

**Adopted Minutes  
Spanish Fork City Council Meeting  
January 20, 2004**

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

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; Dee Rosenbaum, Public Safety Director; Dale Robinson, Parks and Recreation Director; Claire White, City Treasurer; Angie Jackson, Secretary; Trisha Breinholt, Police Secretary; Chrissy Henry, Librarian; Christine Johnson, Assistant City Attorney; Jamie Chappel, Fire Chief/Public Works Technician; Bill Bushman, Buildings and Grounds Superintendent; Jill Thorpe, Police Secretary; Tadd Thorpe, Parks and Recreation Leadworker; Bart Morrill, Parks and Recreation Maintenance Supervisor; and Connie Swain, Deputy Recorder.

Citizens Present: Rodger L. Hardy, *Deseret News*, Janice Nielson, *Spanish Fork Press*, Robert J. Pittelli, Victor Hansen, David R. Adams, Bruce R. Baird, Mike Dunn, Don Harreld, A. Decone Gilger, Ashley Chappel, Corbin Chappel, Trevor Chappel, Marlo Chappel, David Olson, Alyn Olson, Taylor Thorpe, Barbara Thorpe, Hadley Thorpe, Justin Harold, Cooper Thorpe, Calvin L. Wyman, Betty Wyman, and Brandon Swain.

### **Minutes**

Councilmember Kelepolo made a **motion** to approve the minutes of the December 23, 2003, city council meeting as presented. Councilmember Sorensen **seconded**, and the motion **passed** with a unanimous vote.

Councilmember Christensen made a **motion** to approve the minutes of the January 6, 2004, city council meeting with changes as noted. Councilmember Wadsworth **seconded**, and the motion **passed** with a unanimous vote.

### **New Employee Introduction**

Mayor Barney introduced the following new employees:

Tricia Breinholt, *Police Secretary*

Chrissy Henry, *Librarian*

Christine Johnson, *Assistant City Attorney*

Guy Chang was unable to appear and will appear during the next city council meeting.

Mayor Barney also introduced Jamie Chappel as the new Fire Chief. Mr. Chappel was presented with a Fire Chief badge.

### **Employee Recognition - Tadd Thorpe - National High School Baseball Coaches Association Turf 2003 Grounds Keeper/Field of the Year Winner**

Mayor Barney introduced Tadd Thorpe and recognized him for receiving the National High School Baseball Coaches Association Turf 2003 Grounds Keeper/Field of the Year Award. Mr. Thorpe also won the district award in Albuquerque, New Mexico prior to receiving the national award. Mr. Thorpe was presented with a plaque for each award and a gift certificate from the Recreation Department.

### **Employee of the 4<sup>th</sup> Quarter 2003**

Mayor Barney also awarded Tadd Thorpe with the Employee of the Quarter Certificate. Mr. Thorpe was nominated by the city employees and was selected to receive the award for his outstanding performance.

### **Ratification of the Assignment of Contract for Cross Parking Easement**

Mr. Baker said several years ago when the Main St. Plaza was constructed the city worked with the developer to coordinate parking. The city maintains an easement on the north end of the property providing access onto 400 North. Recently, the business affiliates for Main St. Plaza were refinancing and the easement needed to be assigned to someone. Mr. Baker said the contract was in proper order and the Mayor signed the contract in order to accommodate the refinancing.

Councilmember Kelepolo made a **motion** to ratify the signing of the Contract for the Cross Parking Easement. Councilmember Barber **seconded**, and the motion **passed** with a unanimous vote.

### **Ordinance No. 01-04 - An Ordinance Amending the Spanish Fork Municipal Code Concerning the Appointments of City Finance Director/City Recorder and City Treasurer**

Mr. Baker said during a legislative session last year a reclassification of cities was implemented. As part of the change the law requires the appointments of the City Finance Director/Recorder and City Treasurer to take place following each municipal election. Ordinance 01-04 provides the necessary amendments to the city code to comply with the changes in the law.

Councilmember Barber asked if the City Finance Director/Recorder and City Treasurer are contract employees.

Mr. Baker affirmed. He also said the City Finance Director/Recorder and City Treasurer will now be appointed every two years instead of every four years.

