

**Adopted Minutes
Spanish Fork City Council Meeting
January 6, 2004**

The meeting was called to order at 6:04 pm by Mayor Dale R. Barney. The pledge of allegiance was led by Councilmember Barber.

Elected Officials Present: Mayor Dale R. Barney, and Councilmembers Everett Kelepolo, Paul M. Christensen, Matthew D. Barber, Seth V. Sorensen, and Chris C. Wadsworth.

Staff Members Present: David A. Oyler, City Manager; S. Junior Baker, City Attorney; Richard J. Heap, Engineering/Public Works Director; Emil Pierson, Planning Director; Kent R. Clark, Recorder/Finance Director; Dale Robinson, Parks and Recreation Director; MaryClare Maslyn, Assistant City Manager; Angie Jackson, Secretary; and Connie Swain, Deputy Recorder.

Citizens Present: Rodger L. Hardy, *Deseret News*, Janice Nielson, *Spanish Fork Press*, Robert J. Pittelli, Diana Butler, Kelly Long, Seth (Jess) Davis, Kasey Bills, Monica Stamm, David Olson, Alyn Olson, Rodney Tucker, Shelly Tucker, Shantelle Martinez, J. Craig Martinez, Del Robins, Russel Boyack, David Simpson, Don Williams, Richard A. Evans, Allen Evans, Karen Payne, and Kerf Gonzales.

Minutes

Councilmember Kelepolo made a **motion** to approve the minutes of the December 16, 2003, city council meeting with changes as noted. Councilmember Christensen **seconded**, and the motion **passed** with a unanimous vote.

Oaths of Office

Mr. Clark gave the oath of office to Councilmembers Matthew D. Barber, Seth V. Sorensen, and Chris C. Wadsworth.

Appointment of Boards, Commissions, and Committee Members

Council Appointments

Mayor Barney made the following city council appointments:

Mayor Barney

Personnel Committee

Fire & Ambulance Retirement Board

Alternate - Utah Municipal Power Agency

South Utah Valley Solid Waste District

Council of Governments

Everett Kelepolo

Mayor Pro Tempore
Termination and Appeals Board
Personnel Committee
Parks & Recreation Committee
Finance Committee
Airport Board

Paul Christensen

Senior Citizens Board
Personnel Committee
Art's Council
South Utah Valley Municipal Water Association

Chris Wadsworth

Planning & Zoning Commission
Finance Committee
Library Board
Risk Management
Termination and Appeals Board

Matt Barber

Risk Management Committee
Utah Municipal Power Agency
Fiesta Days Committee
Historical Committee

Seth Sorensen

Chamber of Commerce
Youth Council
Utility Board
Miss Spanish Fork Pageant

Councilmember Kelepolo made a **motion** to accept the council appointments as presented. Councilmember Christensen **seconded**, and the motion **passed** with a unanimous vote

New Citizen Board and Committee Members

Mayor Bamey presented the following names to fill vacancies on city boards and committees:

Airport Board

1. *Chris Child - Reappointment*
2. *Stan Meyrick - Reappointment*

Board of Adjustment

1. *Brady Jex*
2. *Gary Briggs*

Library Board

1. *Janet Garner - Reappointment*
2. *Paula Esplin - Reappointment*
3. *Casey Christopherson*

Parks and Recreation Committee

1. *Doug Brown - Reappointment*

2. *Treaci Tagg*
 3. *Brent Jones*
- Planning and Zoning Commission
1. *Del Robins*
- Utility Board
1. *Terry Brandon - Reappointment*
- Youth Council Advisor
1. *Glenn James*

Councilmember Kelepolo made a **motion** to accept the board, commission, and committee member appointments as presented. Councilmember Christensen **seconded**, the motion **passed** with a unanimous vote.

Boyack/Evans/Brockbank Annexation Petition

Mr. Pierson said Wood Springs, LLC filed an annexation petition consisting of 83.275 acres located from Center Street to 400 North and 1400 East. Wood Springs, LLC is representing the Bona, Brockbank/Johnson, Evans, Boyack, and Grotegut property owners. The City boundaries are currently on the north, south, and west sides of the annexation request properties.

