

Adopted Minutes
Spanish Fork City Council Meeting
July 1, 2003

The meeting was called to order at 6:00 pm by Mayor Dale R. Barney. The pledge of allegiance was led by Councilmember Johns.

Elected Officials Present: Mayor Dale R. Barney, Councilmembers Sherman E. Huff, Glenn A. James, Roy L. Johns, and Paul M. Christensen. Councilmember Everett Kelepolo was excused.

Staff Members Present: S. Junior Baker, City Attorney; Dee Rosenbaum, Public Safety Director; Richard Heap, Engineering and Public Works Director; Emil Pierson, Planning Director; Kent Clark, Recorder/Finance Director; Shawn Jorgensen, Building Inspector; Doug Shorts, Chief Building Inspector; and Connie Swain, Deputy Recorder.

Citizens Present: Janice Nielsen, *Spanish Fork Press*, Gordon Jones, Gene Shawcroft, Chris Hansen, Lee Wimmer, Rollin Sattler, Elvera Sargent, Sydney Sargent, Jim Marks, Larry Galli, LaDee Galli, Jeff Simonsen, Rome Simonsen, Camilla Simonsen, Johanna Anderson, Patty Esch, Brett E. Esch, Carrie Andrus, Archie Atwood, Darlene Atwood, D. Heath Clark, Wendy Sue Johnson, Bill Aird, Phil Carroll, Jay Neilson, Terry Crook, Todd Stewart, Trent Mortensen, Jana Mortensen, Kristin Dudley, Richard Bern, Michael Ward, Brett Harris, David Ethington, Jenie Allen, and Andrea Gleaves.

Minutes

Councilmember James made a **motion** to approve the minutes of the June 17, 2003, city council meeting with changes as noted. Councilmember Johns **seconded**, and the motion **passed** with a unanimous vote.

Employee of the 2nd Quarter 2003

Mayor Barney introduced employee of the quarter, Shawn Jorgensen. Shawn was voted employee of the quarter by his peers.

Central Utah Water Conservancy District Presentation

Lee Wimmer, Gene Shawcroft, and Heath Clark were present from the Central Utah Water Conservancy District. Mr. Wimmer presented a check to Spanish Fork in the amount of \$5,000,000.00. He explained the qualification process for the grant and commended Mr. Heap for his contribution to the pressurized irrigation project and the timely manner in which the new system was constructed.

Mayor Barney thanked the Central Utah Water Conservancy District for their contributions to Spanish Fork City and other cities.

Agenda Request - City Youth Council - Jenie Allen

Agenda Request - Miss Spanish Fork Presentation - Melinda Isaac

Mayor Barney passed the introduction of the Youth Council and the agenda request from Melinda Isaac until the parties are present.

Bus Benches Contract with Mark Nuzman

Mr. Baker proposed entering into a contract with Mark Nuzman to supply bus benches throughout Spanish Fork City. Mr. Nuzman will gain revenue from advertising on the benches. Mr. Baker reviewed the contract and the requirements. The previous contract with Mr. Kauffman will be terminated.

Councilmember Johns made a **motion** to approve the contract with Mark Nuzman for the bus benches as presented and to allow 30 days for the termination notice of the existing contract with Mr. Kauffman. Councilmember Christensen **seconded**, and the motion **passed** with a unanimous vote.

Ordinance No. 06-03 - An Ordinance Prohibiting the Use of Fireworks in Certain Areas of Spanish Fork City

Mr. Baker reviewed Ordinance No. 06-03, an Ordinance Prohibiting the Use of Fireworks in Certain Areas of Spanish Fork City. He reviewed the areas covered by the Ordinance.

Councilmember Huff made a **motion** to adopt Ordinance No. 06-03, an Ordinance Prohibiting the Use of Fireworks in Certain Areas of Spanish Fork City. Councilmember James **seconded**, and the motion **passed** with a unanimous vote.

