

**Adopted Minutes
Spanish Fork City Council Meeting
December 2, 2003**

The meeting was called to order at 6:00 pm by Mayor Dale R. Barney. The pledge of allegiance was led by Dallin Parkinson, a member of Boy Scout Troop 1523.

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

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

Citizens Present: Robert J. Pittelli, Claire Durrant, Chris Wadsworth, Matt Barber, Seth Sorensen, Del Robbins, Diana Butler, Bob Wadley, Steve Maughan, Dale Houghton, David Olson, Alyn Olson, Dallin Parkinson, Jacob Watson, Nate Simkins, Alex Muirbrook, Dennis Casper, Darrin West, Mike Stewart, Kurt Humpheries, Joshua Watson, Tyler Yeaman, Monica Stone, Richard A. Evans, Denise Irwin, and Don Hareld.

Minutes

Councilmember James made a **motion** to approve the minutes of the November 4, 2003, city council meeting with changes as noted. Councilmember Kelepolo **seconded**, and the motion **passed** with a unanimous vote.

Councilmember Huff made a **motion** to approve the minutes of the November 18, 2003, city council meeting with changes as noted. Councilmember Johns **seconded**, and the motion **passed** with a unanimous vote.

Agenda Request -Nebo School District Presentation

Mr. Robert Wadley was present from the Nebo School District. He is the Director of Secondary Education. Also, present representing Nebo School District was Steve Maughan. Mr. Wadley said the district plans to utilize a bond and a voted leeway tax to support current and future growth. The leeway tax is scheduled for a vote on February 3, 2004. He gave a visual presentation containing the following information:

- Growth from 1980 to 2003 and projections to the year 2010
- 10 schools proposed to be built in the Nebo School District over the next 10 years supported by the bond
- New grade configuration as follows:
 - Kindergarten to Sixth Grade - Elementary School
 - Seventh Grade to Ninth Grade - Junior High School
 - Tenth Grade to Twelfth Grade - Senior High School

- Acquisition of property
- Operating costs
- Potential new schools
- Tentative construction time line
- Estimated costs to build new schools and improve existing schools
- Reasons for a configuration change
- Voted leeway tax rate and funds generated
- Taxpayer impact

Councilmember Johns said the grade configuration being implemented existed many years ago. He asked why the grade configuration was changed in the first place.

Mr. Wadley said both changes were based on economics. The configuration being implemented is the most common in the State of Utah.

Mayor Barney thanked Mr. Wadley for making this information available to the city council and residents.

Public Hearing - Spanish Vista Rezone and Preliminary Plat

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

Mayor Barney reviewed the procedures for a public hearing.

Mr. Pierson said the applicants, David Adams and Nebo School District, are requesting to rezone approximately 79.4 acres from Rural Residential (R-R) to Standard Urban Residential (R-1-9) and Medium Urban Residential (R-1-8). The property is located at 1700 East to 2300 East and Canyon Rd. to 1200 South.

Mr. Adams reviewed a visual presentation for the proposed Spanish Vista Preliminary Plat. The presentation included the following information:

- Traffic study results
- Building materials
- Water wise landscaping
- Lot designs
- Home designs
- Amenities
- Off site storm water line

Mayor Barney opened the meeting for public comment.

Kurt Humpheries, 1940 East Canyon Rd., said he has been attending all of the meetings and he is the one most affected by the proposed development. He thinks it should be approved tonight by city council. He said all of his comments are contained in letters he sent to each of the city councilmembers.

Diana Butler said it has been difficult getting information from the developer concerning changes to the plat in order to prepare for the meeting tonight. She asked if there will be a trail system within the development and if there will be an additional park.

Mr. Adams said there will be only one park with a tot lot. There is no one available to maintain an additional park in the retention basin. He said the city did not want to be responsible for maintaining the park. The townhome owners will maintain the only park in the development through a homeowner's association. A trail system has not been designed since the direction given concerning a trail was unclear. He said they are open to including a trail system within the development.