Councilmember Kelepolo asked if an island would be created by the annexation request.

Mr. Pierson said the annexation request would create islands and he recommended including additional areas into the annexation in order to eliminate the islands.

Councilmember Barber asked if the homes along Center St. are included in the city boundaries and also concerning areas outside of the growth boundary.

Mr. Pierson said the General Plan recommends no annexation areas outside of the growth boundary.

Mr. David Simpson was present from Wood Springs, LLC. He said the reason for bringing in the area outside of the growth boundary is because it is contiguous with Mr. Evans's property.

Councilmember Wadsworth asked for clarification of the areas possibly creating islands.

Mr. Simpson reviewed the properties included in the annexation petition creating islands.

Mayor Bamey asked how children in the proposed annexation area will access the schools.

Mr. Simpson said there will be a connecting road to 400 North accessing the new Rees School and the proposed new High School.

Councilmember Barber asked Mr. Simpson for the planned density for the annexation area.

Mr. Simpson said a straight subdivision will be proposed with an R-1-12 zoning. The

subdivision will consist of large lots and single family homes only.

Mr. Pierson said the General Plan shows the area as R-1-9 or R-1-12.

Mayor Barney said the only consideration before the city council at this time is the approval of the annexation petition for further study.

Councilmember Christensen made a **motion** to accept the Boyack/Evans/Brockbank Annexation Petition for further investigation by the Planning Commission and Development Review Committee. Councilmember Wadsworth **seconded**, the motion **passed** with a unanimous vote.

Robin's Next Preliminary Plat

Mr. Pierson said this item was tabled from the November 18, 2003 city council meeting. The property is located at 800 North Highway 51. Dr. Paul Robinson has a residential treatment facility and a home on the property.

Mr. Demita reviewed the proposed plans for developing the property.

- 100 units including single family homes, twin homes, townhouses, and the treatment center already on the property
- A European style community
- Steep pitched roofs
- Solid wood entry doors
- Solid wood trim inside
- A 1,200 square-foot club house
- Design of the proposed units and single family homes
- Playground equipment
- Fencing which will be vinyl, chain link with straps, and stamped concrete

Mayor Barney asked Mr. Demita when the club house will be built.

Mr. Demita said the club house was to be built during one of the last phases of the property development, however, they could begin construction of the club house in portions with each phase of the development.

Mayor Barney said he would like some assurance the club house will be completed.

Mr. Demita said he is willing to sign a contract or complete a portion of the club house with each phase, however, it is difficult to construct in a phase intended toward the end of the project.

Councilmember Christensen said the club house would help sell properties within the development.

Councilmember Barber asked what can be required to insure the club house will be completed.

Mr. Baker said require Mr. Demita to build the club house in the first phase of the development

or require him to post a bond for the cost of the club house.

Councilmember Barber said to require the club house to be built in the first phase of the development or to require the developer to post a bond for the cost of the club house will create a burden on the developer.

Mr. Pierson said in other developments it has been required of the developer to build portions of the amenities with each phase of the development.

Mr. Demita is willing to complete the club house in phases, however, he requested not to be required to do things which other developers have not been required to do.

Councilmember Sorensen asked Mr. Demita for the time frame for each of the phases in the development.

Mr. Demita said he expects to sell two or three units per month. He presented a map with the proposed phases and pointed out to the city councilmembers the units contained in each phase.

Councilmember Barber asked Mr. Demita if he would rather build the club house or bond for the club house.

Mr. Demita said they would prefer to bond for the amenities if the bond is released when the amenity is completed.

Councilmember Wadsworth asked for the distance of the residential treatment facility from the nearest unit to be constructed.

Mr. Demita said there will be approximately 100 feet between the residential treatment facility and the nearest unit. Also, there will be a 6-foot fence surrounding the treatment facility. Dr. Robinson teaches at Brigham Young University. At the request of families he took students into his home. As the needs grew he built the residential treatment facility. The facility is considered a moderate treatment center, Dr. Robinson lives next to the facility, and it is not a lock down facility.