Water Contract Amendment with Randy Butler

Mr. Baker reviewed the contract amendment with Randy Butler. When the original contract was prepared the amount of water owned by Mr. Butler was undetermined. The exact amount of water rights being purchased from Mr. Butler has been verified. Mr. Baker said a down payment of \$100,000 was made and Mr. Baker recommended an additional payment of \$200,000 as soon as the title insurance and change application are completed. The balance of \$232,500 will be paid in payments annually. A fund has been established for the specific purpose of purchasing water rights and Mr. Butler will be paid annually from the balance of those funds until he is paid in full. The total purchase price for the water rights is \$532,500.

Councilmember Huff asked who will pay for the title insurance.

Mr. Baker said the title insurance will cost approximately \$1,200 and Mr. Heap recommended the city pay for the title insurance.

Mayor Barney asked if there would be an interest agreement on the balance owed to Mr. Butler.

Mr. Baker said there will not be an interest agreement with the contract, however, there will be security interest on the water rights.

Councilmember Huff made a **motion** authorizing the Mayor to sign the Water Contract Amendment with Randy Butler. Councilmember James **seconded**, and the motion **passed** with a unanimous vote.

Agenda Request - Miss Spanish Fork Presentation - Melinda Isaac

Ms. Isaac presented plans for a fund-raising activity she would like to put together for Fiesta Days. She proposed a Cherry Dance. The funds raised from the dance would be used to help build schools in Vietnam. Ms. Isaac would like the dance to be held on the 22nd or 23rd of July. She has received commitments from local business and individuals for sound equipment and other donations.

Mr. Pierson said the zoning ordinance would allow a dance to be held in connection with the Fiesta Days celebration. Mr. Pierson recommended the ball park as a location for the dance. If the dance is held in other locations, the noise may become an issue.

Ms. Isaac said she will advertise the dance through the newspaper and distribution of flyers.

Members of city council unanimously approved of the proposed dance.

Councilmember Christensen directed Ms. Isaac to be present at the next Fiesta Days Committee meeting on Monday, July 7th to finalize the details for the dance.

Public Hearing - Patty Esch Appeal of Planning Commission Decision - Conditional Use Permit for Community Housing Services Senior Retirement Home

Mayor Barney reviewed the procedures for a public hearing.

Councilmember Huff made a **motion** to move into the public hearing portion of city council meeting. Councilmember Johns **seconded**, and the motion **passed** with a unanimous vote.

Mr. Baker said the public hearing is based on an appeal of the conditional use permit for Community Housing Services Senior retirement home approved by the Planning Commission. Mr. Baker reviewed the process and the purpose of the appeal and public hearing. He also reviewed the possibility of additional conditions and findings. He reviewed the Ordinance on conditional use and read a portion of the General Plan as follows:

1. We have mixed use developments with townhomes, twinhomes, accessory apartments, and single family detached homes. These types of developments are allowed in all residential zones and are encouraged through the Master Planned Development concept.
Spanish Fork recognizes the needs of special target groups like the elderly,

disabled persons, and others with special needs. Spanish Fork City will continue to provide and support many different types of housing for all of its future residents. (Page 53)

2. Goal two of the residential policies is to provide a range of housing types and price levels in all areas of the City by allowing a variety of lot sizes and housing types in all “Urban Residential” areas.

He also reviewed the items appealed by Ms. Esch in her application as follows:

1. Property of the project is not of “adequate size and shape” to accommodate the proposed structure.
2. The proposed density of the project is 10 times what is called for in the general plan.
3. Proposed two-story design of structure does not fit in with the existing neighborhood.
4. Proposed structure does not meet the description for “Retirement or Nursing Homes” found in the zoning ordinance.

