

Adopted Minutes
Spanish Fork City Council Meeting
April 7, 1998

The meeting was called to order at 6:30 pm by Mayor Dale R. Barney for a preliminary review of the agenda. At 7:00 pm the pledge of allegiance was led by local boy scout Craig Wallace.

Elected Officials Present: Mayor Dale R. Barney and Councilmembers Sherman E. Huff, Everett Kelepolo, Thora L. Shaw, and Clyde A. Swenson. Councilmember Lillian J. Shepherd 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; Dee Rosenbaum, Public Safety Director; Kent R. Clark, Finance Director/Recorder; Morgan Warner, Sergeant; and Gina Peterson; Deputy Recorder.

Citizens Present: Blair R. Hamilton, Merlene Hamilton, Roxanna Johnson, *Spanish Fork Press*; Misty Galbraith, Todd Utzinger, Sherman V. Bearnson, Barbara Bearnson, Pat Bearnson, Gill Bearnson, Susan Huff, Ann Banks, Eric Smith, Donna Vincent, Shirley Vincent, Dean Vincent, Saedi Hubbs, Ryan Ostler, Kevin Larsen, Nycholos Ottesen, Courtney Larsen, Evan Stewart, William C. Davis, Cris Child, Ray Allen Swenson, Mary Carol Swenson, Glenn A. James, Clyde Ostler, Roy Johns, Matt Barber, Nile Halverson, Josiah Halverson, Ron Davis, Scott DeMita, David Hall, James A. Hall, Belva Hall, David Ludlow, James L. Hall, Jared A. Johns, Rick Roberts, Craig Wallace, Clint Allen, Tysen Gillies, Joel Bradford, Devon Jones, Britt Sperry, Kyle Hall, Jim Bushman, Robert Aitken, Tyler Aitken, Brian Simmons, Doug Barber, Francis Milner, Brad Staheli, Eric C. Nilson, Jason Lloyd, Allison Lloyd, Monique Hansen, Matthew Fisk, Shannon Pexton, Bryan Thompson, Glenn Way, Amanda Skow, *The Daily Herald*; John D. Smiley, Brett Harrison, Mary Ann Harrison, Tim Hereth, Tyler Curtis, Jeff Curtis, Mitchell Hatch, Mark Hatch, Grant Jackson, Jed R. Mitchell, Sara Barney, Marcus Hansen, Robert Barney, Tiffani Massey, Ryan Massey, Brittany Robbins, Brett Robbins, Jeana Barney, and Cody Long.

Citizen Recognition - Ryan Ostler

The Mayor and Council recognized Ryan Ostler for his outstanding contribution to the Spanish Fork Youth Court. Youth Court advisor Ann Banks noted specific things Mr. Ostler has done including daily peer tutoring.

Citizen Recognition - Angela Knotts

Miss Angela Knotts was recognized as an outstanding citizen in the community by the Mayor and Council. Miss Knotts, ten years old, assisted in a theft investigation and recovered a wallet containing over \$1,100. The wallet was returned to the extremely happy owner.

Public Hearing - Trails

Councilmember Shaw **moved** to open the public hearing at 7:10 pm. Councilmember Kelepolo **seconded** the motion and it **passed** with a unanimous vote.

Ms. Susan Huff addressed the Council on behalf of property owners on the brow of the hill. She outlined concerns of the property owners including family use of the property, decreased property values, geologic stability of the brow, similar bike paths planned for nearby areas, cost of building and maintaining the trail, liability to the City, and disturbance of the pioneer cemetery in the area. Ms. Huff reviewed the Planning Commission's recommendation to repeal the trails system on the brow of the hill from the General Plan.

Mr. Cris Child, developer, noted he was on the Planning Commission when the new General Plan was discussed. He talked about property owners rights and stated everything done as part of the zoning ordinance takes a portion of property rights away. Mr. Child feels the zoning ordinance and General Plan benefit the public as a whole, and are not intended for select people. He feels the trail system will somewhat affect property, but stated Scenic Drive should be a "scenic" drive for the entire citizenry. Mr. Child also feels the trail system will enhance property value.

Ms. Donna Vincent, has lived on the property in question for 67 years. She expressed opposition to the trails plan.

Mr. Ron Davis stated he represents certain citizens of Spanish Fork. He expressed concern that they have heard nothing of the trails plan and feels citizens should be more informed especially if taxpayer dollars are involved.

Mr. David Ludlow served on the Planning Commission at time the General Plan and Trails Plan was adopted. He stated property rights are not absolute. An example of citizens and Valley Asphalt residing in the same area was noted. Mr. Ludlow stated the opportunity for the trails plan will not be available forever. He guaranteed in thirty years the plan would be looked at with pride and appreciation by citizens, as well as other communities. Mr. Ludlow also feels property values will increase rather than decrease.