Ms. Butler asked for a definition of the areas to be fenced.

Mr. Adams reviewed the area proposed to be fenced and the materials.

Ms. Butler continued her comments. She recommended tabling this issue in order to allow more time to make the development more appealing to the community. They were unable to receive information to prepare to discuss these issues. The trail system and an additional park are issues they would like to propose. They are also concerned with the location, the masonry wall along Canyon Rd., and safety for children.

Allen Vincent said he has a lot to gain if this development is approved. He owns the property to the south of the proposed plan. He is disappointed the additional park was being dropped from the plans. He said there is a process in place to change the General Plan and if it is not going to be followed it should be changed. On 1700 East he had a safety concern since the existing driveways face the street. The General Plan is to be supported by the underlying ordinances. He hopes the city council will study the General Plan and make sure we do not circumvent it.

Denise Irwin, 1568 South 2250 East, said she is concerned with the schools in the area. The schools most affected by the development will be the Canyon Elementary, Spanish Oaks Elementary, and Larson Elementary. She said the schools are already at full capacity. Each home will house more than one child. She hopes to see the school bond passed, but if it does not pass there will be no place for the additional children to go to school.

Diana Butler said the storm drain system is a required element for additional growth and the lack of the storm drain will help defer growth.

Rick Evans said Mr. Adams has been very favorable and easy to work with. However, when Mr. Adams said no one is in opposition to the development he was not being truthful. Mr. Evans said most everyone who has spoken has been in opposition to the development. He said the density is the problem. Without a park in the retention basin the development fails to meet the General Plan. He said the three surrounding homeowners to the retention basin have agreed to maintain the park area. The Master Plan Development Ordinance will be changed as a result of mistakes made by development. With a little more effort the development can be improved. The school and church should not have been considered as open space for the development.

Denise Irwin said she recommends limiting the number of building permits issued per year to allow time for the new schools to be built.

Del Robbins said if the storm drain is completed it will open up the opportunity to add developments to the area. The schools will be too full. If this development is approved, he will do everything within his power to stop further development in the area.

Dave Olson said he lives on a one acre lot on Canyon Road. He said if we don't want the growth then the proposed school bond will not be needed and the citizens will not need to vote of the bond. The residents have had one month to prepare to contest this issue and this item should not be tabled. People need homes and the development should be approved. Growth is inevitable.

Mayor Bamey closed the public comment portion of the meeting and opened the meeting for city council discussion.

Councilmember Kelepolo requested Mr. Pierson comment on the concern with driveways accessing 1700 East.

Mr. Pierson said all of the homes along 1700 East will have "T" shaped driveways to allow vehicles to face forward upon entrance onto 1700 East.

Councilmember Christensen said he has a problem with allowing 4 density bonus points for recreation amenities. Also, the total density bonus given for fencing is 3 points and he thinks it should be 1 point. He also said the General Plan requires retention basins, however, it does not require parks in retention basins. He also thinks the home frontages should be increased and the density should be decreased.

Councilmember Huff asked if there will be access from the existing church located at the south east corner of the plat, other than the access onto Canyon Rd.

Mr. Adams said there will be an additional access from the back parking lot of the church. He also said, in connection with the fencing density bonus concerns, they will be fully fencing the townhomes as well.

Councilmember Huff said he requested input from the newly elected councilmembers and each have responded to him in writing. He reviewed some of the areas addressed by the newly elected officials. Some of the objections the newly elected officials have to the development are due to the over capacity of the schools. Councilmember Huff said part of the capacity is the fault of those who object because they moved into this community. Other objections were directed to the pressure on the recreation program. Councilmember Huff said the stress has been caused by new residents and the city has made every effort to accommodate those new residents. He said, for the accusations to be made that the problems are based on poor planning is not true. The objection stating the Spanish Vista development does not meet the General Plan is incorrect. Regardless of the decisions the city council will make, all residents' desires will not be met. The development will be built in phases and the ability to sell the homes and lots will be spread over several years. This is our community regardless of the location of the homes and we need to be

looking to the future. Mr. Wadley has addressed the school problem and it is not just Spanish Fork experiencing growth but all areas of the school district. The needs will be met just as they have been in the past. Growth issues existed 35 and 40 years ago and the school system will handle the pressure. The problem will not go away. Pressures on the recreation program, traffic, utilities, and schools have all come about because of growth brought by existing and new residents. All of the issues can and will be addressed in the future. Councilmember Huff said he is proud of the city, where it has come, and where it is going.