Gordon Jones was present on behalf of Patty Esch. He presented packets to members of city council. He thanked city council for the opportunity to appeal. Mr. Jones presented concerns based on incompatibility. He said the facility functions as an apartment complex. He read the conditional use permit purposes. Single story homes represent 75% of homes in the neighborhood. The packet contained pictures of buildings in the area, conditional use findings, a comparison of building to lot size ratios in the area, and the following statement found on the city web page. “The General Plan sets the density of residential areas so your neighbor can’t put an 82-unit apartment building next to your single family house.” He said the facility belongs in a commercial zone. Mr. Jones proposed the following changes in the conditional use permit:

1. The facility is to be a single story building,
2. The square footage of the building is not to exceed the building to lot size ratio of 20%, and
3. The density is not to exceed 19 units to the acres.

Mr. Jones said with these additional conditions the compatibility issue will be resolved.

Mayor Bamey opened the meeting for public comment.

Jeff Simonsen stated his concurrence with the presentation given by Gordon Jones and appealed to city council to listen to the condition changes requested.

Michael Ward thanked city council for taking additional time to consider this matter and he said the air-conditioning units on the side of the building are against the building covenants in the area.

David Ethington said he agrees with Mr. Jones’s presentation. Property values and traffic are also issues of concern.

Mayor Bamey said the traffic and property issues are not part of the appeal before city council.

Todd Stewart said currently in Provo 35 units to the acre is the highest density with the exception Liberty Square next to Brigham Young University.

Trent Mortensen said he concurs with Mr. Jones's presentation.

Camilla Simonsen said the parking issue is a concern with the amount of cars and children in the area.

Terry Crook said his father is elderly and cannot ascend stairs. He asked what will happen if the top floor is vacant because the possible tenants have the same difficulties.

Craig Mortensen said he concurs with Mr. Gordon's presentation and he is concerned with property values.

Mayor Barney closed the public input portion of the meeting and opened the hearing for city council discussion.

Councilmember Huff asked if the city is meeting the General Plan and if the project is meeting all of the requirements. He also said he finds it difficult to change a decision based on the Planning Commission, who has done their homework. If a change is made and new conditions are placed on the conditional use there must be additional findings made. He asked staff if a condition and finding can be placed on the conditional use approval based on compatibility.

Mr. Baker said it would depend on the intensity of the condition. If the condition is more intense, new findings are required. If the condition is less intense, the existing Planning Commission findings are adequate.

Mr. Jones said in regards to the Planning Commission's findings, they did not receive some of the information provided during this city council meeting.

Councilmember Johns asked Mr. Carroll to address the question of a one-story building verses and two-story building.

Mr. Carroll said the footprint of the building would be the same regardless of the levels of the building and the building to lot ratio is only 25% coverage. The cost is greatly expanded by building a one-story facility. There will be more open areas and more landscaping to maintain.

Mayor Barney asked concerning the air-conditioning units on the sides of the building.

Mr. Carroll said the air-conditioning units have not been an issue with any other facility.

Councilmember Johns asked Mr. Carroll what would be the result if a condition was added requiring the facility to be one-story.

Mr. Carroll said the Senior Housing Authority would find another site for the facility.

Councilmember James said he has a problem with the idea of the building being incompatible. He said diversity does not make something incompatible. The old Junior High School was converted into apartments and it is surrounded by residential homes. Diamond Fork Apartments are three stories and he asked if those units are compatible with the areas they are in. He lives across the street from the school and it blocks his view. The city council has to look out for all residents of the city. Where do we put low income seniors in our community? He said when a person becomes elderly their perspective changes. However, he is still unsure where the low income senior housing facility should be and why it should not be in the proposed area.

Wendy Johnson said we are not saying we do want them there, just saying it is more than the neighborhood can handle. She asked if the units could be placed in more than one area.

Councilmember Huff asked the verbiage of condition number 16 to be “three consecutive days.”

Mr. Pierson said this facility is considered a nursing home or retirement home.

Mr. Baker read part of Title 17.12.080(A) which states. “These uses require a comprehensive review to determine whether the proposed use at a specific location is appropriate, or whether the use can be made compatible by placing certain conditions on its operation that mitigate or eliminate potential detrimental impacts.” The findings deal with the consistency of the General Plan listed under finding No. 5. “Adequate conditions have been incorporated into the approval of the Conditional Use Permit to mitigate any anticipated detrimental effects. The mass of the building is a concern and most of the homes in this area are not 2-stories in height.”

