

**Adopted Minutes  
City Council Work Session  
May 18, 2004**

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

Elected Officials Present: Mayor Dale R. Barney, and Councilmembers Matt D. Barber, Paul M. Christensen, Everett Kelepolo, 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; Richard Nielson, Assistant Engineering/Public Works Director; Jeff Foster, Electric Superintendent; Kent R. Clark, Finance Director/Recorder; John Bowcut, Information Services Director; Dee Rosenbaum, Public Safety Director; Dale Robinson, Parks and Recreation Director; Karen Bradford, Assistant Parks and Recreation Director; and Connie Swain, Deputy Recorder.

Citizens Present: Janis Nielsen, *Spanish Fork Press*, Jessie Jensen, Amy Anderson, Marla Hughes, Richard Mendenhall, David Hughes, Richard A. Evans, LeGrand Woolstenhulme, David W. Olsen, Haley Huntsman, Stephanie Allen, Helen N. Olson, Chloe G. Laurela, Gloria Nelson, Robert J. Pittelli, Pat Mitchell, Pat Parkinson, Jacob James, S. David Jackson, Jeremy Garcia, Marianne Weight, Greg Magelby, Brooke McDonald, Tom Scribner, and David Olson.

**Minutes**

Councilmember Wadsworth expressed concerns with the minutes and requested amendments to the minutes adding important material presented during the meeting which are not included in the minutes.

Mayor Barney said it may be necessary to hire an intern to review the SFCN recordings of the minutes if more detailed minutes are requested.

Councilmember Wadsworth said he is willing to provide assistance in reviewing the minutes.

Councilmember Kelepolo made a **motion** to table the minutes of the April 27, 2004 city council meeting until the additional information requested has been added. Councilmember Wadsworth **seconded**, and the motion **passed** with a unanimous vote.

Mr. Oyler said further direction is needed concerning the desires of the city council on the contents of the minutes.

Councilmember Kelepolo made a **motion** to table the minutes of the May 4, 2004 city council meeting until the additional information requested has been added.

Mr. Clark said he holds the position of City Recorder and Mrs. Swain is the Deputy City

Recorder. It is his duty to protect the integrity of the minutes and also insure the minutes are prepared as the city council directs. Examples of minutes vary throughout the State. If the minute corrections requested by the city council change the content of the minutes, the video tape could be used to clarify the changes when a tape is available. If the changes affect the substance of the minutes, the entire city council should approve the changes. Ultimately, it is the duty of the recorder to interpret the contents of the meeting and prepare the minutes.

Councilmember Wadsworth concurred and said the process is currently taking place.

Councilmember Sorensen **seconded** Councilmember Kelepolo's motion to table the May 4, 2004 city council meeting minutes, and the motion **passed** with a unanimous vote.

Councilmember Kelepolo asked if the requested changes could be highlighted and presented to the city council for review.

Mr. Baker concurred and said the city council can vote concerning the changes.

The city council agreed the minutes with proposed changes should be copied for the city council with the changes highlighted for review. The changes need to be provided to the recorder with enough time to allow changes and copies to be made.

#### **Employee of the First Quarter 2004**

Mayor Barney introduced Brandon Anderson who is a member of the Police Department and has been nominated and chosen as the employee of the quarter. Mayor Barney congratulated Officer Anderson and presented him with a certificate of recognition and a gift.

#### **Employee Retirement Recognition - Ed Acey**

Mayor Barney introduced Ed Acey. Officer Acey has retired from the Police Department after 32 years of service with Spanish Fork City. He presented Officer Acey with a certificate and a book including pictures and entries from his peers.

#### **Agenda Request - Robert Pittelli**

Mr. Pittelli said he is the owner of the Jack Rabbit Chevron Gas Station on Highway 6. Last year the City Manager reported a loss in sales tax dollars. He read a statement made by the City Manager. Mr. Pittelli said part of the loss in sales tax is due the restriction of beer sales on sundays. The golf course would also see increased revenues if the city allowed beer sales on sundays. Beer sales represent only 5 percent of the sales tax. However, when customers go to other communities to purchase beer they also purchase other items. Customers are lost when services are reduced. He said last year he appeared before the city council to request beer sales on Sunday and he was present to renew his request.

Mayor Barney asked Mr. Pittelli where he acquired the sales tax information.

Mr. Pittelli said the information reviewed is contained in the city budget. He said with the increase in people there should not have been a loss in sales tax revenue.

Mr. Oyler said the 2002 sales tax figure included a one-time Olympic funds received. The loss without the Olympic funds was not as substantial as it appeared.

Councilmember Barber asked Mr. Pittelli if he represents other businesses.

Mr. Pittelli said he presented a petition signed by other business owners last year. This year he did not approach the other businesses but he expressed their concerns.

Councilmember Wadsworth said he needs more time to research the issue.

Councilmember Sorensen said he needs to see some hard numbers.

Councilmember Kelepolo asked Mr. Baker to review the city's ordinances regarding beer sales.

Mr. Baker said the State controls the sale of alcohol. However, the cities have been authorized to determine the sale of beer on sundays. Currently, the city ordinance prohibits beer sales on sundays.

Councilmember Barber said he would like to study the subject.

Councilmember Christensen concurred.

Mayor Barney said the request by Mr. Pittelli for beer sales on Sunday will be reconsidered during the June 1, 2004 city council meeting.

### **Agenda Request - Hearthstone Development**

Tom Scribner reviewed the current status of the Hearthstone Development. Several changes have been made to the development. When he revisited with Mr. Pierson, he was told the approval process required additional time due to new requirements. Mr. Scribner said time for approval of the Hearthstone Development Final Plat expires in two weeks and he requested the city council grant a three-month extension for the approval.