Councilmember James said he agrees with the comments made by Councilmember Huff. He said in the beginning he objected to the Spanish Vista Development. However, Mr. Adams has met and addressed all of his concerns. New development is a market driven industry. It will be years before the homes within the development are completely built. Traffic has been addressed for this area. He appreciates the input given from residents even though he does not agree with all of it. The concept of having small parks in developments does not work. There are maintenance problems. The city does not have the man power, equipment, or funding to maintain all of these little parks.

Councilmember Johns told Mr. Evans that he did not say a mistake was made by the Planning Commission concerning density bonuses. Councilmember Johns said his comments during the Planning Commission meeting were concerning his disagreement with the density bonus given. The Planning Commission spent a lot of time listening to comments and input from residents. He also said he thought the trail system was going to be included in the development.

Councilmember Kelepolo said the General Plan, approved in 1996, indicated a higher density along Canyon Road. The General Plan was implemented to insure the rules could not be changed in the middle of the game and to help insure decisions made were consistent. He said we should follow the General Plan taking into consideration input from residents. He appreciated the input given from residents and also said if there is a better plan it should be used.

Councilmember Huff made a **motion** to table the decision only for the Spanish Vista Rezone and Preliminary Plat. Councilmember James **seconded**, and the motion **passed** with a unanimous vote.

Public Hearing - Fieldstone General Plan Amendment

Mr. Pierson said this is a request by Fieldstone Homes to amend the General Plan Land Use Map to adjust the density line from Residential 3.5 to 5 units per acre to the south. They are also requesting to annex 155.14 acres on the west side of town into the City. The annexation is known as the Boatman/Murphy Annexation and the property is located at 100 South 920 West. The Development Review Committee and the Planning Commission have reviewed the request and recommend amending the General Plan as requested.

Mayor Barney opened the meeting for public comment.

Del Robbins asked which schools are nearest to the development.

Mr. Wadley said the school district is negotiating to purchase property in the area for a new school and at this moment the nearest schools are Brockbank Elementary and Park Elementary.

Mayor Bamey closed the public comment portion of the meeting and opened the meeting for city council discussion.

Councilmember Kelepolo asked Mr. Pierson to address the zoning areas.

Mr. Pierson said Mike Stewart could address the zoning areas.

Mr. Stewart reviewed the proposed changes to the General Plan. He said the proposed changes benefit not just the new development but the entire community. Also, the change is consistent with densities in the surrounding areas.

Councilmember Johns asked Mr. Heap concerning the flood plain areas.

Mr. Heap said the FEMA flood plain map does not include the proposed development area in the flood plain. However, he has discussed concerns with the Mayor to get consistent maintenance on the river to help prevent future problems. The river is constantly changing and requires regular maintenance. The city has no jurisdiction over the river maintenance and Mr. Heap said the county should assign a district to continually provide maintenance of the river.

Councilmember Johns asked what will happen if the county does not want to participate in maintaining the river.

Mr. Heap said there is a potential for flooding anywhere along the river. Trees and vegetation grow along the river and periodically need to be cut back or removed. Also, the flow of the river needs to be monitored. He said he is not sure if the city can turn down a development based on flood concerns if the area is not in the FEMA flood plain.

Mr. Stewart said he is prepared to raise the building pads several feet in addition to the requirements of FEMA. Also, there will be no basements included within the development.

Mayor Barney said if the area floods it will affect the entire area.