Councilmember Kelepolo made a **motion** to approve Ordinance No. 01-04 - An Ordinance Amending the Spanish Fork Municipal Code Concerning the Appointments of City Finance Director/City Recorder and City Treasurer. Councilmember Barber **seconded**, and the motion **passed** with a unanimous vote.

### **Appointment of City Finance Director/City Recorder and City Treasurer**

Mayor Bamey appointed Kent Clark as the City Finance Director/City Recorder and Claire White as the City Treasurer.

Councilmember Kelepolo made a **motion** to approve the appointment of Kent Clark as the City Finance Director/City Recorder and Claire White as the City Treasurer. Councilmember Sorensen **seconded**, and the motion **passed** with a unanimous vote.

### **Lease Agreement - Eldon Neves Airport Property**

Mr. Baker said as part of the Spanish Fork/Springville Airport agreement entered into last year to purchase the Prior property it was agreed a current farm lease would be continued with Eldon Neves. Springville City has already signed the farm lease. Mr. Baker said the lease allows the property to remain a green belt, which provides tax savings to the city.

Councilmember Kelepolo asked for the length of the lease.

Mr. Baker said the lease will likely terminate when the property is needed to extend the runway.

Councilmember Wadsworth asked why the lease does not allow the use of C.U.P. water on the property.

Mr. Baker said the requirement was a request of the Water Conservancy District.

Mr. Heap said the water concern has been resolved and the use of C.U.P. water is no longer an issue.

Mr. Baker said the contract should remain as it is presented since Springville City has already signed it.

Councilmember Kelepolo made a **motion** to approve the Eldon Neves Farm Lease Agreement as presented. Councilmember Sorensen **seconded**, and the motion **passed** with a unanimous vote.

### **UTA Interlocal Agreement**

Mr. Baker said the Utah Transit Authority (UTA) Interlocal Agreement is a discussion item in which no action will be taken at this time. UTA is in the process of acquiring the rights-of-way for future light rail and similar transportation services. They will be asking more than 40 cities to give up rights to zoning restrictions within the corridor and will be asking those cities to waive

fees such as impact fees, building fees, etc. A public hearing is required by law when fees are requested to be waived. Mr. Baker provided a copy of the final draft for the agreement to members of the city council and the public hearing is scheduled for February 3, 2004 at 6:30 pm. The agreement is due back to UTA by February 15, 2004.

Councilmember Kelepolo asked if other cities are reviewing the agreement tonight.

Mr. Baker said some cities have begun the approval process.

Mayor Bamey said it will be at least 10 years before a connection will be constructed to Spanish Fork.

Mr. Baker said the corridor runs approximately 150 miles and the UTA needs time to make immediate and future construction plans. Residents may review a copy of the final agreement at [www.ulct.org](http://www.ulct.org).

Councilmember Wadsworth asked if UTA plans for a light rail service stop in Spanish Fork.

Mr. Baker said the plans indicate a stop in Payson and not in Spanish Fork, however, the plans are not definite at this time. The reason for the deadline of February 15, 2004 is to force a decision. UTA has more than 40 municipal bodies to negotiate with.

Councilmember Kelepolo asked how many of the cities need to accept the agreement.

Mr. Baker said all of the entities need to accept the agreement. He encouraged residents to be involved in the public hearing process and provide input to the city council.

### **Spanish Vista Rezone (Tabled from December 2, 2003)**

Mr. Pierson this is a request by ESAD, L.C. (Dave Adams and Dunn Construction) and Nebo School District to rezone 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 Road to 1200 South. The Development Review Committee and the Planning Commission have reviewed the request and recommend approval of the rezone with two conditions.

Councilmember Barber asked Mr. Pierson if a planned unit development impacts the density.

Mr. Pierson said the planned unit development will impact the density. He reviewed the density options for the area.

Councilmember Kelepolo asked if zoning the area R-1-12 will affect the ability to build townhomes.

Mr. Pierson said an R-1-12 zone will affect the allowed home sizes.

Councilmember Christensen asked for the zoning of the surrounding properties.

Mr. Pierson reviewed the surrounding zones.

Councilmember Christensen said he would like to see the entire property zoned R-1-9. He prefers not to have an R-1-8 zone.

Councilmember Kelepolo asked if the lower section of the area could be rezoned R-1-12.