Mayor Barney asked for the cause of the delay.

Mr. Nielson said there were several different versions of the final plat to be reviewed. The latest version includes a single building and is in the hands of Hearthstone Development for corrections. At the request of Councilmember Wadsworth Mr. Nielson reviewed the location of the development.

Mr. Pierson said this project was originally approved in 2001. Hearthstone Development assisted the city in relocating the homes in the Spanish Ranch Subdivision and rebuilt garages for the homes. Hearthstone Development requested an extension six months ago. During that time they

had a number of individuals lined up to purchase the property and deals fell through. They now have a buyer and currently have the red line corrections for the final plat. City staff and Hearthstone Development have been working to get the development before the Development Review Committee as soon as possible. He reviewed the improvements included with the development.

Mayor Barney said Hearthstone Development provided a substantial service to the city by relocating the Spanish Ranch homes.

Councilmember Barber asked what happens if the extension time passes and the final plat remain unapproved.

Mr. Scribner said he will appear again before the city council and have a much harder sell.

Councilmember Christensen made a **motion** to approve the request by Hearthstone Development for a three-month extension for the final plat approval. Councilmember Sorensen **seconded**, and the motion **passed** with a unanimous vote.

#### **Agenda Request - Daughters of the Utah Pioneers Lease Renewal**

Gloria Nelson said she is the First Vice President for the County Organization of the Daughters of the Utah Pioneers. She thanked the city council and the city for their support. It has come to the attention of the organization the Museum Lease is up for renewal.

Chloe Laurela said she is grateful to the city for the consideration given to the museum. The museum lease agreement with the city expired in January 2004. She requested the city council renew the lease with an option clause to renew the lease at the end of the term for an additional four years.

Mayor Barney said a paragraph in the agreement states the city will not be responsible if the building burns down.

Ms. Laurela said she hopes the city would help them move to another building if the current building is destroyed.

Mayor Barney said the museum provides a great service and is an asset to the community.

Councilmember Wadsworth asked Ms. Laurela where the option clause is in the lease.

Ms. Laurela said the clause for the renewal of four years will need to be added to the lease agreement.

Councilmember Wadsworth asked who else shares the building.

Mayor Barney said the building is the Veterans Memorial Building and Veterans provide a space for the museum. He also said volunteers make our city great.

Councilmember Christensen thanked the volunteers who provide their services and time to the museum.

Councilmember Wadsworth reviewed item 4(A) of the agreement stating the city will not be responsible for any broken windows. He asked if broken windows have been an issue for the museum.

Ms. Laurela said broken windows have not been a problem. The city maintains the building exterior with the exception of the windows.

Councilmember Wadsworth made a **motion** to approve the renewal of the Daughters of the Utah Pioneers Lease Agreement with the addition of a four-year option clause as requested. Councilmember Christensen **seconded**, and the motion **passed** with a unanimous vote.

### **Agenda Request - Richard Mendenhall, River Cove**

Mr. Mendenhall thanked the city council for the opportunity to address the council. He said he had an item on the last city council meeting and procedures were not followed. He was not allowed the opportunity to address the city council during the public hearing.

Mayor Bamey said Mr. Mendenhall did not address the city council because the zoning request was denied.

Mr. Mendenhall said the preliminary plans for the property have driven the rezone request and have driven the public comments and he realizes it is difficult to separate the issues. The public comments seemed to drive the decision to deny the rezone request even though the rezone met all of the requirements. He was not allowed to address the comments and concerns. The comments were inconsistent with previous concerns. He wants to come up with a resolution. He does not believe the city intends to deny Jerry Hill access to 900 South. The city engineers, city staff, and the development engineers have exhausted the possible variations for the road access. There have been eleven different variations and studies have been prepared. He has data addressing the specific concerns driving the decisions. Both the Development Review Committee and the Planning Commission recommended approval of the plan. He said he is confused and has exhausted the experts he has employed. He does not see the city council relying on the recommendations of the Development Review Committee and the Planning Commission and the staff they have employed. He requested the city council schedule a work session to allow him to address the concerns. He said the rights and the concerns of the citizens need to be addressed. He met all of the notification requests. He also said he contacted citizens in the area by phone and asked for meetings if desired by the residents. He specifically spoke with Ted Scott, met with him, addressed his concerns, and made modifications in his best interest after reviewing the options. The same process occurred with Mr. Issac. He also met with other property owners in the area. It was his understanding the concerns had been addressed and the city council would embrace the rezone. He wants to hold a work session prior to the June meeting to address all concerns and he will provide experts to substantiate the studies provided. He will provide any information the city council requests. When citizens ask for no change in the community at all, they are being unrealistic. The road to I-15 is a necessity and traffic will increase regardless of his

subdivision. Whether the subdivision is approved or not, change and growth will occur. This is the first time he has presented a project to Spanish Fork City. The city has more coherent planning documents than other cities and follows them more specifically than any other city he has addressed and worked with. He asked how we further address the concerns and go forth. He will make himself available at any time.

Councilmember Kelepolo asked Mr. Baker if the next step is to bring the matter back to the Development Review Committee.

Mr. Baker said the developer has reapplied and the matter will come before the Development Review Committee tomorrow, before the Planning Commission on June 2, 2004, and back to the city council on June 15, 2004 for a public hearing.

Mr. Mendenhall said he does not want the same conclusion. He wants to have the opportunity to address the city council's concerns. He said he appeared before the Planning Commission twice and made design changes as directed. He requested a work session with the city council.

Councilmember Kelepolo said protocol dictates the process and asked Mr. Baker if a work session would be appropriate.

Mr. Baker said the city council can hold a work session at any time. If a work session is scheduled, it should be before the June 15 public hearing.