Councilmember Christensen asked Chief Rosenbaum if he knows of problems at the treatment facility.

Chief Rosenbaum said he can only remember minor problems. He said the tenants of the facility are there due to parent requests and not court orders.

Councilmember Wadsworth said he worked at a lock down facility and the facility was liable if patients escaped.

Mr. Baker said the city should have no liability and Federal law allows for this type of a facility in the area. The owner/operator is required to live on the property. If Dr. Robinson gets out of the business the next owner/operator will be required to live in the house next to the treatment

facility. The intention was to protect residents in the area by requiring the owner/operator to live on the property.

Councilmember Barber asked if the roads within the development will be dedicated to the city.

Mr. Demita said only a portion of the roads will be maintained by the city and the rest will be maintained by a homeowner's association.

Councilmember Christensen asked if there will be garages.

Mr. Demita said garages did not fit. The development will be completed in phases along with improvements in each phase. The costs are too extensive to install all improvements with phase one. One third of the improvements will be completed with phase one.

Mr. Baker asked where the infrastructure will enter the development.

Mr. Heap said the infrastructure will enter the development at the south intersection and will eventually loop around the property.

Councilmember Barber asked for clarification of the condition recommended by the Planning Commission requiring the stamped concrete to be stained to resemble stone.

Mr. Pierson said when David Lewis, Planning Commission Chairman, reviewed the development plans, he wanted the stamped concrete to be stained darker to improve the appearance.

Mr. Demita said he will most likely stain the concrete but he does not want to be required to do something others have not been required to do. Also, the Planning Commission talked about eliminating the planter strip and requiring concrete. Mr. Demita said there will be too much concrete and a planter strip will look better.

Mr. Pierson said the Planning Commission recommended eliminating the planter strip due to maintenance problems with the planter strip at the Whisper Willow Subdivision.

Mr. Demita said he would rather match the surrounding area.

Councilmember Barber asked how a homeowner's association can be forced to maintain the area.

Mr. Baker said it is a challenge and is not always easy to force areas to be maintained. The city does not enforce the covenant, codes, and restrictions. Mr. Baker said the city has a weed abatement law, however, the planter strip will be on UDOT property. The city would have to take the homeowner's association to court if the open space is not maintained.

Mr. Demita said he could make the maintenance of the planter strip part of the bylaws.

Councilmember Wadsworth asked Mr. Demita how the covenants, codes, and restrictions will be enforced.

Mr. Demita said generally property owners want to maintain the property to prevent loss of value.

Mayor Bamey said the planter strip also creates water conservation issues.

Councilmember Christensen asked if there will be fencing between the playground and the railroad tracks.

Mr. Demita said the fence will be chainlink with slats, consistent with the fencing on the Child's property to the south.

Councilmember Barber asked if the requirements for the type of playground equipment will need to be more specific.

Councilmember Wadsworth asked if the wood playground becomes deteriorated will it be replaced.

Mr. Demita said the manufacturer warrants the playground equipment. He said in the worst case scenario, if the playground equipment becomes weather beaten in five years you could hire someone to cover it with linseed oil for a minimal cost.

Councilmember Barber asked Mr. Pierson concerning the water wise landscaping plan.

Mr. Pierson said Mr. Demita promised to put in landscaping and was to submit a landscaping plan two months ago. Mr. Pierson has not received the landscape plan and the Shade Tree Commission will need to approve the plan. The Shade Tree Commission meets only once a month.

Mr. Demita said he submitted a landscaping plan six months ago.

Mr. Pierson said the landscape plan needs to be prepared by a landscape designer and he does not think he has received the plan.

Mr. Demita will submit a new one if needed.

Councilmember Kelepolo said the snow storms prevented him from visiting the similar development in Midway, Utah.

Councilmember Barber asked if the residential treatment facility will become nonconforming.

Mr. Baker said the residential treatment facility will be conforming.

Councilmember Kelepolo said he needs clarification concerning the planter strip and Councilmember Wadsworth wants to visit the treatment facility. City council would also like to know what can be done to require a homeowner's association to maintain property and what amenities should be required with each phase.