Mr. Pierson said if the lower section of the property is rezoned R-1-12, it will need to follow the General Plan.

Mr. Adams said he has proposed larger lots in the lower section of the development and would have no problem with the area zoned as R-1-12.

Councilmember Christensen agrees the bottom section of the property should be zoned R-1-12.

Councilmember Barber asked for the procedure with respect to the developer's comments since the public hearing was closed.

Mr. Baker said the developer can be invited to contribute to the discussion.

Mr. Pierson reviewed the area to be designated as R-1-12 and the upper section of the rezone area should be R-1-9 or R-1-8.

Councilmember Kelepolo asked Mr. Adams if the area is to be rezoned would fit.

Mr. Adams said the zones discussed by the city council will fit with the development plans.

Councilmember Kelepolo asked Mr. Pierson to review some of the proposed development plans and the results if portions of the property are sold to another developer.

Mr. Pierson said the only binding items are the zones approved by the city council.

Mr. Adams said the zoning could be made conditional to the plat.

Mr. Baker said the zoning can be made conditional upon the approval of the plat which includes specific lot and home sizes.

Councilmember Kelepolo made a **motion** to approve the Spanish Vista Rezone establishing an R-1-9 zone for the entire property on the following condition(s)

1. Lots adjacent to the Spanish Fork Country Estates must have 1,500 square foot homes or larger.

Councilmember Christensen **seconded**, and the motion **passed**. Councilmember Wadsworth **opposed** the motion.

### **Spanish Vista Preliminary Plat (Tabled from December 2, 2003)**

Mr. Adams said they are prepared to present four variations of the preliminary plat. Mr. Adams reviewed all four versions contained in the city council agenda packets. The variations contain patio homes, no patio homes, a “U” connecting street, and no connecting street. The options were prepared as previously requested by the city council.

Councilmember Barber asked if the version without patio homes eliminated two lots.

Mr. Adams affirmed.

Councilmember Kelepolo said in many city conference sessions concerning planning and development it has been recommended to include diversity within developments. By having diversity there is a mix of homes and types of homes. However, he is opposed to the design of the patio homes. Also, he said he does not like protruding garages or homes with side entries.

Mr. Adams said he feels the patio homes are attractive, however, they do have a small frontage.

Councilmember Christensen said he is concerned with visibility problems for vehicles accessing Canyon Road from 1700 East.

Councilmember Wadsworth said there are similar visual hazards due to a 6-foot fence at 1400 East and Canyon Road. UDOT may put a traffic light in the area, however, it could be years before that happens.

Mr. Adams said he will make adjustments to insure proper visibility at 1700 East and Canyon Road.

Councilmember Wadsworth suggested a right turn only at 1800 East and Canyon Road and also there will be a visibility problem at that entrance.

Councilmember Kelepolo said there should be an option for a left turn until the access to US 6 is completed.

Mr. Pierson said the city council should require Mr. Adams to improve visibility at the 1700 East intersection since the property is part of his development.

Councilmember Wadsworth asked Mr. Heap if he is comfortable with two days of observation in preparing the traffic study.

Mr. Heap said in preparing the traffic study a view of the current traffic count at the present level of service, along with a long history of the area, with the use of traffic study software, the results are compiled.

Councilmember Barber asked Mr. Adams to review the fencing plans.

Mr. Adams said there will be a full 6-foot masonry fence along Canyon Road and a solid

masonry fence between density changes. Also, there will be fencing added and adjustments made around the development where fencing does not exist.

Councilmember Wadsworth asked if plans for the trail system are included in the development.

Mr. Adams said there is not a master plan for the trail system through the area. He proposed widening the sidewalk along 1700 East to 6 feet to accommodate joggers, bikes, and residents on foot. He also said residents requested an additional park in the development. The current park proposed will be maintained by a Homeowner's Association. The city has concerns with the maintenance of any additional parks.

Councilmember Kelepolo said as a member of the Recreation Committee he is aware of many small parks throughout the city requiring maintenance. If surrounding property owners or Homeowners' Associations are unable to maintain the parks the residents call upon the city to provide maintenance. Since the city lacks the resources and manpower to maintain all of the small parks an attempt is being made to provide larger parks and areas, such as the sports park, to provide areas for recreation and sports for residents.