Mr. Fred Vincent owns property in the area. He feels the City is trading a bike trail for increased density in an area where large lots and low density have always been planned. Mr. Vincent stated he is very opposed to the idea.

Ms. Shirley Vincent expressed opposition to the plan.

Mr. Blair Hamilton stated the trail would segment his property. He said he would be happy to sign deeds for the trail if the Planning Commission will buy the five acres needed at \$50,000 an acre.

Mr. Comstock reviewed the concept of the trails plan for those present. The trails plan on the

brow of the hill was intended to preserve scenic areas for use by the entire citizenry as well as decrease liability from homes being built on the edge of the hill. He stated the proposed trail on the brow of the hill was an approximate location and by no means was actually where it would be placed. Mr. Comstock stated there would be instances where the trail/road would logically have to come away from the edge of the hill.

Councilmember Shaw stated the Planning Commission discussed this issue at length and were of the consensus that the road and trail, as being proposed, would infringe on the rights of the property owners. Therefore, the Planning Commission voted unanimously to recommend rescindment of the trails plan. She clarified the City would only have the expense of maintaining the trails, and that trails would be installed at the time of development by the developer.

Councilmember Swenson asked if the property owners would be responsible for doing a geological survey on the brow before constructing their homes. Ms. Susan Huff feels past observations validate that this hill is stable. Mr. Sherman Bearson reiterated this feeling. Councilmember Swenson also stated property in the area is designated as low density. He asked if there could be scenic turnouts from the road for people to see the view. Mr. Bearson answered yes.

Councilmember Huff expressed concern about what liability the City would have if the trails plan is rescinded and someone removes the tow of the hill creating a similar problem as occurred on Scenic Drive. Since no one can predict nature, Councilmember Huff feels there has to be some way that the property owners will hold the City harmless should the hill ever deteriorate. Mr. Bearson stated he had no problem with this recommendation.

Mr. Cris Child stated the City pays a substantial amount of money to have a professional planner. He challenged City officials and citizens to find a single planner in the State who would not support Spanish Fork City's current General Plan. He feel the trails plan is good foresight and expressed support for the trails plan.

Councilmember Shaw feels a trail on Scenic Drive would have been more feasible if addressed twenty years ago. She voiced appreciation for Mr. Comstock and the work done on the General Plan.

Councilmember Shaw made a **motion** to rescind the trail on brow of the hill and that a plan be prepared to hold the City harmless if stability problems on the hill occur. Councilmember Kelepolo **seconded**, and the motion **passed** with a unanimous vote.

Councilmember Huff **moved** to exit the public hearing at 7:45 pm. Councilmember Swenson **seconded**, and the motion **passed** with a unanimous vote.

Legislative Candidates

Mayor Barney turned time to Legislative candidates.

Mr. Glenn Way (R), expressed appreciation for being able to serve citizens of Spanish Fork for the last two years in the Legislature. He reviewed issues that arose in the last two years including tax increases. He stated he was offended with Governor Leavitt increasing taxes without the need and using the press at his will. Mr. Way stated he does not want to serve government, he wants to serve the people.

Jed Mitchell (R) works at Zions Bank in Spanish Fork. He expressed interest in representing the area. He noted he is fiscally conservative, and familiar with budgets and money. Mr. Mitchell feels he could represent the area very well, and that his community involvement has proven dedication to the local areas.

Joel Bradford (D) hopes everyone likes him best. He works at UVSC and grew up in Spanish Fork. He listed past representatives that have embodied the interests of Spanish Fork and stated he would like to serve in the same tradition.

Agenda Request - Bruce Hall

Mr. Bruce Hall from Hall Engineering is working with Mr. Blair Hamilton to develop his property. David Cloward owns property in the area and will not deed approximately 350 feet of 1100 East needed to develop the road. Mr. Hall is requesting that the Council consider condemning this area so development can proceed. He feels even the threat of condemnation will help the matter. It was noted this problem should not occur in future developments since the City now requires dedication to the City of right-of-way for the road and utilities before final plat approval.

Councilmember Swenson asked what Mr. Cloward's basis was in denying the right-of-way. Mr. Hall does not understand the rationale but feels there would be no negative impact to Mr. Cloward if condemnation proceeded. Attorney Baker stated the City has the legal right to condemn property but it would have to be done through a development agreement and formal resolution.

Mayor Barney feels the issue is personal and should not involve the City at this point. He stated he would be glad to help with negotiations if needed. The Council is not opposed to the ultimate goal, but would like to gain further information from both parties before proceeding. It was felt condemnation should only be used as a last resort.

Mr. Hall requested the zone change proceed assuming property issues will be settled. The Council concurred it would be best to wait until issues are resolved before proceeding, particularly due to the high number of annexation and zone change requests being submitted.

