

**Adopted Minutes
Spanish Fork City Council Meeting
October 6, 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 Mr. Daniel Shaffer.

Elected Officials Present: Mayor Dale R. Barney, and Councilmembers Sherman E. Huff, Thora L. Shaw, Lillian J. Shepherd, and Clyde A. Swenson. Councilmember Everett Kelepolo arrived at 8:58 pm.

Staff Members Present: David A. Oyler, City Manager; Mary-Clare Maslyn, Assistant City Manager; Kent R. Clark, Finance Director/Recorder; S. Junior Baker, City Attorney; Gregory A. Comstock, City Planner; Richard J. Nielson, Assistant Public Works Director; Dennis Sorensen, Treatment Plant Manager; Dee Rosenbaum, Public Safety Director; and Gina Peterson, Deputy Recorder.

Citizens Present: Greg Magleby, and Jesse Conway, LEI Consulting Engineers; Doug Barber, Susan Barber, Roxanna Johnson, Spanish Fork Press; Cindy Stone, Howard Stone, Claire White, Jolynne Burnell, Abbie Foster, Andrew Beddoes, Derek Appel, Daniel Shaffer, Bryce Swenson, Nate Brimhall, Vic Deauvono, Leon Thomas, SherRon Houghton, Dr. Walter Talbot, Clyde H. Nielson, Glenn A. James, Roy L. Johns, Marilyn Chipman, Andrew Rose, and Mark Howard.

Minutes

A **motion** was made by Councilmember Swenson to approve the minutes of the September 15, 1998 Spanish Fork City Council meeting as presented. The motion was **seconded** by Councilmember Shepherd and it **passed** with a unanimous vote.

Employee Recognition - Kathleen Nelson Grace

Mayor Barney recognized Kathleen Nelson Grace for her five years of service as the Senior Citizens Director.

Public Hearing - Ordinance A04-98: An Ordinance Annexing Property Known as the Thomas Annexation

Councilmember Huff made a **motion** to open the public hearing at 7:05 pm. Councilmember Shaw **seconded**, and the motion **passed** with a unanimous vote.

A request has been received to annex approximately five acres at 100 North 920 West, west of the Sunset Park subdivision. The property is contiguous to the City limits on two sides. Mr. Comstock noted the two irrigation ditches and piping for storm drainage on the property will need to be addressed at the time of development. The Planning Commission and Development

Review Committee recommended approval of the annexation.

Mayor Barney opened the meeting for public comment. None was received.

A general discussion took place among the Council regarding the property.

Councilmember Swenson made a **motion** to adopt Ordinance A04-98: Annexing Property Known as the Thomas Annexation subject to the property initially being zoned R-R, Rural Residential. Councilmember Huff **seconded**, and the motion **passed** with a unanimous vote.

Public Hearing - The Bagley Zone Change (R-R to R-1-8); and Bagley Estates Preliminary Plat

A zone change request has been submitted to rezone approximately 24.1 acres south of 100 South and east of 630 West from R-R, Rural Residential, to R-1-8, Medium Urban Residential. Preliminary Plat approval is also requested to create 93 lots from the 24.1 acres.

Mr. Comstock noted the Development Review Committee believed the draft CC&R's for the development showed an interesting neighborhood concept with lots customized for each floor plan, varied front setbacks, and tree lined streets. Concern was expressed by the Committee regarding the modest quality of the homes proposed, but since the density of the development (3.8 units per acre) was below the bottom of the range for this area, there is no requirement for special amenities. The Development Review Committee and Planning Commission recommended approval of the zone change and preliminary plat subject to conditions reviewed by Mr. Comstock.

Mr. Comstock noted a discrepancy in property lines to the northeast of the Bagley property. A 40x60 foot piece of property containing the sect ditch has no apparent owner. As a condition of approval the City requests the plat include property with the sect ditch, and that the ditch be piped in the first phase.

Mayor Barney opened the meeting for public input.

Mr. Vic Deauvono is the developer of the Spanish Trails subdivision directly east of the proposed Bagley zone change. He expressed concern with the proposed road at the east which would join the two developments. He noted Spanish Trails is a private community with private streets and the road may increase traffic through his development. Mr. Comstock explained when Spanish Trails was approved City Officials requested an additional access from the Spanish Trails development for various reasons, including public safety. Mr. Comstock feels the access will be a convenience allowing less traffic to exit to 100 South. He also stated it is likely more traffic will come from Spanish Trails to the Bagley Estates subdivision than vice versa.