Mr. Stewart said they are doing all they can to eliminate flood concerns.

Mayor Bamey asked who will be responsible if flooding occurs. It is difficult to get people concerned with flooding during a drought but he said it will occur at some point.

Mr. Heap said there are two flood zones, A and B. The areas covered by the FEMA map are not part of the proposed development. We would have a difficult time denying approval of a development based on flood concerns when it is not included in the FEMA map. Mr. Heap said the full length of the river needs to be maintained. Many people are concerned. Someone needs to be responsible for the maintenance. He said many areas will be affected if the river is not maintained.

Councilmember Johns asked if the Central Utah Water Project will add to the river flow.

Mr. Heap said the Central Utah Project will add a very minimal amount of water into the river. If flooding is a concern, the Central Utah Project will allow the water flow to be controlled. The river also has the thistle tunnel which allows additional control.

Councilmember Christensen said at this time the item being discussed is the Fieldstone General Plan Amendment only.

Mr. Stewart said there will be an average of 3.5 units per acre over the entire development.

Councilmember Huff made a **motion** to approve the Fieldstone General Plan Amendment as presented. Councilmember Christensen **seconded**, and the motion **passed** with a unanimous vote.

Public Hearing - Fieldstone - Boatman/Murphy Annexation

Mr. Pierson said this is also a request by Fieldstone Homes to annex 155.14 acres into Spanish Fork City. The area has been increased by adding several adjacent properties (Bradford, Thomas, and Moser properties). The property is located at 100 South 920 West and is within the growth boundary. The Development Review Committee and the Planning Commission have reviewed the annexation request and recommend approval. Also, included in the annexation is an annexation agreement addressing density, trails within the development, a pavilion, improvements along Volunteer Drive, the bridge, and the road.

Mr. Stewart reviewed the contents of the annexation, general plan amendment and concept plan packet as follows:

- Signatures of surrounding property owners
- 114.8 acres total with a density average of 3.58 units per acre
- Concept plan with a variety of lot sizes
- Trail system
- Community park complex
- Land dedication along the river for a pedestrian and equestrian trail
- Sewer lift station
- Pavilion
- Home sizes, architectural design and materials
- Density bonus allowances
- Annexation agreement

Mr. Stewart thanked staff for their work in establishing the annexation agreement. He said the agreement protects the city and provides amenities in excess of those required. The proposed annexation and development meet the General Plan. They will be building only single family homes and the development benefits the community. Also, present representing Fieldstone Homes was Brian Gabler.

Mayor Bamey opened the meeting for public comment.

Diana Butler clarified that the discussion concerns the proposed Boatman/Murphy Annexation

only. She requested the area be zoned as low density as possible and she also said she was not impressed with the homes being proposed.

Mayor Barney closed the public comment portion of the meeting and opened the meeting for discussion by the city council.

Councilmember Kelepolo asked Mr. Pierson to review the boundaries.

Mr. Pierson reviewed the properties contained in the annexation and the zoning requested by property owners.

Councilmember Johns asked if the trails will be fenced.

Mr. Pierson said it is up to the property owner adjacent to the trail. He recommended the city council require a non site obscuring fence along the trail.

Councilmember Christensen said he would like to see the area zoned R-1-9 and R-1-12.

Councilmember Kelepolo said there are still items to be addressed bringing this many new areas into the annexation.

Councilmember Johns made a **motion** to approve the Boatman/Murphy Annexation.

Councilmember Kelepolo said he still has unanswered concerns with respect to the zoning of all of the properties included in the annexation before he is ready to second the motion for approval.

Councilmember Kelepolo made a **motion** to table the decision only for the Boatman/Murphy Annexation. Councilmember Huff **seconded**, and the motion **passed** with a majority vote. Councilmember James was **opposed** to the motion.

Public Hearing - Zoning Ordinance - Master Planned Development

Mr. Pierson said over the past few months needed changes to the General Plan have been evident and also needed changes in the zoning ordinance relating to the master planned developments. He reviewed the proposed changes.