Councilmember Christensen said during the last Rock Cove rezone public hearing the city council was overwhelmed by other issues. He said if the zoning is readdressed there will be a different outcome. He also asked Mr. Mendenhall if he is still willing to design the road as directed by the city council.

Mr. Mendenhall confirmed.

Mayor Barney said June 8, 2004 could be a possible work session date. The entire council agreed to a June 8, 2004 work session at 5:00 p.m. (The time was changed to 6:00 p.m. during the Executive Session.)

### **Mayoral Proclamation Declaring June 12-19, 2004 as Utah Military Appreciation Week**

Mayor Barney read the letter from Lieutenant Governor Walker requesting June 12-19 be proclaimed Utah Military Appreciation Week.

Councilmember Kelepolo made a **motion** to approve the Mayoral Proclamation Declaring June 12-19, 2004 as Utah Military Appreciation Week. Councilmember Wadsworth **seconded**, and the motion **passed** with a unanimous vote.

### **Public Hearing - Water Conservation Plan - Continued from April 20, 2004**

Councilmember Barber made a **motion** to move into the public hearing portion of the meeting.

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

Mayor Barney reviewed the procedures for a public hearing.

Mr. Nielson provided copies of the Water Conservation Plan and was present to answer any additional questions of the city council or the public.

Mayor Barney opened the meeting for public comment.

Brook McDonald, living at 480 South 820 East, read a prepared statement. She presented copies to the city councilmembers. The statement addressed natural monopolies and the city council's unwillingness to make rate changes due to political concerns.

Councilmember Wadsworth asked Ms. McDonald if she wants the city council to be a legislative body approving such issues as rate changes.

Ms. McDonald said the process would be quicker if rate changes did not go through the city council.

Mayor Barney closed the public comment portion of the meeting. The meeting was opened for city council discussion.

Councilmember Barber referred to the section of Ms. McDonald's statement indicating rate changes are prevented due to political risks. He said past city councils have done a very good job of making decisions and setting rates where they needed to be. The statement speaks detrimentally.

Mayor Barney said he would hate to see any decisions made outside of the city council.

Mr. Nielson said there is, at times, a reluctance by the staff, utility board, or city council to make rate increases.

Councilmember Barber referred to page 5 of the Water Conservation Plan addressing the leak detection program. He said he understood the leak detection takes place every few years and not yearly and the city hires someone to perform this service.

Mr. Nielson concurred and said leak detection services are contracted out every few years since the city does not have the equipment to complete the work.

Councilmember Barber asked for the costs of the leak detection service.

Mr. Nielson said the leak detection service costs approximately \$7,000.

Councilmember Barber asked what leaks have been found.

Mr. Nielson said two or three valve leaks along the pressure zone and a coupling on the service laterals were detected. He said there has been only one substantial leak discovered about seven

feet deep near Chappy's Gas Station. He said there are also water usage comparisons made to assist in the detection of leaks.

Councilmember Barber asked if leak detection services every two years is enough.

Mr. Nielson said with the water usage comparison included in the process, contracting for leak detection every couple of years is sufficient.

Councilmember Barber requested a correction in the Water Conservation Plan to indicate the frequency of the leak detection services.

Councilmember Wadsworth asked if the Water Conservation Plan rates are the current rates being proposed by the Utility Board.

Mr. Nielson said the current proposed rates are in the plan.

Councilmember Sorensen, a member of the Utility Board, pointed out the rate changes as proposed by the Utility Board.

Councilmember Kelepolo said the new rates will be looked at during the July budget hearing.

Councilmember Barber asked for information to be included in the Water Conservation Plan concerning the effective date of the rate changes.

Councilmember Sorensen asked Mr. Nielson to address the new Central Control System and how the system will help with water conservation.

Mr. Nielson said there will be 60 to 80 watering sites included in the automated watering system. The system will be controlled through a central computer. The computer will make adjustments based on the weather and the level of moisture in the soil. This system will greatly increase water conservation and decrease man power.

Councilmember Wadsworth requested to review the Water Conservation Plan with the proposed changes prior to the approval.

Mayor Barney said it is important to make a decision as soon as possible due to the loss of revenue.

Councilmember Kelepolo asked for the filing deadline.

Mr. Baker said the deadline for filing was two years ago and a delay will not have a major effect.

Councilmember Sorensen made a **motion** to table the Spanish Fork City Water Conservation Plan and continue the public hearing until June 1, 2004. Councilmember Wadsworth **seconded**, and the motion **passed** with a unanimous vote.

## **Public Hearing - Ordinance 05-04 - An Ordinance Enacting Amendments to Impact Fees**

Mr. Clark presented the Impact Fee document to those in attendance. He reviewed the areas with major changes in the Impact Fees. There are changes on recreation, sewer, and storm water impact fees. The electric impact fees have not been completed and he suggested approval of the impact fees with the exception of the electric impact fees be continued to a later meeting. Mr. Clark reviewed the changes in the sewer impact fees on page 34, including the process in determining the impact fees. He also reviewed the impact fee changes for the storm water.

Mayor Bamey opened the meeting for public comments.

David Olson asked if this is a carryover from the previous discussion concerning impact fees and if impact fees include the sewer upgrades. He also asked why the impact fees were not approved during the prior meeting.

Councilmember Barber said he made the motion to table the decision on the impact fees to allow additional time to review the information.

Mr. Olson said he understood the new homes coming in will cover the costs of the upgrades. He asked if the impact fees are not approved, will the costs fall back on the current citizens.

Councilmember Kelepolo said if the new impact fees are not approved then the old fee schedule will be followed.

Mr. Olson asked if the new impact fees will be sufficient to cover the impact of additional growth on the sewer and storm drain systems. He said he is still confused, but from the portion he understands he recommends approval of the Ordinance.