Mr. Demita asked if the city council prefers grass in the planter strip.

Councilmember Kelepolo said he would prefer to see grass rather than concrete in the planter strip. He also asked other city councilmembers what amenities should be required in phase one.

Councilmember Barber said he is comfortable addressing the amenities by bonding with each phase.

Mr. Demita is prepared to post bonds with each phase of the development if required by the city council.

Councilmember Wadsworth said he would like to speak with Dr. Robinson and he will commit to making a decision by the end of the month.

Councilmember Barber said if the city council will not make a decision tonight then a definite date should be set for a decision.

Mr. Demita asked if the city council can deny the development based on the treatment facility.

Mr. Baker said as long as the treatment facility remains conforming the city council cannot deny the proposal, however, the city council may require conditions relating to the treatment facility.

Mr. Pierson said the treatment facility has a business license. However, renewal fees have not been paid yet.

Councilmember Christensen said if the school district had concerns with the treatment facility they would not have built a school in the area.

Mr. Demita agreed with Councilmember Christensen.

Councilmember Kelepolo asked again concerning amenities to be required per phase.

Mr. Demita asked for a dollar figure for all of the amenities.

Mr. Pierson said the club house will cost approximately \$100,000, \$3,000 for the playground, and \$10,000 to \$15,000 for the sports court. All of the amenities are on the north end of the property. He said the city council could require amenities based on the percentage of units built. They could be bonded for rather than built. The bond could be released when the amenity is built and approved. If there is a time frame for the amenity and the time passes the city could call in the bond and build the amenity.

Councilmember Kelepolo said many questions have been answered, however, questions still remain. More information is needed in order to make a decision.

Mr. Demita asked for the amount of bond the city council would like posted with phase one. He said he will post a \$30,000 bond with phase one and put in the sports court.

Councilmember Kelepolo made a **motion** to table the Robin's Nest Preliminary plat until January 20, 2004 city council meeting. Councilmember Wadsworth **seconded**, and the motion **passed** with a unanimous vote.

Resolution 04-01 - A Resolution Rejecting the Underinsured Motorist Coverage

Mr. Baker said rejection of the underinsured motorist coverage is a recommendation from the Utah Risk Management Mutual Association (URMMA). URMMA said coverage is already available through worker's compensation or medical insurance and the underinsured motorist coverage would provide no additional coverage.

Councilmember Barber asked if the rejection saves on premiums.

Mr. Baker said he does not think rejecting the underinsured motorist coverage will save on premiums.

Councilmember Barber made a **motion** to approve and authorize the Mayor to sign Resolution 04-01 - A Resolution Rejecting the Underinsured Motorist Coverage. Councilmember Sorensen **seconded**, and the motion **passed** with a unanimous vote.

Council Direction on Street Vacation

Mr. Baker reviewed a potential street vacation along Volunteer Dr. near the new ballfield and the Wild Flower Subdivision. The Nebo School District is in the process of purchasing property in the area for a future school. There is a small area at the corner the city will own when the property is developed. The school district would like to pick up the small piece of property to clean up the property lines. If the piece of property is considered part of the street the city can transfer it at no charge. Or, the city council may decide the city should be compensated for the piece of property. Mr. Baker requested direction from the city council.

Mayor Barney asked if the city purchased the property.

Mr. Baker said the city purchased the property.

Councilmember Kelepolo said he would like to vacate the property and dedicate it to the school district.

Councilmember Barber said if the city paid for the property the city should be compensated.

Mr. Heap said the piece of property is approximately one hundredth of an acre.

Mr. Baker said the property would be valued at \$300 to \$400.

The city councilmembers unanimously agreed to authorize staff to begin the process to vacate the property.

Amendment to the Airport Improvement Grant Agreement

Mr. Baker said he received the addendum this week. The addendum is to amend the Airport Improvement Grant Agreement allowing for land acquisition and the cost of an environmental study to be paid for through the grant.

Councilmember Wadsworth pointed out typographical errors in the addendum.

Mr. Baker said he is aware of the errors.