Mr. Adams said there will also be a school in the area which will provide additional play areas.

Councilmember Christensen asked concerning maintenance of the detention basin area.

Mr. Adams said property owners adjacent to the grassy detention basin area have offered to take ownership of the area and provide maintenance.

Mr. Pierson said city staff plans to reduce maintenance costs. There will be three open space areas for play near this development.

Councilmember Barber asked how Title 16.12.030 (C) and the alternatives apply in connection with the storm drain issue. (See insert below)

*C. The adequacy of public facilities shall be determined in accordance with the Spanish Fork City development standards, the various master plans and the comprehensive general plan of the city, and at the discretion of the city engineer.*

*In the event that the city engineer determines that adequate public facilities are not available and will not be available by the time of final plat approval, so as to assure that adequate public services are available at the time of occupancy, the following alternatives may be elected, at the discretion of the city council:*

- 1. Allowing the developer to voluntarily construct those public facilities which are necessary to service the proposed development and provide adequate facilities as determined by the city engineer and by entering into an appropriate form of connector's or development agreement, which may include, as deemed appropriate by the city engineer, provisions for recoupment of any expenses incurred above and beyond those reasonably necessary for or related to the need created by or the benefit conferred upon the proposed development, and the method and conditions upon which recoupment is to be obtained. Any connectors agreement authorized by this paragraph must be executed within 30 days of the completion and acceptance by City of the improvements.*
- 2. Requiring the timing, sequencing, and phasing of the proposed development consistent with the availability of adequate public facilities;*
- 3. Deferring final plat approval and the issuance of building permits until all necessary public facilities are adequate and available; or*

4. *Denying plat approval and allowing the applicant to reapply when adequate public facilities are available.*

Mr. Baker said the city council has discretion to follow one of the four conditions. The city council can deny the plat based on inadequate public facilities and at that time the city will need to put in the storm drain. At this time the developer is prepared to put in the storm drain rather than the city.

Councilmember Sorensen asked if plans for the construction of the storm drain have been submitted.

Mr. Pierson affirmed the plans for the storm drain have been submitted.

Councilmember Sorensen said he is in favor of a 6-foot sidewalk along 1700 East.

Councilmember Barber said he is in favor of the 6-foot sidewalk and a four foot planter strip along 1700 East.

Councilmember Kelepolo agreed and also said he would like no patio homes in the development.

Councilmember Wadsworth asked if the public could be allowed to give input.

Mayor Barney said this is a decision making body and public hearings have been held and closed. The project needs to be accepted or rejected by the city council.

Councilmember Kelepolo said some items of concern by the residents where density, patio homes, and access onto 1700 East. All of these items have been addressed. Also, the trail system and the park have been addressed. Mr. Adams has made many concessions and the development follows the master plan and the surrounding developments.

Councilmember Barber said this project has raised some concerns with the General Plan which will be addressed in the near future. The developer has met the resident and city council requests. Ethically the city council needs to make a decision based on the current General Plan. Mr. Adams has been more than willing to address the issues.

Mr. Baker suggested reviewing the density bonus matrix and justify the decision to satisfy the ordinance.

Mr. Pierson asked Mr. Adams to review the density bonus spreadsheet.

Mr. Adams reviewed the density bonus spreadsheet contained in the agenda packets.

Councilmember Barber asked who will supervise the development to insure the homes built by other contractors will meet the requirements of the plat approval.

Mr. Adams said he, as the developer, is required to approve and sign every single house plan within the development.

Councilmember Kelepolo made a **motion** to approve the Spanish Vista Preliminary Plat on the following condition(s):