Mayor Bamey opened the meeting for public comment.

Del Robbins said the number one issue people were astounded by was the fact that churches and school within developments were counted as open space. He recommended approval of the changes with respect to this item.

Mr. Stewart said the lot width requirement is too limiting especially in a planned unit development. He strongly recommended amending or removing the lot width requirement. He agrees open spaces should exclude churches and schools if the developer is selling the property to a religious organization or the school district. However, if the developer donates the property, he should receive a density bonus.

Kurt Humpheries asked if changes are made to the zoning ordinance now how does it affect current developments on hold?

Mr. Baker said any plat submitted prior to the change will be not affected.

Mayor Barney closed the public comment portion of the meeting and opened the meeting for discussion by the city council.

Councilmember Kelepolo asked if the developer contributes land for churches or schools should they receive a benefit?

Mr. Pierson said the city must give something in exchange for receiving something otherwise it is considered taking.

Councilmember Kelepolo said as long as the developer does not receive compensation for the land, to provide for churches and schools, he should be given allowances. He also asked for the developments with 60 and 50 foot width requirements.

Mr. Pierson reviewed several of the developments with 50 foot wide lots.

Councilmember Kelepolo said it may conserve water by allowing less surface area to be maintained.

Councilmember Kelepolo made a **motion** to table the decision only and not the public hearing for Master Planned Development Zoning Ordinance. Councilmember Christensen **seconded**, and the motion **passed** with a majority vote. Councilmember Johns was **opposed** to the motion.

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

9:00 pm - Five minute recess

9:05 pm - Meeting reconvened

Ordinance 09-03 - An Ordinance Repealing the Winter Parking Ordinance

Mr. Baker said six weeks ago the engineering department presented a new winter parking ordinance matching the street department's snow plowing plan. The ordinance would allow overnight parking on the majority of the streets since snow clearance would be completed during the daylight hours.

Councilmember Huff said the city council needed additional time to consider the ordinance and he has had the opportunity to talk with residents and he is in favor of repealing the winter parking ordinance.

Councilmember James made a **motion** to adopt Ordinance 09-03 - An Ordinance Repealing the

Winter Parking Ordinance. Councilmember Johns **seconded** the motion. No vote was taken at this time.

Councilmember Kelepolo said he has safety concerns in areas with narrow streets. He asked if the ordinance could be placed on narrow streets.

Mayor Barney said we already have an ordinance in place year-round, prohibiting parking on the streets for more the 72 hours to deal with safety concerns. The safety issue exists throughout the entire year and the winter parking ordinance was not intended for that purpose.

A vote was taken and the motion **passed** with a unanimous vote.

Change Order - SR 198 Utility Project 1100 South Main to 1100 East Canyon Rd.

Mr. Heap said this change order will finish this project. During excavation the contractor discovered the old culvert pipe had rusted out. The contractor was instructed to replace the pipe. Also, a pressurized irrigation box was relocated. The change order covers the time and cost for materials for both items in the amount of \$637.00 to Johansen Construction.

Councilmember Huff made a **motion** to approve the change order for the SR 198 Utility Project at 1100 South Main to 1100 East Canyon Road in the amount of \$637.70 to Johansen Construction increasing the total project costs to \$715,395.28. Councilmember Kelepolo **seconded**, and the motion **passed** with a unanimous vote.

UDOT Update - Main Street Resurfacing from 300 South to 1-15 Project

Mr. Heap said Geoff Dupaix from UDOT requested this item be rescheduled to the city council meeting on December 16, 2003.

Other Business

Councilmember Christensen offered his condolences to the Stahle family for the loss of their son who was murdered in Brazil.

Adjournment

Councilmember Kelepolo made a **motion** to adjourn from city council meeting. Councilmember Christensen **seconded**, the motion **passed** with a unanimous vote, and the meeting adjourned at 9:15 pm.

Connie Swain, Deputy Recorder

Approved: December 16, 2003