Councilmember Kelepolo said the city will still be responsible for 2.5 percent of the costs.

Mr. Cris Child said the grant funds and others funding amounts will remain the same. The only change is in the items covered by the funds.

Mr. Baker read the letter from the **Federal Aviation Association** and the attachment. The addendum adds additional items to be paid for, however, the grant amounts will remain the same.

Mr. Child said the original Airport Improvement Grant Agreement was approved by the city council several months ago.

Councilmember Kelepolo made a **motion** to approve the Amendment to the Airport Improvement Grant Agreement. Councilmember Barber **seconded**, and the motion **passed** with a unanimous vote.

Airport Grant Application Approval - Land Acquisition

Mr. Heap said Cris Child is present to review the Airport Grant Application.

Mr. Childs said the Airport has acquired the Prior property and the FFA is prepared to provide funds through a grant to obtain additional property this fiscal year.

Mayor Bamey asked if the grant formula will still require Spanish Fork City and Springville City to be responsible together for 5 percent of the costs of the property acquisition.

Mr. Child affirmed the grant formula will be the same as the previous grant. This grant will be in the amount of \$750,000 for property acquisition.

Councilmember Kelepolo said it does not show the states funds

Mr. Child said there will be matching state funds.

Councilmember Kelepolo made a **motion** to approve the Airport Grant Application as presented for the purpose of land acquisition. Councilmember Christensen **seconded**, and the motion **passed** with a unanimous vote.

Strawberry Water Users Exchange Application

Mr. Heap said during the bridge construction, the pump station had to be relocated. During

excavation a tremendous amount of water was discovered. This year the demand will be on the pressurized irrigation water and the quality of the water. The water discovered will be excellent to use in the pressurized irrigation system. He has met with all of the parties concerned and they all agree taking the water would be an ideal way to use the Strawberry water rights and not affect downstream water users. It will save the city time pumping the wells.

Councilmember Kelepolo asked if the water will meet current demands.

Mr. Heap said the water is about 50 percent of the water used last year. The additional water could meet the demands at all times with the exception of July and August.

Mayor Barney said the city had to purchase additional water in the past and the additional water found could mitigate this in the future.

Councilmember Barber asked if the additional water will have an effect on starting up the well pumps.

Mr. Heap affirmed the additional water will allow a delay in well pumping and will eliminate the use of the cemetery number 2 well.

Mayor Barney said the South Utah Valley Mayors have asked all city councilmembers to attend the South Utah Valley Municipal Water Association information meeting on February 12th at 7:00 pm at the High Chaparral. There are some very critical issues to be discussed in the near future.

Other Business

Mayor Barney received a “thank you” card from Clyde Johnson. Mr. Johnson recently retired as the Fire Chief and has been called to active duty in Iraq with the Utah National Guard. Mayor Barney read the card thanking the city council and staff for their support.

Councilmember Wadsworth proposed the city council hold working meetings on the Tuesdays between regularly scheduled meetings to discuss issues, share research, etc.

Mayor Barney said a meeting can be called if there is something to discuss and an agenda is prepared.

Mr. Baker said additional meetings can only be done periodically unless there is an ordinance change stating the dates for the additional meetings. Also, the meetings must also be open to the public.

Councilmember Christensen said currently an information meeting is scheduled with city staff on February 6th and 7th. He suggested waiting until after the information meeting to determine if and when additional meetings will be necessary.

Councilmember Kelepolo said it is important to discuss issues.

Mayor Barney said the city councilmembers already have commitments to meet with other boards and committee.

Councilmember Wadsworth said most of his questions will be addressed to the city staff and he would agree with waiting until after the staff information meeting currently scheduled February 6-7, 2004.

Mr. Baker said an agenda will be prepared and posted for any city council meetings.

Councilmember Barber asked Mr. Pierson for the time table for new developments due to the capacity and if developments are being delayed.

Mr. Heap said the only developments not moving forward are those waiting for the storm drain on the east bench. The storm drain design is in and is being red-lined.

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 8:44 pm.

Connie Swain, Deputy Recorder

Approved: January 20, 2004