1. The utility restriction is to be lifted when the storm drain line is:
  - a. bonded with a completion time frame of 120 days,
  - b. the rights-of-way are acquired and deeded to the city,
  - c. designed and approved by the city,
  - d. installed and functional prior to the issuance of any building permits and/or the paving of roads,
2. Install a masonry wall along Canyon Road matching the wall on 2300 East with 2-inch caliper trees every 30 feet with additional landscaping approved by the city planner,
3. Submit covenants, codes, and restrictions to the city,
4. All house/townhome plans in the subdivision are to be signed and approved by the developer,
5. Provide to the city a clear title report for all properties included in the development,
6. Construct all homes with 100 percent masonry fronts with stone and brick accents,
7. Construct all homes located on corner lots with 100 percent masonry on street facing sides and fronts with stone and brick accents,
8. Install front and side yard landscaping with two 2-inch caliper trees on each yard of the single family homes,
9. Install all landscaping and fencing for townhomes,
10. Construct a 66-foot roadway through the development as approved by the Engineering Department,
11. Receive approval of the density as shown on the attached spread sheet,
12. Setbacks for each detached building side yards are to be 10 feet on one side and 6 feet on the other side allowing for one 10-foot utility easement at each property line,
13. Receive approval of the electrical design for the development from Jeff Foster of the Electrical Department,
14. The lots against Spanish Fork Country Estates be a minimum of 10,000 square feet, with a 6-foot vinyl privacy fence between the developments,
15. All townhomes are to have the same setbacks as the single family homes,
16. The townhomes going out onto Canyon Road will need to be cut into Canyon Road as a regular street cut. The water and PI line in this street will need to be connected into Canyon Road and will need to be bored or looped through the south with a 20-foot easement,
17. The storm drain issue be worked out with the city and a final storm drain plan be submitted and approved,
18. An access into the church parking lot be arranged by lot 178,
19. The developer provide to the city an approved plan for the irrigation ditches to the homes on Canyon Road and SF Country Estates signed by the East Bench Irrigation Company or a letter of abandonment signed by the ditch owners,
20. All homes on 1700 East have side entry garages and a T-driveway,
21. All single family homes are to have a minimum lot width of 50 feet,
22. All single family homes must follow the home size requirements according to the

- zoning,
23. All townhomes must have street frontage,
  24. Lot 189 cannot be counted in the total acreage for the project,
  25. A trail proceed north and south through the townhomes to the tot lot, as shown on the plat,
  26. That the developer install a vinyl fence along Spanish Fork Country Estates and also the Towne & Country Living Estates and a masonry fence along the property zoned R-R as per the fence plan map,
  27. The final plans for the townhomes which includes the building designs, fencing, and covered parking be approved by the Planning Commission,
  28. Install a six-foot sidewalk with a four-foot park strip along 1700 East,
  29. Construct the development with the U-road and without patio homes as shown in version 4,
  30. Provide safe vision ability at the corner of 1700 East and Canyon Road as approved by the Public Works Department,
  33. Construct all homes adjacent to Spanish Fork Country Estates, rambler style homes with a minimum of 1,500 square feet on the main level, and 2,000 square feet minimum for two-story style homes, both styles to be installed with basements,
  34. Arrange with one of the property owners adjacent to the detention basin to maintain the detention basin area.

Councilmember Christensen **seconded**, and the motion **passed**. Councilmember Wadsworth was **opposed** to the motion.

#### **Robin's Nest Preliminary Plat (Tabled from January 6, 2004)**

Mr. Demita said since he is proposing \$150,000 in amenities he would like the city council to prorate the costs.

Councilmember Kelepolo said he thinks the sidewalk, curb, gutter, and wall need to match the adjacent property and should be completed in portions within each phase.

Mr. Demita said there are no amenities within the first two phases.

Councilmember Kelepolo said a decision will need to be made concerning when and what amenities will be required.

Mr. Demita said one option is to require bonding for the amenities with each phase or a cash amount posted with each lot.

Councilmember Christensen said if the developer drops out before the development and the amenities are complete the city needs to be protected. He asked if the city council should require the road to be built through the development with phase one.

Councilmember Kelepolo said in the past the city has had developers leave properties incomplete and as a result the city wants to protect it's interest.

Mr. Baker said a bank will hold a bond for one or maybe two years. The city council can require a cash bond and extend the time period for holding the bond as long as needed.

Councilmember Kelepolo said if there is a cash bond the cost of a project could increase beyond the bond amount.

Mr. Baker said the city takes the risk of increased costs when accepting a bond. However, bonds are collected at 125 percent of the costs with interest to be gained while the bond is being held.

Mr. Demita asked if there is an ordinance in place to deal with amenity requirements with phases of developments. He said the city council cannot be arbitrary and has to impose the exact same requirements as in other developments.