Mr. Oyler noted that since Spanish Trail's roads are private the City cannot mandate that the access remain open. Mr. Deauvono could install a gated access if desired.

Mr. Deauvono feels the eight foot paved trail on his development can act as an emergency access if needed. He expressed opposition to the access to his private subdivision.

Mr. Bob Bagley expressed concern in regard to accepting property containing the sect ditch. He stated Mr. Brett Butler claims to be the owner of the property and he may not turn the land over to Mr. Bagley. He requested the zone change and plat be allowed to proceed without the conditions regarding the additional property and piping of the ditch being resolved.

Mayor Barney feels problems could occur with kids playing near the open ditch.

Councilmember Huff feels a large problem would be the potential that a 60x40 piece with an uncovered ditch would never be claimed or developed, especially if development now is allowed to proceed.

Assistant Public Works Director, Richard Nielson stated the City would like to have Mr. Butler's property surveyed, because they believe all property lines have been shifted to the west, in which case, Mr. Bagley would have a good claim to the property.

Mr. Greg Magleby, LEI Consulting Engineers, outlined the plat with and without the additional piece. Without the additional property Mr. Bagley loses approximately three lots. Mr. Magleby stated by title, Mr. Bagley's property does not include the piece with the sect ditch.

Much discussion took place regarding the issue. Mr. Bagley stated he purchased his property in good faith, understanding the sect ditch would not be an issue. He stated he understands the seriousness of the ditch, but was told the City could require piping of ditch within 25 feet of his property, and this is 40 to 60 feet away.

Councilmember Huff discussed the access to Spanish Trails. He feels maintenance, including snowplowing, on the small strip may be more cumbersome than it is worth.

Councilmember Swenson **moved** to table the Bagley Zone Change and Bagley Estates Preliminary Plat until the October 20, 1998 City Council meeting when the survey of Mr. Butler's property can be reviewed. Councilmember Shaw **seconded**, and the motion **passed** with a unanimous vote.

Councilmember Shaw made a **motion** to exit the public hearing at 7:50 pm. Councilmember Swenson **seconded**, and the motion **passed** with a unanimous vote.

New Employee Introduction

Mr. Kent Clark introduced Ms. Cindy Stone. Ms. Stone will be the new morning cashier working in the Finance office.

Agenda Request - Frances Stone

Ms. Frances Stone was not present at the meeting. Mayor Barney briefly reviewed the request.

Councilmember Shaw made a **motion** to table the issue until the end of the staff reports to give Ms. Stone a chance to arrive. Councilmember Huff **seconded**, and the motion **passed** with a unanimous vote.

Agenda Request - Dr. Walter D. Talbot (re: Fairway Meadows)

Dr. Walter D. Talbot addressed the Council regarding the Fairway Meadows development. He lives in a condominium at 1745 Fairway Lane. Dr. Talbot expressed concerns about the development including the cost to the homeowners for maintenance of the private streets, as well as incomplete site improvements. He asked if the City would complete the improvements by taking the bond money posted by the developers. Dr. Talbot also feels a second access is needed for the development to address public safety concerns.

Mr. Baker explained although a bond for improvements is in place, the developer has a certain amount of time to complete improvements before the City can execute the bond. He also noted the development's homeowners association should provide for all aspects regarding maintenance of the road.

Mr. Oyler stated the City has exercised the bond and the developer is proceeding to finish site improvements. He told Dr. Talbot the developers of Fairway Meadows requested private streets for controlled access in and out of the community. Mr. Oyler also stated when development to the west occurs the City will try to tie in a second access that will eventually go to the Bottoms Road.

Ms. Marilyn Chipman and Mr. Clyde Nielson, residents of Fairway Meadows stated many new residents of the development are unaware of the homeowners association dues and CC&R's to be enforced. It was stated the CC&R's are recorded with the plat and therefore it is usually the responsibility of the title company to disclose information at the time of closing. Attorney Baker stated CC&R's are a private matter that the City does not enforce. It is the property owners right to enforce them.

A lengthy discussion ensued. Mayor Barney stated he is concerned if the roads are taken over by the City all the other subdivisions with private roads would expect the same courtesy. He noted this development was awarded higher density because of private roads.

Mr. Clyde Nielson, president of the Fairway Meadows Homeowners Association requested the City consider not allowing private streets for future development because of the problems it causes. Mr. Bruce Hall stated the City needs to consider the complaints that will arise in 10 years. He explained homeowners become frustrated because they are paying taxes in the City and yet they still have to pay to repair their roads. Mr. Hall stated private roads only help the developer and the City by saving them money, but someone has to make up the difference and it is usually the homeowners.