Councilmember Barber said the impact fees do not cover maintenance.

Mr. Oyler said the impact fees will also not cover any additional requirements imposed on the system by the State.

Mr. Clark said the impact fees are averaged out based on a level of costs over the next forty years. The funding at some points will be short and at other points will be over depending on the amount of improvements taking place. The intent is to require those making the capital facilities impact to pay for the costs of the improvements averaged out over more years.

Councilmember Sorensen said with the impact fees the funds will not come out of the current resident's pockets.

Councilmember Christensen asked if there will be funds to cover the costs of needed upgrades if development stops.

Mr. Clark said it will extend the time for repayment to the city but eventually repayment will occur.

Mayor Barney reminded everyone this is the public comment portion of the meeting.

Pat Parkinson said she appreciates answers given during the public comment portion of the meeting. It makes the information more understandable. She requested waiting one minute before the public comment portion is closed to give those in attendance time to determine if they have a question or to gather their thoughts.

Mayor Barney closed the public comment portion of the public hearing and opened the meeting for city council discussion. Mayor Barney agreed there needs to be comments from the public. However, there are rules of order to be followed.

Councilmember Kelepolo asked if the city has revisited with Tischler to surmise this methodology.

Mr. Baker said this methodology looks at the life of the projects rather than a 12-year window. It eliminates the high fluctuation in impact fees and the fees level out. The end results will be the same.

Councilmember Sorensen said this methodology is more fair. It makes more sense financially and impact fees are more consistent. With the prior methodology, when someone moved in during a spike, they would absorb most of the costs.

Councilmember Wadsworth said previously it was agreed there would be a conference call with LEI and Aqua Engineering. Councilmember Wadsworth said he and Councilmember Barber had requested to be involved in the conference call. He asked if the conference call occurred.

Mr. Oyler said he understands the conference call with Richard Heap and Greg Magleby of LEI occurred.

Mr. Magleby said during the conference call with Mr. Heap the methodology was discussed. Mr. Magleby was in agreement with the methodology used.

Councilmember Barber asked Mr. Magleby how this general methodology compares with the methodologies used by other communities in Utah.

Mr. Magleby said the same methodology is used in other communities. Because of the type of capital facility, the improvements are large projects. Therefore, you need to look at the long term benefits and spread out the costs to those the improvement project provides service to over 20 to 30 years.

Councilmember Barber asked about using this methodology for other areas of impact fees.

Mr. Magleby recommended this type of methodology with all areas of impact fees.

Councilmember Barber asked Mr. Clark why this methodology was not applied to other portions of impact fees.

Mr. Clark said it will be applied to the electric impact fees since the substations are large projects with large peaks in costs. However, the water impact fees are more consistent and this methodology is not needed.

Councilmember Wadsworth asked concerning the parks and recreation and storm water impact fees.

Mr. Clark said parks and recreation impact fees provide a level of service. He also said the proposed methodology was used for storm water impact fees.

Councilmember Barber referred to page 34, last paragraph, stating that waste water generation is based on 2001 billing data. He asked Mr. Nielson if updated billing information is available.

Mr. Nielson said the data remains fairly constant based on the flow of the treatment plant and winter time usage remains constant. Therefore, new billing data is unnecessary.

Councilmember Barber asked what goes into a comprehensive determination.

Mr. Clark said the number is driven out of the determination figure of 105. The number is based on 2001 data since the numbers have not changed much.

Councilmember Barber asked concerning the numbers of gallons per capita per day. He said the documents refers to a figure of 123. He asked why we are not using the 123 figure.

Mr. Nielson said 123 figure contains residential and commercial units.

Mr. Thompson said 123 is used to average the entire city. When broken out the 105 figure is for residential units only.

Mr. Barber asked how we determine the commercial impact fee.

Mr. Thompson said they looked at the figures with Tischler. When the numbers were reviewed, it was determined the figures did not change enough to warrant an updated study.

Councilmember Barber referred to page 36. The old plan shows the capital costs per gallon at 326 and the new plan is shown at 251. He asked if it is because the costs have been lengthened out.

Mr. Thompson affirmed and said they looked at the cost at final build out of the sewer plant capacity and averaged out the costs per gallon over a longer period of time.

Councilmember Barber referred to page 37 and asked concerning the need for bonding for upgrades. He asked if the bonding covers the gap in lean periods of impact fee collections.

Mr. Clark said the bond covers the gap in the impact fees if a gap exists.

Councilmember Barber asked if the wording should be changed.

Mr. Clark said it would not matter.

Councilmember Barber said with the changed methodology it seems the data remains the same, the capacity remains the same, and we are not changing the capacity figures. We are just lengthening the period of time to pay the costs for the improvements.

Mr. Thompson affirmed and explained the process.

Councilmember Barber referred to page 42 and asked concerning an increase of 350 culinary and pressurized irrigation customers per year. He thought yearly building permits issued were much less.

Mr. Thompson said the increase is based on building permit projections including both residential and commercial customers.

Mr. Pierson said single families building permits are projected to be approximately 250 per year.

Councilmember Christensen said we are extended the time for repayment.

Councilmember Wadsworth said the Ordinance refers to the Tischler Analysis dated March 22, 2004. He asked if the analysis was discovered to be problematic.

Mr. Baker said the new ordinance was presented tonight.

Mr. Clark said the analysis was not problematic and pointed out the updated Ordinance provided.

Councilmember Wadsworth is concerned because we discovered problems with data in the impact analysis provided by Tischler. He asked how we know there are not further problems with the report.

Mr. Clark said there are not problems with the Tischler Analysis. The time for payment of the costs for improvements is just being extended. Mr. Clark said he would not discredit the Tischler Analysis.

Councilmember Wadsworth asked if we also changed the gallons per capita per day.

