

**Adopted Minutes  
Spanish Fork City Council Meeting  
February 16, 1999**

The meeting was called to order at 6:30 pm by Mayor Dale R. Barney for a preliminary review of the agenda. At 7:04 pm the pledge of allegiance was led by local boy scout Morgan Clark.

Elected Officials Present: Mayor Dale R. Barney, and Councilmembers Everett Kelepolo, Thora L. Shaw, Lillian J. Shepherd, and Clyde A. Swenson. Councilmember Sherman E. Huff was excused.

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

Citizens Present: Roxanna Johnson, *Spanish Fork Press*; Don Lyster, *LEI Consulting Engineers*; David Schiess, Larry Johnson, Micki Johnson, Josh Johnson, Karen Payne, Cameron Wilson, Michael Clark, Kyler Black, Morgan Clark, Robert Cooley, Mike James, Cody Webb, Daniel Birchette, Lee Bartholomew, R. Dennis Cooley, Ken E. Bartholomew, Glenn A. James, Roy L. Johns, Rodger Hardy, *Deseret News*; Marthanne Argyle, Beth Spotten, Ron Spotten, Amy Beth Spotten, Kristi Rigtrup, Allison Gee, Sophia Wilson, Lara Blackett, Brice Birehotte, Bryce Ehlert, Shane Lancaster, Trace Harding, and Clint Hales.

### **Minutes**

Councilmember Shaw made a **motion** to approve the minutes of the February 9, 1999 meeting of the Spanish Fork City Council as presented. Councilmember Shepherd **seconded**, and the motion **passed** with a unanimous vote.

### **Shade Tree Commission Appointments**

Mayor Barney outlined proposed appointments to the City's newly created Shade Tree Commission as follows:

Arborists: Dick Halsey, Max Darrington, and Doug Robins.

Staff: Boyd Peterson.

Citizens: Richard Huff, Jane Olsen, and Hank Kindell.

Councilmember Swenson made a **motion** to ratify the appointments to the Shade Tree Commission as presented. Councilmember Kelepolo **seconded**, and the motion **passed** with a unanimous vote.

### **Agenda Request - Larry Johnson**

Mr. Larry Johnson addressed the Council regarding locating a Christmas Box Angel at the City cemetery. The Angel is from the book *The Christmas Box* by Richard Paul Evans. The original Christmas Box angel is located in the Salt Lake City cemetery and is said to give parents who have had the loss of a child a place to heal and grieve. Mr. Johnson requested the Council's support for the project. He stated a trust account has been set up at First Security Bank under the Spanish Fork Christmas Box Angel. The Johnson's have estimated the costs of the statue to be approximately \$20,000. Mr. Johnson stated they will hold a candlelight vigil every December 6 at the statue, similar to the vigil held annually in Salt Lake City. He also indicated they would like the statue in place by July 24, 1999.

It was suggested an article be put in the City newsletter regarding donations. Mr. Johnson also requested the City's help with postage and copying.

Mayor Barney and the Council expressed support for the project.

### **Agenda Request - Amy Beth Spotten**

Ms. Amy Beth Spotten addressed the Council regarding her service project for the Miss Spanish Fork pageant. Ms. Spotten wanted to base her project on drug and alcohol prevention. She feels involvement in the arts is vital to teenagers and young children. Ms. Spotten stated these programs help prevent drugs, alcohol and gang violence. Ms. Marthanne Argyle, Nebo School District's Safe and Drug Free Schools Specialist spoke with the Council regarding 40 developmental assets which are key to developing responsible adolescents.

Ms. Spotten presented the Council with a kit purchased through donations from the high school band, choir, and drama classes. The kit helps implement arts programs in the community. Ms. Spotten stressed how important the arts are to her and distributed tickets to the High School's upcoming production of "Fauntleroy".

The Mayor and Council thanked Ms. Spotten for her time and expressed support for her project.

### **Public Hearing - FY 99 Budget Revision**

Councilmember Kelepolo made a **motion** to open the public hearing at 7:30 pm. Councilmember Shaw **seconded**, and the motion **passed** with a unanimous vote.

Mr. Oyler detailed the revision to the FY 99 Budget. He indicated this is the first major revision to the FY 99 budget. Questions from the Council were answered.

Mayor opened the meeting for public input. None was received.

Councilmember Kelepolo made a **motion** to approve the budget revision for the Fiscal Year 1999. Councilmember Shepherd **seconded**, and the motion **passed** with a unanimous vote.

### **Exit Public Hearing / Adjournment to RDA Session**

A **motion** was made by Councilmember Shaw to exit the public hearing and adjourn to the RDA session at 8:10 pm. Councilmember Swenson **seconded**, and the motion **passed** unanimously.

### **Adjournment of RDA Session**

Councilmember Shepherd made a **motion** to adjourn the RDA Session at 8:20 pm and reconvene the City Council meeting. Councilmember Kelepolo **seconded**, and the motion **passed** with a unanimous vote.

