

Tentative Minutes
Spanish Fork City Council Meeting
July 11, 2000

1 The meeting was called to order at 6:30 pm by Mayor Dale R. Barney for a preliminary review of the
2 agenda. At 7:00 pm, the pledge of allegiance was led by veteran Kenneth Taylor

3 Elected Officials Present: Mayor Dale R. Barney, and Councilmembers Sherman E. Huff, Glenn A.
4 James, Roy L. Johns, Everett Kelepolo, and Lillian J. Shepherd.

5 Staff Members Present: David A. Oyler, City Manager; Richard J. Heap, Engineer/Public Works
6 Director; Kent R. Clark, Finance Director/Recorder; S. Junior Baker, City Attorney; Dee Rosenbaum,
7 Public Safety Director; Phillip Nielsen, Patrol Officer; Pam Jackson, Library Clerk; and Gina Peterson,
8 Deputy Recorder.

9 Citizens Present: Roxanna Johnson, Spanish Fork Press; James Cordell, Kathi Nielsen, Rachel Nielsen,
10 Jack Linde, Paul Lofgreen, Kenneth "Bud" Taylor, Robert A. Hutchings, Ron Davis, John Mendenhall,
11 John E. Scheiss, *Horrocks Engineers*; and Grant Jackson.

12 **Land Use Training**

13 City Attorney Junior Baker conducted training regarding land use issues and granting of conditional use
14 permits. The Council reviewed court cases where municipalities allowed public clamor to determine
15 their decisions. Decisions on land use issues that are not based on substantial evidence are arbitrary
16 and capricious decisions.

17 Attorney Baker indicated if a city has a conditional use ordinance the use should generally be granted
18 and reasonable conditions imposed based the facts and evidence shown. The point of the conditional
19 use permit is to set conditions to mitigate issues such as dust, noise, signage, traffic flow, and odor, that
20 would affect the neighbors and neighborhood. The conditions needs to be reasonable in light of the
21 impact of the use. Conditions should also be based on what the facts are, and not what the public
22 perceives the facts to be.

23 Discussion shifted to the conditional use permit for Concrete Products Company (CPC) to open a
24 concrete batch plant on Arrowhead Trail. Attorney Baker indicated a concrete batch plant is permitted
25 in the I-1 zone with a conditional use permit. The Planning Commission recently denied the request,
26 and it is now being appealed to the City Council. Similar uses in the area were noted.

27 Attorney Baker feels the City has a liability issue if the permit is denied. However, he feels conditions
28 should be imposed to mitigate potential adverse effects. Although conditions can be placed on a
29 broader area than CPC will locate, the Council cannot impose conditions on businesses already in
30 operation (i.e. H.E. Davis). Councilmember Johns stated H.E. Davis and CPC are listed together on

31 the application for conditional use permit. Attorney Baker indicated this is only because H.E. Davis
32 owns the property where CPC will located. He cautioned the Council to not place conditions on
33 H.E. Davis stating it would cause problems.

34 As part of the conditional use, annual reviews should take place to ensure conditions are being met.
35 The annual review can also be set as a condition. Currently, the City Planner reviews all existing
36 conditional uses annually.

37 In closing, Attorney Baker encouraged the Council to use a subjective standard when deciding on land
38 use issues. He stressed public clamor should not dictate the outcome.

39 **Minutes**

40 Councilmember Kelepolo made a **motion** to approve the minutes of the June 13, 2000 meeting of the
41 Spanish Fork City Council as presented. Councilmember James **seconded**, and the motion **passed**
42 with a unanimous vote.

43 Councilmember Huff made a **motion** to approve minutes of the June 20, 2000 meeting of the Spanish
44 Fork City Council with noted corrections. Councilmember Shepherd **seconded**, and the motion
45 **passed** with a unanimous vote.

46 **Veterans Donation**

47 The Veterans Council has donated funds in the amount of \$70,000 to construct a pavilion at the new
48 recreation facility. Mayor Barney thanked the veterans for their generous donation, announcing the
49 pavilion will be a good thing for years to come.

50 **Employee Introductions**

51 The Mayor and Council welcomed two new employees. Phillip Nielsen has been hired as a new patrol
52 officer. Pam Jackson has gone from part-time to full-time work at the Library.

53 **Source Protection Plan - Horrocks Engineers**

54 John P Schiess, P.E., from Horrocks Engineers presented the Source Protection Plan for the City. The
55 purposed of the source protection plan is to determine where the City's water is coming from and then
56 protect those areas. He reviewed details of the plan including measurements of how fast water can be
57 contaminated. These measurements are broken down into zones. Zones protect areas and allow
58 personnel to check safety and contamination of water.

59 A potential contamination source (PCS) inventory was done and existing controls of the PCS were
60 reviewed. Mr. Heap indicated the study was mandated by the State in order to keep the City's water
61 system approved. Horrocks gave suggestions to staff on increase controls for PCS.