Councilmember Kelepolo said it is the 123 figure Councilmember Barber was referring to and it included all building permits, both commercial and residential.

Councilmember Barber asked if the number of citizens per household was changed from 3.59 citizens per household to 3.79. He asked if the numbers are accurate.

Mr. Pierson said 3.79 takes into consideration all sizes of homes. The 3.59 number is from the 2000 data prepared in the 1999 study and is not utilized now. The 3.79 number of citizens per household is an accrued number and is currently used throughout the analysis. He reviewed the pages containing the 3.59 number used in past years. We are still using the 3.79 number throughout the report presented tonight. Detailed numbers are not available due to the fact the

new census is not yet available. He pointed out the section of the analysis explaining this information and the use of the 2000 data. This is a simplified version of the data.

Councilmember Sorensen made a **motion** to approve Ordinance 05-04, an Ordinance Enacting Amendments to Impact Fees with the exception of the section dealing with the electric structure, to be determined at a later date. Councilmember Kelepolo **seconded**, and the motion **passed** with a majority vote. Councilmember Barber was **opposed** to the motion.

Councilmember Sorensen made a **motion** to move out of the public hearing except for the public hearing with regards to the impact fees on the electric structure which is continued to June 1, 2004. Councilmember Wadsworth **seconded**, and the motion **passed** with a unanimous vote.

Councilmember Wadsworth made a **motion** for a brief recess. Councilmember Sorensen **seconded** and the **motion** passed with a unanimous vote.

*8:07 p.m. - Recess*

*8:14 p.m. - Reconvene*

### **BMI Music Performance Agreement for Local Governmental Entities**

Mr. Baker said this is a contract that has been negotiated by the National Lawyers Association. This is intended to license the city to play various types of copyrighted music. The National Organization requires a fee of \$260 per year. Mr. Baker said there are a few gray areas in the agreement but overall the agreement provides value. He is concerned with the Festival of Lights (FOL) Christmas music played. The agreement will cover the music played on the phones. Mr. Baker recommended the city council approve the BMI Music Agreement.

Councilmember Wadsworth asked concerning the FOL and if the rate percentage of gross revenues for the FOL will need to be included in the payments.

Mr. Baker said he interprets that to mean other special events not regular events. However, the issue may still come up.

Councilmember Barber said the issue may come up regardless of the agreement.

Mr. Baker said the consequences of an issue or claim will be substantially worse without the agreement.

Councilmember Sorensen asked if the agreement covers the music played on Channel 22 on the Spanish Fork Community Network.

Mr. Baker said a separate document will be required for the cable TV service and will be filled with the FCC, including a separate fee.

Councilmember Barber said John Bowcut is working on the agreement with the FCC and the fee

will be \$1,400 per year.

Mr. Bowcut concurred.

Mr. Baker said the agreement will only cover rebroadcast material and not new material.

Mr. Bowcut said the agreement does not cover channel 17 with new broadcasts. He said it seems unfair but it protects us from lawsuits.

Mr. Baker recommends authorizing the Mayor to sign the BMI Music Agreement.

Councilmember Wadsworth asked if BMI was included in the lawsuit against Napster.

Mr. Baker was not sure.

Councilmember Kelepolo made a **motion** to approve the BMI Music Performance Agreement for Local Governmental Entities. Councilmember Barber **seconded**, and the motion **passed** with a unanimous vote.

### **Benefits Consultant Contract - First West Benefits Services**

Mr. Baker said recently a Request for Proposal (R.F.P.) for benefit services was published. A committee and the personnel committee reviewed the proposals. First West Benefits Services was selected to provide this service to the city. Mr. Baker introduced Dave Jackson of First West Benefit Services.

Mr. Jackson said he would answer any questions.

Councilmember Sorensen asked if the date of the contract is retroactive since the contract has an effective date of May 15.

Mr. Jackson said in the interest of time the analysis of health benefits has been taking place.

Mr. Baker said there were negotiations taking place and the date may have been determined based on the date the negotiations began. The city does not pay First West directly. The insurance company pays First West on a commission basis.

Councilmember Wadsworth asked if the commission covers services for the flex plan and cobra benefits.

Mr. Jackson said there are no commissions on the flex plan and cobra administration. They do bear some hard costs and they are shared by customers. A commission-based payment option is more common for cities the size of Spanish Fork.

Councilmember Barber asked Mr. Jackson if the city is asking him to perform work before he is paid.

Mr. Jackson said in these types of relationships they are willing to provide services prior to being compensated. They are looking at a multi year agreement. They anticipated a lag in payment.

Councilmember Christensen has worked with Mr. Jackson and is confident he will provide a great service to the city.

Mr. Jackson said he has had a long relationship with the city and has a vested interest in the employees for the city. They look forward to managing the benefits for the city. Benefit costs for entities are a big issue and the city needs to be competitive. He said he will provide those services.

Councilmember Barber asked how many full-time benefitted employees the city currently has.

Mr. Jackson said the last census count showed 130 benefitted employees.

Councilmember Barber asked Mr. Clark if he had estimated savings for the city.

Mr. Clark said long term benefits will include increased efficiency and timely notices provided as required by cobra. This service will help prevent potential law suits.

Councilmember Barber said he was involved in the RFP process and said it was a great idea. Benefits provided by First West Services will be outstanding.

Mr. Baker recommended approval of the contract as presented.

Councilmember Barber made a **motion** to authorize the Mayor to execute the Benefits Consultant Contract with First West Benefits Services. Councilmember Sorensen **seconded**, and the motion **passed** with a unanimous vote.