### **Willowbrook Preliminary Plat**

This project was previously approved in May 1997. Since the final plat was not recorded within one year from preliminary plat approval, the approval expired. The applicant has resubmitted the same plat, landscaping plan, and community development guidelines. Preliminary Plat approval will create a one lot subdivision with 62 manufactured home rental spaces from 15.73 acres.

Mr. Comstock noted the plat has been reviewed extensively and recommended approval subject to seven conditions from the Development Review Committee and Planning Commission.

Much discussion took place regarding utilities and how water will be billed.

Councilmember Shaw made a **motion** to approve the Willowbrook Preliminary Plat subject to the following conditions:

1. The entire sewer system will be maintained by the Park owner.
2. The roads within the Park will be private and maintained by the Park owner.
3. Water system mains and secondary irrigation mains will be maintained by the City.
4. All drainage from 1100 East must be accommodated within the development and may not drain to the west or north.
5. 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.
6. Provide approved Corps of Engineers' drawings showing mitigation of wetlands.
7. Provide necessary easements for storm drainage and sewer lines for Spanish Fork Ranch as required by Engineering Department.
8. Work out a billing agreement for utilities with the Finance Department.

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

### **Exchange Agreement for Water Rights**

City Engineer Richard Heap outlined the Exchange Agreement for Water Rights. The water in question is in the Crab Creek/Birdseye area. Mr. Heap stated it is very difficult for the City to get stock watering rights converted for municipal and industrial use. This agreement would allow property owners up in the area to get their water changed from stock watering rights to municipal water rights for culinary use, including use with cabins. The property owners will be doing the leg work, but approval of the agreement will give the City's authorization to begin the process.

Councilmember Swenson made a **motion** to authorize Mayor Barney's signature on the exchange agreement for water rights subject to the following conditions:

1. That the engineering department review the water rights identified to ensure they are limited to stock water rights;
2. The contract contain a provision which prohibits the interference with the City's resources in Crabcreek;
3. The contract contain a provision that there can be no interference with the wetlands mitigation as negotiated between the City and the Corp of Engineers.

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

### **Change Order - K&P Plumbing on Large Water Users Secondary Irrigation**

Horrocks Engineers has submitted a new proposal which recommends the assessment of 54.25 days liquidated damages to K&P Plumbing for not completing the Large Water Users Project by the specified contract completion date. The original assessment recommended by the City is 74 days liquidated damages as the project was considered substantially complete 74 days after the actual contract completion of July 31, 1998.

Mr. Rex Harrison from Horrocks Engineers agrees the project was not completed on time, and stated there are not substantial reasons for the delay. He said Horrocks Engineers tried to take an unbiased approach to recognize the delays that were not caused by the contractor, such as inclement weather. Mr. Harrison noted he is not sure if K&P Plumbing will accept the revised figure of 54.25 days, stating it may lead to further legal issues.

Mayor Barney stated he does not feel sufficient justification was given by K&P Plumbing to warrant the 74 day delay. He stated the change order should be approved, and recommended the Council approve the 74 days of liquidated damages. The Mayor stated K&P was already given a thirty day extension from the original completion date. The City had to use culinary water for two months because the project was not complete.

Councilmember Swenson made a **motion** to approve the change order from K&P Plumbing in the amount of \$10,487.75 for the Spanish Fork Major Water Users System and to assess 74 days liquidated damages at \$500 per day as originally proposed. Councilmember Shaw **seconded**, and the motion **passed** with a unanimous vote.

### **Canyon Road Secondary Irrigation Project**

Mr. Heap reviewed the status of the Canyon Road Secondary Irrigation project. The Ensign- Bickford Company has not made a final resolution as to their status on the project even though the City has a contract with them. Mr. Heap stated EBCo should have their issues resolved by February 22, 1999. He recommended the City Council proceed with the project in order to take advantage of the bid submitted by Vancon.

Councilmember Shepherd made a **motion** to award the bid to Vancon for the Canyon Road Secondary Irrigation Project and give notice to proceed. Councilmember Shaw **seconded**, and

the motion **passed** with a unanimous vote.

### **Resolution 99-03: Approving and Authorizing the Execution of the Amendments and Addenda to the Mountainland Association of Governments Interlocal Agreement**

Attorney Baker outlined Resolution 99-03, which will amend the Interlocal Agreement with Mountainland Association of Governments. MAG recently constructed their own building and the amendment will finalize this process as part of the interlocal agreement. He recommended approval of the resolution.

Councilmember Shaw asked if the resolution committed any money on the City's part. Attorney Baker stated an annual assessment is given to each city that is a participating member of MAG.

Councilmember Swenson made a **motion** to approve Resolution 99-03: A Resolution Approving and Authorizing the Execution of the Amendments and Addenda to the Mountainland Association of Governments Interlocal Agreement. Councilmember Kelepolo **seconded**, and the motion **passed** with a unanimous vote.

### **Other Business**

Councilmember Swenson noted the Fingerhut company has been bought out by another company.

### **Adjournment**

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