Agenda Request - Rick Salisbury

Mr. Rick Salisbury addressed the Council regarding the electrical impact fee assessed due to SESD lawsuit. Now that lawsuit is resolved, he would like to discuss refund of the impact fee to

the person who paid it. Mr. Salisbury stated the purchase price of his homes did not increase due to the impact fee because he was hoping it would be refunded once the lawsuit was resolved. He feels the impact fee should be returned to the developer.

Mayor Barney recommended the Finance Committee discuss the issue to determine whether the developer or property owner would receive the refund. Ms. Misty Galbraith, a resident of Sunset Park suggested a citizen from Sunset Park serve on the committee. Mayor Barney feels the Finance Committee can make a fair resolution.

Councilmember Huff **moved** to use the Spanish Fork City Finance Committee to determine a proposal for the Council regarding reimbursement of the impact fee associated with the SESD lawsuit. The Committee can work in tandem with anyone that needs to be identified, with staff assistance. Councilmember Shaw **seconded** and the motion **passed** with a unanimous vote.

Cris Child - Annexation Request

Mr. Cris Child has submitted an annexation request for property directly north of the Davencourt Development along 400 North. The five acre property will be used for affordable housing comprising twinhomes, single family homes, and possibly some townhomes. Staff requested approval to proceed with the annexation process.

Councilmember Swenson **moved** to proceed with requirements for the Cris Child annexation request. Councilmember Huff **seconded**, and the motion **passed** unanimously.

Change Order - Utility Replacement Schedule "C"

Once excavation began on 700 North for the Utility Replacement Schedule "C" a two foot layer of clay was found beneath the road. To insure quality of the road it is recommended VanCon excavate the clay and haul in engineered fill. The replacement of some deteriorating curb, gutter and sidewalk is also figured into the change order. Mr. Heap recommended approval of the change order in the amount of \$26,556.56.

Councilmember Huff **moved** to approve the Change Order for Utility Replacement Schedule "C" in the amount of \$26,556.56. The motion was **seconded** by Councilmember Shaw and it **passed** with a unanimous vote.

Mount Loafer - Plat S - Preliminary Plat

Preliminary Plat approval is only good for one year. The approval lapsed for Mount Loafer Preliminary Plat S. The Development Review Committee and Planning Commission have reviewed and recommended approval subject to conditions.

Councilmember Shaw **moved** to approve the Mount Loafer Preliminary Plat S subject to showing the setback on Lot 4, adding the notation to the plat that all lots will be for single family use, and showing a connecting sump on 750 South to go west. Councilmember Kelepolo

seconded, and the motion **passed** unanimously.

Ordinance 03-98: An Ordinance Prohibiting the Storage of Wrecked or Disabled Vehicles

Ordinance 03-98 will prohibit the storage of more than one wrecked or disabled vehicle on any premises in Spanish Fork City. The exception would be if a business is properly licensed within a commercial or industrial zone in which storing such vehicles is part of its business.

Councilmember Huff noted some people restore old cars and may have two or three on their property in the process of being restored. While he agrees aesthetically the storage is not appealing, he expressed concern about enforcement of the ordinance. The Council feels residents need to be aware this ordinance is being adopted. It was suggested the City publicize to residents the ordinance will be enforced.

A **motion** was made by Councilmember Shaw to adopt Ordinance 03-98: An Ordinance Prohibiting the Storage of Wrecked or Disabled Vehicles, and that it be publicized enforcement of the ordinance will take place. The motion was **seconded** by Councilmember Kelepolo and it **passed** unanimously.

Ordinance 04-98: An Ordinance Clarifying the Criminal Provision of the Sewer Regulations

Attorney Baker explained Ordinance 04-98 would clarify the criminal provision of the sewer regulations.

Based on Attorney Baker's analysis, Councilmember Huff **moved** to adopt Ordinance 04-98: An Ordinance Clarifying the Criminal Provision of the Sewer Regulations. Councilmember Shaw **seconded**, and the motion **passed** with a unanimous vote.

Other Business

Bid - 1998 Miscellaneous Concrete & Excavation

Bids have been received for miscellaneous concrete and excavation throughout the City. Mr. Heap recommended the bid from RB Construction in amount of \$34,118.

Councilmember Swenson **moved** to approve the bid in the amount of \$34,118 for miscellaneous concrete and excavation from RB Construction. Councilmember Kelepolo **seconded**, and the motion **passed** with a unanimous vote.

Bids Received: RB Construction \$34,118.; Shippen Construction \$37,637.50.

Adjournment

Councilmember Huff **moved** to adjourn the meeting of the Spanish Fork City Council at 9:05 pm. Councilmember Shaw **seconded** the motion and it **passed** with a unanimous vote.