### **Change Order - SR 6 Water Line Project**

Mr. Nielson said the SR 6 Water Line Project Change Order is a request from Lynn Jones Construction. The contractor assumed the water line contained a 30-inch pipe and did not take into account the concrete lining within the pipe. Mr. Nielson reviewed the contract with Lynn Jones Construction and recommended the city council deny the change order request.

Councilmember Barber asked if the contractor knew the pipe had a concrete lining.

Councilmember Sorensen asked if the data was available.

Mr. Nielson said the data was available and should have been reviewed by the contractor. Mr. Nielson said he told Mr. Jones the city council would receive a non-favorable recommendation.

Councilmember Barber made a **motion** to deny the Change Order Request for the SR 6 Water Line Project. Councilmember Sorensen **seconded**, and the motion **passed** with a unanimous vote.

## **Bid Tabulation - City Shop Parking Lot Asphalt Project**

Mr. Nielson said the 2004 fiscal year budget includes re-paving the city shop parking lot. The project consists of replacing areas, overlaying areas, and new asphalt in areas. Also, a pressurized irrigation line through the parking lot is included at this time. The line will be needed in the future. Installing the line now will avoid digging up the parking lot in the future.

Mr. Nielson said the low bid was received from Staker & Parson Co. in the amount of \$133,922. The city's estimate of \$120,000 was low based on the increased cost of oil.

Councilmember Christensen asked for the time frame of the project.

Mr. Nielson said the project was requested to be completed by June 30 and Staker & Parson Co. have agreed to meet the time line.

Mayor Barney said Staker & Parson Co. has a good reputation.

Councilmember Wadsworth asked Mr. Nielson to better describe the need to re-pave the parking lot.

Mr. Nielson said the area consists of 13,500 square feet. In areas of the parking lot the asphalt has failed. Other areas of the parking lot paving are twenty years old.

Councilmember Sorensen said the costs for the project will only increase and the pressurized irrigation line at this time will save future costs.

Councilmember Kelepolo made a **motion** to approve the bid received from Staker & Parson Co. for the city shop parking lot asphalt project in the amount of \$133,922. Councilmember Christensen **seconded**, and the motion **passed** with a unanimous vote.

## **Easement - Tyler Ward**

Mr. Nielson said the Tyler Ward easement is similar to easements approved in past weeks for the east bench storm drain line. This is the last easement needed for the project.

Councilmember Barber asked how many feet of the storm drain will run on the Wards' property.

Mr. Nielson said the storm drain line will be an open ditch running approximately 1,000 feet on the Wards' property. The city will be responsible for maintaining the ditch and keeping it open.

Mr. Baker said the Wards' property section is the last piece of the storm drain line next to the river. If the property is developed in the future, the easement could be relocated at the developer's expense.

Councilmember Barber made a **motion** to approve the Tyler Ward Easement as presented. Councilmember Kelepolo **seconded**, and the motion **passed** with a unanimous vote.

## **FY 2005 Budget Study Session**

Mr. Oyler said he has asked the department directors and assistant directors to be present to answer questions and the study session will proceed as directed by the city council.

Councilmember Sorensen suggested just covering items with questions.

Mr. Oyler said the public hearing for the budget will be on June 1, 2004. On June 15, 2004, the budget will be presented to the city council for adoption. By law the budget is required to be adopted in June. He asked the city council not to wait to the last date since additional work may be needed to insure the budget balances. Each member of the city council presented questions and areas to be reviewed as follows.

Councilmember Kelepolo asked concerning the literacy center requested by Mr. Ellis.

Mr. Oyler said the city council will need to determine if the city will fund the literacy center.

Councilmember Wadsworth referred to the general fund revenues. He asked if the revenue generated from power go to a specific area of the fund.

Mr. Oyler said all revenue generated in the General Fund contribute to all functions of the General Fund.

Councilmember Barber asked how that compares to the electric fund information in the introduction.

Mr. Oyler said right now the power department is the only department transferring money to the General Fund. He reviewed the areas regarding transfers.

Councilmember Wadsworth asked for information concerned the legal service employees shared with other entities.

Mr. Oyler said we share legal services with the Nebo School District and Salem City. The total budget for legal services is paid by Spanish Fork City and Salem City.

Councilmember Christensen asked concerning funds budgeted for property purchases.

Mr. Oyler said the funds for property the city council wants to purchase need to be included in the budget. He also reviewed liability claims and insurance deductibles.

Councilmember Wadsworth referred to the salaries in the planning and zoning department.

Mr. Oyler said the GIS employees have been moved from the planning and zoning department to other departments.

Councilmember Kelepolo asked if the budget includes the new police officer.

Mr. Oyler said the budget includes the new officer and he explained the portions included in this and next year's budget.

Councilmember Barber proposed a new officer directed to address drug enforcement only. The drug problem in our community is great. He will provide additional information in the near future. He said the drug problem in our community is an important issue.

Mayor Bamey said a county task force officer is assigned to address drug related problems.

Councilmember Barber said he will provide supporting data.

Councilmember Wadsworth questioned the need for a cross guard at Canyon Elementary on 1400 East and asked concerning the cities legalities.

Chief Rosenbaum reviewed the costs for a crossing guard. He also said the State regulations prohibit crossing guards within 600 feet of another crossing guard. The State does not require a crossing guard at controlled intersection. A four-way stop is a controlled intersection.

Councilmember Wadsworth asked what is the solution for the area. He said a child will get hit if a change is not made.

Mr. Nielson said in conversations with the Nebo School District the city has proposed closing one of the cross walks, forcing the children to use the controlled intersection.

Mr. Rosenbaum said the school district does not want to close one of the crossing areas. The issue has not been resolved.

Councilmember Barber asked why the benefits for the Animal Control Officer are higher.

Mr. Oyler will look up the information regarding the Animal Control Officer and make it available to the city council.

