictly I-1 (Light Industrial). Mr. Oyler stated that some commercial uses are still permitted in the I-1 zoning designation, but the small area in the EDA boundary zoned as S-C (Shopping Center) will most likely go to commercial use. Mr. Oyler clarified that tax increment cannot be used to bring in commercial/retail entities. The tax increment can be used for industrial, office, light manufacturing, and heavy manufacturing. Cressona, Fingerhut and Bushman Press were sited as examples.

Ms. Karen Payne asked if a diner could be constructed. Mr. Oyler stated property can be used for whatever legal uses allowed in the zoning ordinance, but the economic development distinction can only be used with industrial projects.

Mr. Smith asked if there were additional questions. None were received.

Mr. Smith noted the EDA was still well under forty percent (40%) threshold for opposition. If the City had received more than forty percent opposition, a general election would have to take place in order to complete the project. Approval of the Plan was recommended by Mr. Smith.

A **motion** was made by Mr. Rex Woodhouse to approve RDA Res 97-10: A Resolution Approving the Proposed Economic Development Plan for the Swenson Economic Development Project Area, Including Any Modifications Recommended by the Agency, and Authorizing the Submission of the Proposed Economic Development Plan to the Spanish Fork City Council and Recommending That the Spanish Fork City Council Adopt the Proposed Economic Development Plan by Ordinance. The motion was **seconded** by Ms. Thora Shaw, and it **passed** with a unanimous vote. NOTE: Mr. Clyde Swenson abstained from voting.

Councilmember Woodhouse **motioned** to approve *Resolution 97-19: A City Council Resolution Determining the Level of Opposition to the Proposed Economic Development Plan for the Swenson Economic Development Project Area and the Percentage of the Taxable Value of Property Within Spanish Fork That Is Located Within Redevelopment or Economic Development Project Areas.* Councilmember Shaw **seconded** the motion, which **passed** unanimously. NOTE: Councilmember Clyde Swenson abstained from voting.

Mr. Smith requested approval of resolutions passing upon and overruling objections to the Plan and Economic Development Area.

Mr. Rex Woodhouse made a **motion** to approve *RDA Resolution 97-11: A Resolution Passing Upon and Overruling Objections to the Proposed Economic Development Plan for the Swenson Economic Development Project Area Except Insofar as Such Objections are the Basis for Modifications of the Plan Previously Recommended by the Redevelopment Agency of Spanish Fork City.* Mr. Sherman Huff **seconded**, and the motion **passed** with a unanimous vote. NOTE: Mr. Clyde Swenson abstained from voting.

A **motion** was made by Councilmember Sherman Huff to approve Resolution 97-20: A City Council Resolution Passing upon and Overruling Objections to the Proposed Economic Development Plan for the Swenson Economic Development Project Area Except Insofar as Such Objections are the Basis for Modifications of the Plan Recommended by the Redevelopment Agency of Spanish Fork City. Councilmember Thora Shaw **seconded** the motion, and it **passed** with a unanimous vote. NOTE: Councilmember Clyde Swenson abstained from voting.

Mr. Smith stated the City Council adopts the Economic Development Plan by ordinance. He asked if there were any questions regarding this ordinance or the Plan. No questions or comments were heard. Mr. Smith recommended the Council's adoption of Ordinance 17-97.

Councilmember Rex Woodhouse **moved** to adopt Ordinance 17-97: An Ordinance Adopting the Economic Development Plan for the Swenson Economic Development Project Area as the Official Economic Development Plan for the Swenson Economic Development Project Area. Councilmember Sherman Huff **seconded** the motion which **passed** with a unanimous vote. NOTE: Councilmember Clyde Swenson abstained from voting.

Mr. Smith noted the last step in long series of resolutions passed at tonight's meeting was to pass the resolution directing publication of the ordinance. This documentation will be required for the bond attorney at a later time.

A **motion** was made by Councilmember Sherman Huff to approve Resolution 97-22: A City Council Resolution Authorizing and Directing Publication of the Ordinance Adopting the Economic Development Plan for the Swenson Economic Development Project Area, Ratifying Any Such Steps as Have Already Been Taken to Arrange Publication, and Authorizing and Directing the Recording of the Plan and the Notification of Other Taxing Entities of its Adoption.

The **second** was made by Councilmember Thora Shaw, and the motion **passed** unanimously. NOTE: Councilmember Clyde Swenson abstained from voting.

Mr. Smith thanked those in attendance for their patience and attention. He stated his business regarding the Swenson Economic Development Area was concluded for tonight. Mr. Smith noted he and Mr. Cole Durham would be available to answer questions following the Joint Session.

Councilmember Sherman Huff **moved** to exit the Joint Public Hearing at 8:15 pm. Councilmember Rex Woodhouse **seconded**, and the motion **passed** with a unanimous vote.

Adjournment of RDA

A **motion** was made by Councilmember Huff to adjourn the RDA session and reconvene the Spanish Fork City Council meeting. The motion was **seconded** by Councilmember Woodhouse, and it **passed** unanimously.