Mr. Baker said the city has required bonding with various phases in other developments and he reviewed several of the bond requirements with respect to other developments in the past.

Mr. Demita said he was not aware of the requirements in the past. He said he would like a requirement with each lot based on the amenities indicated.

Councilmember Kelepolo said he agrees a cash bond should be imposed and extended until the development, including the amenities, is completed.

Mr. Demita said the cash bond is reasonable under the circumstances.

Councilmember Kelepolo said the wood playground equipment is difficult to maintain and he would like to see commercial grade equipment.

Mr. Demita said the proposed playground equipment has a lifetime warranty and the price is just under \$5,000. The sports court will cost approximately \$30,000 and will be fenced in. The club house will cost between \$65,000 and \$70,000 for the structure. The club house will contain a kitchen and exercise room.

Councilmember Wadsworth said there is playground equipment made out of steel for the same price.

Mr. Demita said the wood equipment matches the look of the European style development.

Mr. Pierson said the smallest commercial grade playground equipment will cost at least \$5,000.

Councilmember Barber suggested that the Homeowner's Association decide on the type of playground equipment.

Councilmember Sorensen asked if the water-wise landscaping design has been submitted.

Mr. Pierson said he has a landscaping plan, however, it could be upgraded.

Councilmember Christensen asked if any of the units will contain basements.

Mr. Demita said he does not plan on building basements.

Councilmember Kelepolo asked concerning the home sizes.

Mr. Pierson said the proposed development meets all of the requirements concerning home sizes and architectural design and is a strong point of the development.

Mayor Barney asked if the bond issue is resolved.

Councilmember Kelepolo said he would like a cash bond posted for the proposed amenities.

Councilmember Wadsworth said he has presented members of the city council with information concerning the residential treatment facility. Also, there are animals on the property. He would like the city council to have an opportunity to read his proposal.

Mr. Pierson said as long as they meet the requirements the animals are allowed.

Mr. Baker said we may want to record with the plat information for adjacent property owners of the animal rights. As strictly a legal matter the city council can go forward with the approval process for the development. He said Councilmember Wadsworth would like to see changes to the zoning ordinance with respect to treatment facilities. Both the subdivision and the group home are conforming. If it were nonconforming he would have concerns. Since they are conforming the city council can go forward. If the matter is delayed it must be brief.

Councilmember Sorensen asked what happens in the future if a property owner objects to the animals.

Mr. Pierson said if the property size allows animals then the adjacent property owners should have been aware of the fact before purchasing the property.

Mayor Barney said out of respect for the time Councilmember Wadsworth spent gathering and preparing the information a brief delay could take place to allow the information to be reviewed.

Mr. Demita would like a copy of the document prepared by Councilmember Wadsworth. He said he was not aware of this information and his development has been tabled for one year.

Councilmember Kelepolo said the development has only been tabled since November by the city council.

Councilmember Wadsworth made a **motion** to table the Robin's Nest Preliminary Plat to give members of the city council an opportunity to review the document addressing the residential treatment facility. **No second** was made.

Councilmember Barber made a **motion** to approve the Robin's Nest Preliminary Plat on the following condition(s):

1. Install a wall, with a park strip, and trees every 30 feet as per the plat, to be contiguous with the adjacent developments,

2. Provide a 50-foot frontage for the residential treatment center,
  3. Submit a water-wise landscaping plan for the development, to be approved by the Shade Tree Commission,
  4. Install commercial grade playground equipment with a swing set,
  5. Submit drawings of the parking awning for lots 78-87 to the city planner for approval,
  6. Construct the development as shown on the approved preliminary plat,
  7. Receive density bonus points as reflected in the packet,
  8. Have at least 10 feet of space between buildings,
  9. Provide a letter from UDOT approving improvements along Highway 51,
  10. Install a total of 108, 2-inch caliper trees throughout the project as approved by the Shade Tree Commission,
  11. Post a cash bond for the amenities in the amount of \$1,000 per unit or lot,
- Councilmember Christensen **seconded**, and the motion **passed**. Councilmember Sorensen and Councilmember Wadsworth were **opposed** to the motion.