Councilmember Kelepolo asked if maintenance of equipment is included in the emergency preparedness fund.

Chief Rosenbaum said a portion of the funds were used to purchase an Emergency Operations Trailer and 250 barricades.

Councilmember Christensen asked if the barricades will be used during Fiesta days rather than rental barricades again.

Chief Rosenbaum said the barricades will be used during Fiesta Days and will provide a savings in rental costs.

Councilmember Barber asked if the Emergency Operations Trailer (EOC) will be replaced soon.

Chief Rosenbaum said the EOC Trailer is budgeted to be replaced within the five-year plan. It is

parked behind the fire station and will be used during Fiesta Days. It is invaluable when needed.

Mr. Oyler began reviewing the parks and recreation budget and said some employees providing maintenance have been reallocated into the parks department.

Councilmember Wadsworth asked why in the 2003 parks and recreation department budget and 2004 there is an extreme jump in salaries and wages.

Mr. Oyler referred to his previous statement. Some employees were reallocated from buildings and grounds department into the parks department.

Mayor Barney asked if the city council wants to approve the literacy program proposed by Leonard Ellis.

Councilmember Barber said further study is needed.

Councilmember Wadsworth wants to see if the program crosses over into other of the many programs available.

Councilmember Kelepolo said he is an advocate of the literacy program. However, he is concerned with funding double efforts if the service is already available through the school district.

Mayor Barney said the citizens just voted to approve a bond to support the school district. He is concerned the program falls under double taxation.

Councilmember Barber said he is not ready to commit money to the literacy program at this time.

All of the city councilmembers concurred.

Councilmember Wadsworth asked Mr. Foster concerning the estimate for the lighting problem at the library park.

Mr. Foster said the information is in the budget.

Mr. Robinson said the information can be found in the building and grounds budget.

Councilmember Barber asked where uniforms and equipment are included in budget. He said his T-ball team has equipment which is taped together and should be replaced.

Mr. Robinson said uniforms and equipment are included under supplies.

Councilmember Kelepolo asked if the city has two employees shared with Nebo School District.

Mr. Oyler concurred.

Councilmember Kelepolo said the recreation committee conducted a survey concerning the

continuation of hamburgers from the snack shack. Based on the results, hamburgers will be continued at this time and ways to reduce costs of man power are still being considered.

Mr. Robinson said a great need for the hamburger was expressed by patrons of the ball park. Patrons suggested a price increase rather than no longer offered hamburgers. Customer service and increased efficiency are still being analyzed.

Councilmember Wadsworth asked if the recreation committee has considered outsourcing the snack shack.

Mr. Robinson said the snack shack is not a money maker and they have done studies. No other cities out source their snack shacks other than to volunteers for fund raising. No one has been successful with outsourcing.

Mayor Barney said either way there will be a cost involved. Either we decide to offer the service of providing hamburgers or we do not.

Councilmember Christensen asked if the staffing issue has improved.

Mr. Robinson said they are trying to get a grasp on the staffing problem.

Councilmember Barber asked if all of the snack shacks are being monitored.

Mr. Robinson said each snack shack is being monitored separately and separate numbers are available. The numbers are available upon request.

Councilmember Christensen said there will be a ten percent increase in the assessment from the South Utah County Water Conservancy District. The Assessment covers wages and materials.

Councilmember Barber requested a more detailed discussion at a later date on the plan of implementing the new meters.

Mr. Oyler reviewed the first phase of the meter implementation process. If further information is requested, it will be presented during another meeting.

Councilmember Wadsworth asked if our rate for the electricity we receive from UMPA is the same as other entities.

Mr. Oyler said we all have the same rate structure charged by UMPA. However, it is based on the load factor and our rate may be lower based on our load factor. The actual rate structure has not changed for the last few years. The only thing that changed is the power costs. If a cost change occurs, it is pasted onto the customers.

Mr. Foster said our load factor is lower than it has been in the past.

Councilmember Wadsworth asked if we charge customers for power and then charge an additional six percent tax.

Mr. Oyler said the six percent is an energy tax assessed to all systems providing energy such as gas and electric. The tax collected contributes to the General Fund.

Councilmember Christensen asked how long the electric department can continue funding other areas of the city.

Mr. Oyler said the city council will need to make that determination. There are limits to the revenues that can be generated in the General Fund. Either decrease expenses or increase the revenue source if the city council wants to continue capital projects. There are small areas the city council can look at to increase revenue.

Councilmember Barber said if another drought occurs, we may be looking at UMPA as a whole to pay for the power.

Mayor Bamey said UMPA provides a great benefit to the city and is one of the best things the city has done.

Mr. Oyler said there are outside factors, such as droughts, we cannot control.

Councilmember Barber said you cannot control the Navaho Indians taking power.

Mr. Oyler said you cannot control the levels of Lake Powell or endangered species you have to deal with when it comes to generating power. You have to design your facility to accommodate it. The rate has to pay for it. The total cost for the meter project is approximately \$1,500,000.00 total for materials plus labor. As the project progresses the city council may decide to move the project forward to allow all citizens to have access to the meter information project.

Mr. Oyler said the golf course revenue projection may be low. The bridge is now in and revenues may increase.

Councilmember Wadsworth asked why the difference in the revenue projected.

Mr. Oyler said it is due to the transfer from impact fees for the splash pad. The splash pad portion of the budget will now need to be revised in the final revision. The increase cost for the splash pad will be included in the final revision.

Mr. Oyler said there are no longer part-time wages in solid waste due to the waste district now operating the compost site. Storm drainage has very little money for capital, obligations remain and it cannot be paid from impact fees. An increase in the storm drain rate is recommended. Also, a decrease in the pressurized irrigation rate is recommended.

Councilmember Barber asked why there is an increase in personnel.