Mr. Pierson said Planning Commission considers the conditions and findings to comply with the compatibility of surroundings buildings. Also, adjustments were made and the building will now sit 73 feet from the curb.

Councilmember Johns made a **motion** to approve the Conditional Use Permit for the Community Housing Services Senior Retirement Home subject to the following 19 conditions and the findings as follows:

FINDINGS

1. The proposed use is consistent with the policies of the City’s General Plan and the purpose of the zoning district in which the site is located.

Finding: The R-1-12 zoning district allows Nursing/Senior Retirement Homes.

2. The proposed use will not be materially detrimental to the health, safety, or general welfare of persons residing or working within the neighborhood of the proposed use, when consideration is given to the character and size of the use and hours of operation.

Finding: A Senior Retirement Home will not affect the health, safety, or general welfare of adjacent homes/or uses, this is a home for elderly individuals over the age of 62.

3. The proposed site is adequate in size and shape to accommodate the intended use, and that all requirements for the zoning district, including but not limited to: setbacks, walls,

landscaping and buffer yards are mt.

Finding: The Senior Retirement home does meet all of the setbacks, landscaping, fencing, and buffering from the adjacent homes. The shape of the property is not unique and does not dictate where the facility can be located. The building is setback 73 feet from the curb and located is on the lot so as to not distract nor block people's views.

4. The proposed site has adequate access to public streets to carry the type and quantity of traffic which may be generated by the use, and that on-site circulation is adequate to permit driveways, parking, pedestrian ways, and loading requirements in a manner which is safe and efficient.

Finding: The use has adequate access to public streets and is located on a minor collector. The street is adequate in size to handle the traffic from this facility, which is anticipated to be light. The use meets the zoning ordinance dealing with parking and on-site circulation is fine.

5. Adequate conditions or stipulations have been incorporated into the approval of the Conditional Use Permit to insure that any anticipated detrimental effects can be minimized.

Finding: Adequate conditions have been incorporated into the approval of the Conditional Use permit to mitigate any anticipated detrimental effects. The mass of the building is a concern and most of the homes in this area are not 2-stories in height. The following conditions have addressed this concern:

CONDITIONS

1. The height of the building is not to exceed 30 feet to the peak of the roof from the grade at 1470 South with a waiver of 18 inches for the foundation wall. One home and the church in the area are found to be approximately 30 feet in height. The northwest corner (along 1400 East) of the building will be one story in height.
2. The building must meet all fire code requirements.
3. The exterior material on the west and south faces are to be of a hard material; stone, stucco, brick, or a type of masonry and are to be articulated appropriately. The exterior on the north and east sides of the building are to be dryvit.
4. There is to be a white vinyl fence along the north and east sides of the property and the South property line as shown on the site plan,
5. Landscaping is to be placed on the north and east sides of the building with trees every 20 feet, to grow to a minimum of 25 feet in height, and landscaping on the south and west side of the property as shown on the site plan and with the approval of the Shade Tree Commission,
6. The facility shall not be made available to an individual whose tenancy would constitute a direct threat to the health or safety of themselves or other individuals or result in substantial physical damage to the property. A background check must be performed on all residents and no individual who has been convicted of a violent felony or who has been listed on a state's sex offender registry list may be allowed to reside therein. (BCI background check),
7. The Federal Fair Housing Act is to be followed as pertaining to age,
8. The facility is to remain a senior housing facility for 99 years with all of these conditions or the conditional use permit will be terminated,
9. Meet all Construction and Development Standards,