#### **Resolution No. 04-02 - A Resolution Authorizing the Interlocal Agreement for NPDES Phase II Storm Water Permit**

Mr. Heap said NPDES in the National Pollution Discharge Elimination System. Right now the project is in phase two consisting of public education and outreach programs. In order to more effectively educate the public the county is proposing the entities involved complete phase two as a group. The county will prepare a video and a quarterly newsletter. The city will need to enter into an interlocal agreement and the resolution will authorize the mayor to sign the agreement.

Mayor Barney asked concerning reuse of the storm water.

Mr. Heap said the storm water reuse is different from the water treatment facility reuse and other water reuse. The storm water drains into Utah Lake and Utah Lake Water Users have the water rights to reuse that water.

Councilmember Kelepolo asked if the Lake were full would the city be allowed to reuse the water.

Mr. Heap said those issues may come up, however, the city would need a way to store the water if we had the water rights to use it. The county will prepare the public information letter and video and a member of city staff will be trained to present the information.

Councilmember Sorensen suggested broadcasting the information on the city cable channel.

Mr. Heap said using SFCN is an excellent idea. Also, he will look into the water reuse possibilities, however, it would be difficult.

Councilmember Christensen made a **motion** to approve Resolution No. 04-02 - A Resolution Authorizing the Interlocal Agreement for NPDES Phase II Storm Water Permit as presented. Councilmember Sorensen **seconded**, and the motion **passed** with a unanimous vote.

## **Bid Award - 2003 US 6 Water Main - 2550 East to 2800 East**

Mr. Heap said three breaks have occurred in the water main along US 6. The city has been working with Reynold Watkins to determine the soil contents. The soils contain a lot of sulfates. The clay heats the soil and eats away at the pipe. Because of the soil conditions future failures are expected. There are two ways to correct the problem. New pipe can be threaded into the old pipe. Or, lay new pipe, capable of withstanding the sulfates, next to the old pipe. Bids have been received and the low bid was received from the same company for both options. Mr. Heap said if a new pipe is placed next to the old pipe it will be larger and will be capable of much more capacity. Mr. Heap recommended the larger pipe with greater capacity. The replacement of the pipe will be included on the budget revision hearing in February or March, 2004. He would like to get the pipe in as soon as possible and recommended awarding the bid to Lindon Jones Construction in the amount of \$236,400 for the new larger capacity pipe.

Mayor Barney said the city paid the original engineering firm a lot of money to engineer the pipe line project and the engineering firm should be held accountable.

Mr. Heap said the legal remedies are being discussed with Mr. Baker and the original engineering firm will again be contacted.

Councilmember Christensen agreed.

Councilmember Wadsworth asked if materials and workmanship were the problem.

Mr. Heap said inadequate soil testing was the problem. He said the repairs in the last two years have costs over \$100,000.

Mr. Oyler said the pipe replacement will come out of retained earnings.

Councilmember Barber said a claim should be filed against the original engineering firm.

Councilmember Kelepolo said there should be a warranty on these types of projects.

Mr. Heap said there was a warranty, however, there is also a statute of limitations.

Mr. Baker said the statute of repose is for ten years. Also, there is a two year limitation from the time of discovery.

Mr. Heap said we should still meet with the previous project engineer.

Councilmember Wadsworth asked how the city found Lindon Jones.

Mr. Heap reviewed the bid process. Also, Lindon Jones was recommended by West Jordan, Salt Lake City, and Midvale when asked concerning their work with the contractor.

Councilmember Kelepolo made a **motion** to approve the bid award for the 2003 US 6 Water Main Project from 2550 East to 2800 East in the amount of \$236,400 to Lindon Jones.

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

### **Other Business**

Frank Santos said he has a proposed plat on hold by the city and he wanted to know why.

Mr. Baker said there has been a building restriction in place on the east bench. Spanish Vista has offered to put in the storm drain, which will allow the restriction to be removed. He recommended reviewing no plats until the storm drain construction is going forward.

### **Adjournment to Executive Session**

Councilmember Kelepolo made a **motion** to adjourn from the regular session of city council meeting and move into the executive session to discuss personnel issues. Councilmember Barber **seconded**, the motion **passed** with a unanimous vote, and the meeting adjourned at 9:25 pm.

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Connie Swain, Deputy Recorder

Approved: February 3, 2004