Dr. Talbot requested the Council and staff get back to him regarding the issues discussed.

Mayor's Quit Claim Deed's

Attorney Baker reviewed two Mayor's Quit Claim Deeds requested from Provo Abstract Company.

Councilmember Huff made a **motion** to authorize Mayor Barney's signature on the Quit Claim Deeds for the properties in question. Councilmember Shepherd **seconded**, and the motion **passed** with a unanimous vote.

Rodeo Contract - Diamond Fork Riding Club

Mr. Oyler reviewed the proposed rodeo contract with the City and Diamond Fork Riding Club to co-sponsor the Fiesta Days PRCA Rodeo from 1999 to 2002.

Councilmember Swenson made a **motion** to approve the contract with Diamond Fork Riding Club for the next four years, until the year 2002. Councilmember Shaw **seconded**, and the motion **passed** with a unanimous vote.

Rodeo Contract - Sankey Rodeo Company

Mr. Oyler outlined the contract with Sankey Rodeo Company for livestock to be used at the Fiesta Days PRCA Rodeo. He stated Mr. Ike Sankey does rodeos in other areas including Cody, Wyoming. Staff members have done some research and feel Mr. Sankey has quality livestock.

Councilmember Shaw made a **motion** to authorize Mayor Barney to sign the contract between Spanish Fork City and the Sankey Rodeo Company for one year, with the option to renew for an additional two years. Councilmember Shepherd **seconded**, and the motion **passed** with a unanimous vote.

Preliminary Plat - Spanish Fork Ranch

***Note: This plat was previously known as the Pinecrest Manufactured Home Park.*

Mr. Nielson stated the Spanish Fork Ranch Preliminary Plat was previously approved by the Council at their May 20, 1997 meeting. Preliminary Plat approval expires if a final plat is not recorded within a 12 month time period. Mr. Nelson stated the developers are ready to move forward with development and recommended re-approval of the preliminary plat subject to the conditions previously recommended as follows:

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.

***Note: Councilmember Everett Kelepolo arrived at 8:58 pm.*

Councilmember Swenson made a **motion** to approve the Spanish Fork Ranch Preliminary Plat subject to the six conditions previously approved. Councilmember Shepherd **seconded**, and the motion **passed** with a unanimous vote.

Change Order - Large Users Secondary Irrigation Project

Mr. Nielson reviewed and recommended approval for the change order from K & P Plumbing in the amount of \$2,100 for the large user secondary irrigation project.

Councilmember Huff **moved** to approve the change order for the large users secondary project from K & P Plumbing in the amount of \$2,100. Councilmember Shaw **seconded**, and the motion **passed** with a unanimous vote.

Change Order - Crab Creek Waterline

Mr. Bruce Hall from Hall Engineering was present to review the change order.

Councilmember Swenson made a **motion** to approve the change orders from Condie Construction for the Crab Creek Waterline in the amount of \$130,369.35. Councilmember Huff **seconded**, and the motion **passed** with a unanimous vote.

Agenda Request - Frances Stone

Ms. Stone still was not present, but the Council determined to proceed with her agenda request.

Ms. Stone lives at 2249 Fairway Drive, adjacent to the Spanish Oaks Golf Course. Representing several condo owners, Ms. Stone has submitted a request to the City to pay for replacement of tile roof on the condos which has been damaged by golf balls. The total bill for replacement of the tile is \$9,100.

The roof tile has been hit by golf balls in the past. The City paid claims in 1992 and in 1996 although the 1996 claim for \$1,025 was paid only after an appeal to the Risk Management Committee. The condominium owners claim the City is liable for damage to their roof, but the

Risk Management Committee does not concur with their reasoning. The Committee has made a decision that the City will not pay future claims for damage to the condominium roofs.

After some discussion, Councilmember Shaw made a **motion** to deny the request to replace the roof tile and abide by the recommendation of the Risk Management Committee that there be no future reimbursement for claims. Councilmember Huff **seconded**, and the motion **passed** with a unanimous vote.

Adjournment to RDA Session

A **motion** was made by Councilmember Shaw to adjourn to the regular session of the Spanish Fork City Council and convene the meeting of the Spanish Fork Redevelopment Agency at 9:29 pm. The motion was **seconded** by Councilmember Huff, and it **passed** with a unanimous vote.