62 Mr Scheiss reviewed suggestions for managing future potential contaminant hazards including the
63 establishment of a drinking water source protection ordinance, using zoning, permit review and other
64 strategies. He also recommended working with neighboring communities on zoning to help protect their
65 sources as well.

66 An implementation schedule was reviewed. Councilmember Huff asked if the State has a time line for
67 implementation of the plan. Mr. Heap indicated the plan has been submitted to the State and is pending
68 their review.

69 **John Mendenhall - Strawberry Water Users**

70 Mr. John Mendenhall addressed the Council to discuss water issues. Mr. Mendenhall was appointed
71 as the Spanish Fork River Water Commissioner by State in 1991. He is responsible for the distribution
72 and accounting of all water in Spanish Fork River and basin. Mr. Mendenhall gave a brief history of
73 water rights.

74 1996 was the first year Spanish Fork City had a problem with water. A combined situation of
75 increased population and higher water usage by golf course as well as other issues drew the City close
76 to a negative balance of their water account in the Spanish Fork River. The City needed to find another
77 water source that could be used. Well water rights were exchanged on a temporary basis. Rain during
78 September 1996 made it so not all the water rights were needed. Mr. Mendenhall expressed concern
79 because the river was running higher in 1996 than it is now. He reviewed the river flows as follows:

80 Natural flow of the Spanish Fork River

81 July 10, 1996	155 second feet
82 July 10, 1997	185 second feet
83 July 10, 1998	230 second feet
84 July 10, 1999	133 second feet
85 July 10, 2000	78 second feet

86 Utah appears to be going into a dry cycle again and Mr. Mendenhall is concerned about the water
87 supply. He indicated this problem is not unique to Spanish Fork City, but is happening to all
88 appropriators of the River. Last year Spanish Fork overdrew their River account 473.3 acre feet.

89 Mr. Mendenhall suggested determining a back-up plan, getting wells on line, and making applications
90 for water rights on a permanent basis. He indicated the City needs to get sources online that will take
91 the pressure off the River system. He believes the City will not have enough River water credits to
92 make it through July, and the City cannot affect the downstream rights of other River appropriators.

93 City Engineer Richard Heap indicated using the secondary irrigation system will alleviate a lot of water
94 problems. The Council also recently passed a resolution requiring developers to give at least 1/2 water
95 rights at time of development instead of just paying cash. He noted the City has been filing change
96 applications for water rights.

97 Mayor Barney asked if the City still has water rights to support a population of 36,000. Mr. Heap
98 answered yes, although additional wells may have to be built.

99 Mr. Mendenhall thanked the Council for their time and indicated he is available for questions. Mr. Heap
100 stated he will work closely with Mr. Mendenhall to make sure the City has water in the right accounts.

101 **Discussion on UTA**

102 Mayor Barney lead a discussion on the municipal transit service provided by the Utah Transit Authority
103 (UTA). The Council agreed they do not feel they are getting a beneficial level of service compared to
104 the money the City puts into the system. The question was asked, can the City withdraw from UTA
105 and still salvage the 1/4% sales tax used for UTA.

106 Attorney Baker addressed the question. Withdrawal from public transportation would take a special
107 election and the money can be transferred from a public transit sales tax to a highway sales tax. The
108 same 1/4% sales tax would then go to construction and maintenance of highways to the City's
109 jurisdiction. This would require two separate votes, one vote to create withdraw from UTA, and
110 another vote to authorize use of the tax for highways within the City.

111 Mayor Barney reported the South Utah County Mayors have felt the same way. He stated the mayors
112 have expressed their opinions to representatives from UTA who answered they didn't ask the South
113 County to join.

114 UTA has held public hearings over the last few months regarding their service in Utah County. Ms.
115 Roxanna Johnson indicated most comments at the public hearings came from disabled people. It was
116 noted the new route will make the system unusable for existing riders.

117 Councilmember Kelepolo asked if the City is liable to provide transit to those with ADA requirements.
118 Attorney Baker is not aware of any requirements. Mayor Barney feels the City is obligated to wisely
119 spend the taxpayers money. It was noted the issue would need to be addressed by September in order
120 to be on the ballot in November.

121 The Council directed staff to place withdrawal from UTA, and the initiation of a highway tax on the next
122 City Council agenda.

123 **Non-Agenda Item - Fiesta Days Concessions**

124 The final day of the Fiesta Days Celebration is Monday, July 24. A few concession vendors at the City
125 Park have requested to sell food on Sunday, July 23 as part of celebration. Consensus of the Council
126 was not to allow sales on Sunday for park concessions. It was requested future concession contracts
127 state no Sunday sales are permitted.

128 **Adjournment**

129 Councilmember Kelepolo made a **motion** to adjourn the meeting of the Spanish Fork City Council at
130 9:25 pm. Councilmember Huff **seconded**, and the motion **passed** with a unanimous vote.