10. There will be no more than 41 residential living quarters,
11. The electrical and communication issues are to be resolved as per the Engineering Department,
12. The roof is to be architectural shingles with at least a 5/12 roof pitch.
13. That only 40% of the units be allowed to own or be in possession of a vehicle that is parked at the site.
14. The storage building is to be located on the south side of the facility behind the main building.
15. The project is to have a manager and cleaning personnel on-site during work hours and on call 24-hours and 7 days a week.
16. No residents are allowed to have friends or relatives stay longer than three (3) consecutive days and two (2) nights.
17. The landscaping be installed and maintained as per the landscaping plan that has been submitted and approved.
18. The architectural design is to be compliant with the neighborhood structure as approved by the City Planner.
19. The parking lot will be amended in the future as needed based on the recommendations from the traffic engineer for Spanish Fork City.

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

Public Hearing - Spanish Fork Manor's Rezone - 460 West Center - From Medium Residential (R-1-8) to Medium High Residential (R-1-6) and Spanish Fork Manor's Preliminary Plat

Mr. Pierson said this is a request by Abe Turner and C&R Development, LLC to rezone approximately 3 acres located at 460 West Center from Medium Residential (R-1-8) to Medium High Residential (R-1-6). Currently the property is being farmed. The Planning Commission reviewed the request and recommended approval of the rezone including the Lange property. The Lange's received the letter notifying them of the rezone and did not appear at the hearing concerning the rezone.

Mayor Barney opened the meeting for public comment. None was given and the meeting was opened for city council discussion.

Councilmember Huff made a **motion** to approve the request by Abe Turner and C&R Development, LLC to rezone approximately 3 acres located at 460 West Center from Medium Residential (R-1-8) to Medium High Residential (R-1-6). Councilmember Christensen **seconded**, and the motion passed with a unanimous vote.

Councilmember Huff made a **motion** to move out of the public hearing portion of city council meeting and reconvene the regular session. Councilmember Johns **seconded**, and the motion **passed** with a unanimous vote.

Mr. Pierson thanked the residents of Abbie Court and Maple Meadows for helping lay approximately 38,000 square feet of sod on June 28th.

Spanish Fork Manor's Preliminary Plat - 460 West Center

Mr. Pierson reviewed the preliminary plat for Spanish Fork Manor's. The applicant is Ron Sattler and the plat includes a total of 12 lots with access off of Center Street and 460 West Center. The Planning Commission reviewed the preliminary plat and recommended approval with four conditions as stated in the agenda packet.

Vic Devauno said this project will be very compatible with Spanish Trails and welcomes Spanish Fork Manor's as a neighbor.

Councilmember Johns asked if the homes in Spanish Fork Manor's will be one or two-story.

Mr. Sattler said the homes will be both single and two-story homes.

Councilmember Christensen made a **motion** to approve the Spanish Fork Manor's Preliminary Plat on the following condition(s):

1. The subdivision is to meet all of the requirements for a R-1-6 zone,
 - b. The subdivision is to meet all construction and development standards,
 - c. The developer is to address any electric power issues as directed by the Electric Department, and
 - d. The front facades of the homes are to be of brick, stucco, or stone.

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

Agenda Request - City Youth Council - Jenie Allen

Jenie Allen, City Youth Mayor, said as the result of an election Melissa Houghton has been selected as the new City Youth Mayor with Andrea Greaves and Erica Hamilton as executive board members. The entire youth council, consisting of 15 members, participated in the election.

Mayor Bamey asked what city council can do to support the youth council.

Ms. Allen said they are always concerned with funding. She asked city council to make the youth council aware of projects or work needing to be done in Spanish Fork City.

Councilmember James commended Ms. Allen for the fine job she did as Youth Mayor.

Ms. Allen thanked city council for the opportunity to serve. She said serving as Youth Mayor has increased her desire to be involved in politics.

Other Business

None

Adjournment

Councilmember James made a **motion** to adjourn from city council meeting. Councilmember Christensen **seconded**, the motion **passed** with a unanimous vote, and the meeting adjourned at 8:00 pm.

Connie Swain, Deputy Recorder

Approved: July 15, 2003