Building Permit Deposit Forfeiture

Resolution in 1995 that dealt with \$1000 deposit with building permit. Building department continued to have problems. If occupied prior to obtaining occupancy or completion of permit would forfeit half of the deposit. There have been some people forfeit deposits who applied for building permit prior to adoption of the ordinance. Recommendation from the Staff is to go ahead and refund half of the deposit. The ordinance not intended to be a money maker.

Recommending any permit that was issued prior to March of 1997 if forfeiture took place, then money is refunded. If they corrected all the problems, then recommend they get the money back. Today, if happens they forfeit the money, but for those that did not know, the deposit will not be forfeited.

Did receive letter from Mr. Ernst. He would get a full refund if there are no other problems. He would still have to meet all other conditions. In legal sense they are advised as soon as ordinance passes. As a practical matter, they did not get notice, so we will refund.

Mr. Ernst stated that during this time, using himself as an example. In May of 1996 he took temporary occupancy in January of 1997 and full occupancy in May of 1997. Also had SESD lawsuit, in my instance, the lack of temporary power was involved in the delay of construction of the home provided by the City as per the building permit. Also, he happen to be home-owner builder. He did not have the leverage to have the subcontractors on-site.

This item not requires a motion, but needs councils direction. Councilmember Shaw in a practical sense, is now on building permit, would feel we should refund those from the past.

Ordinance 18-97

Attorney Baker reviewed Ordinance 18-97, including general modifications to be made in verbiage. This matter has been working on for a number of months. By community standards this would not be permitted at all, but because of first amendment it cannot be prohibited. Orem City allows alcohol to be served, Spanish Fork City does not. Orem allows escort services which they have had a number of problems with, Spanish Fork does not permit escort services at all. Is a zoning ordinance along with will come to Council in November, will restrict to the Industrial zone. Because of publication requirements will not adopt now but in November 18. Cannot be on main entrances or gateways to the City which will limit from being on Main Street.

Mr. Baker opened the discussion for questions.

Mr. Clark asked if any existing businesses will be affected. One or two business may be affected. Katlynns, by the airport, does have dancers come in on occasion. This would prohibit Katlynns from having dancers because they have license to serve alcohol. The ordinance would probably not affect Dirty Joe Punsters at all. Adults are determined by age 18 and over.

Mr. Oyler asked who determines who is an adult. Mr. Baker stated it is in the criminal code.

The standard age is 18. Spanish Fork does not permit businesses to serve alcohol to anyone under age 21.

Councilmember Swenson made a **motion** to approve Ordinance 18-97. The motion was **seconded** by Councilmember Woodhouse, and it **passed** unanimously.

Diagonal or Angle Parking Ordinance

Mr. Baker stated that currently the Utah Code prohibits angle parking and allows only parallel parking, but will allow it to be overturned by City Ordinance. The engineering department has made determinations for angle parking at the Park School the Senior Citizens Center. Areas are required to be stripped accordingly. There are areas in which angle parking is used illegally and the law is not being enforced. If the ordinance is adopted the police department will issue some warnings and possibly citations. If citations are issued for angle parking in areas that have not been approved it needs to be consistent in each area.

Councilmember Shaw asked if there are other areas anticipating angle parking. Mr. Heap stated the streets will need to be wide enough. The areas will be considered on an individual basis and traffic and width will be the determining factors. Also owners will need to pay for curbing.

Councilmember Shaw made a **motion** to approve Ordinance 19-97. The motion was **seconded** by Councilmember Swenson, and it **passed** unanimously.

Crab Creek Water Line Bid

Mr. Heap stated the low bid came in from Condie at 1.5 million. Mr. recommends accepting the low bid. The anticipated completion date is June 1, 1998. Bruce Hall is the design engineer and is here to answer any questions.

Mr. Hall stated Condie would like to get started soon and is very interested in this project. The estimate was 1.8 million and Mr. Hall feels the City is getting a good deal. The feeling was bedding material will not be needed. They will need to import bedding in some places.

Councilmember Woodhouse asked if the size of the pipe would allow for more water in the future? Mr. Heap stated there would be some capacity left but not much.

Mr. Oyler asked if all easements are in place. Mr. Hall does not feel any condemnations will be necessary.

Mr. Heap stated the water line will not run parallel with any other pipe lines, however there are few private property owners. Most of the land is owned by Utah Department of Transportation (UDOT) and Utah County. UDOT is concerned that we do not interfere with any existing pipeline. Mr. Hall stated the costs associated with right-of ways purchases will be at fifty percent of property value. This will be over and above the bid amount. Two property owners are consulting with their attorneys before agreeing to the easement.

Mr. Hall stated there are no problems with approving the bid without all the easements. A small portion of the project may need to be condemned.

Mr. Hall stated the contractor will have until June 1 to complete the project and recommends accepted the bid submitted by Condie.

Councilmember Woodhouse made a **motion** to approve the bid from Condie in the amount of 1.5 million. The motion was **seconded** by Councilmember Swenson, and it **passed** unanimously.

Adjournment

Councilmember Swenson made a **motion** to adjourn from regular session of council meeting and into executive session. The motion was **seconded** by Councilmember Woodhouse, and it **passed** unanimously.

Meeting was **adjourned** at 9:01 pm.