Mr. Oyler said added wages were budgeted for boring between meters and to tie the meters together.

Councilmember Barber asked Mr. Robinson to notify the city council of big shoots scheduled.

Mr. Robinson said the schedule is listed on the national web site.

Mr. Oyler said the Broadband budget is balancing out with a few retained earnings.

Councilmember Wadsworth asked Mr. Bowcut if he has data to justify the requested funds for HDTV.

Mr. Bowcut said the number of customers requesting HDTV is going up. Eventually everything will move to HDTV. It is not a question of if we will offer HDTV, but when we will offer HDTV. You can wait but some high-end customers will be lost. The funds will be expanded eventually. Our competition offers it. There is no data available concerning the return on investment (ROI). The numbers can be acquired, however, they will not look good until the number of customers using HDTV are up.

Councilmember Wadsworth said he still wants to see the data.

Mr. Bowcut said it would be difficult to do an ROI. The pricing for HDTV has now stabilized and it was determined this was the best time to make the investment. If we wait until we see the need for HDTV we will lose customers it will be too late.

Councilmember Wadsworth suggested a customer survey and he will talk with Mr. Bowcut more about it at a later time.

Mr. Bowcut said he wants to do what is best for the city.

Councilmember Barber asked for the percentages built into the January bite for programming costs.

Mr. Bowcut said the projected cost for the purchase of programming is going up in January. The costs are in the budget but it does not include the increase in the costs since the numbers are not available.

Mr. Oyler reviewed the motor pool fund. No questions were asked. There are some minor changes in the solid waste and storm drain budgets under taxes, rates, and fees.

Councilmember Wadsworth referred to page 39, item number 21. He asked why the numbers referred to as books, subscriptions, and membership funds are so high.

Mr. Oyler said the fees are memberships in associations such as Utah Water Association, Mt land, and Utah League of Cities. He continued and said the impact fee rates will be adjusted to the amounts approved by city council previously in this meeting. The cable TV rates will be reviewed again in November.

Councilmember Christensen asked if there are problems with the reservoir regarding trash and fish on the banks. He also asked if we need to charge fees to cover maintenance costs.

Councilmember Robinson said the reservoir caretaker just started last Friday and will be there 24

hours a day, seven days a week. His job includes keeping the area clean and monitoring the area. Also, the public safety department will have an officer in the area. There have been some minor conflicts with fishermen and swimmers. The majority of the problems should dissipate.

Mr. Oyler said when the city accepting funds from the Department of Wildlife Resources for the reservoir, the city agreed not to charge for fishing. However, the city council can decide to charge parking or other fees. He continued the budget review by discussing the salary schedule portion of the budget.

Councilmember Kelepolo said there have been questions regarding salaries and positions. The position of Assistant City Manager has been a big issue and should be discussed.

Mayor Barney said a study has been done and the work load is there. The question to ask is if the city council wants to continue the level of service currently provided.

Councilmember Kelepolo said the position is much more than providing Human Resource services. Risk Management and Marketing are also involved. He is in favor of keeping the Assistant City Managers Position.

Councilmember Barber said if he understands the salary survey, it was based on the title of the position.

Mr. Oyler said the survey was based on the job functions and not just the title.

Councilmember Barber said if you look at the job functions it could include Risk Managers, Human Resource Directors, Assistant City Manager, etc.

Councilmember Kelepolo concurred.

Councilmember Barber said some of the responsibility cannot be eliminated. He was not sure if the amount of responsibility provided by MaryClare Maslyn can be completed by one person. Maybe some of the responsibility can be outsourced within the existing organization.

Mayor Bamey said the work load is there and it does not matter what the title of the position is.

Councilmember Barber said he is in favor of the position just not the salary range.

Mr. Oyler said as far as the range, it is similar to that of the director's position. The range is going to be within that area. A Risk Manager or Human Resource Director would remain in the same range.

Councilmember Barber said if the position is a director level position at the current range, it should be a contract-at-will position.

Councilmember Kelepolo said the position has been posted and applications have been accepted.

Mayor Bamey said the study indicates a sound salary survey system. The person hired to

complete the study has provided confirmation of the system.

Councilmember Wadsworth said to that point he has talked with Human Resource Directors for private companies and other cities and they are very familiar with Wasatch Compensation Group. There are some concerns and he is gathering information. Everyone knows how he feels about the Assistant City Manager Position. He believes in a small, limited, simple and affordable government and we are not there. He said there is information he will share with the council as it comes in. He does not have it yet. There was inherent bias built into the Wasatch Compensation Group's analysis and he will be able to explain that and give it to the city council later.

Mayor Barney said Councilmember Wadsworth is allowed his opinion. He asked how the other city councilmembers felt and said then the next item will be addressed.

Councilmember Christensen asked for the salary range of the Assistant City Manager position.

Mr. Oyler said the range is \$62,000 to \$82,000.

Councilmember Christensen asked what will happen if the person hired has experience.

Mr. Oyler said the amount paid to the new Assistant City Manager will depend on their experience.

Councilmember Barber asked concerning the employment classification.

Mr. Oyler said there are currently seven contract-at-will employees. They have severance packages, their employment is governed by contract, and they can be let go at any time. At will employees, such as seasonal and part-time employees is one classification. The third classification is classified employees. They are protected by merit and cannot be terminated without cause.

Councilmember Barber said he is favor of the position with an at-will-contract.

Councilmember Kelepolo said he would rather go to one person if there is a problem. If the position becomes a contract-at-will position, it will usurp David Oyler's position.

Councilmember Kelepolo said he is in favor of the position with as a classified position.

Councilmember Sorensen said there is a lot of data and a survey available. He said he is in favor of hiring for the position and keeping it as a contract-at-will position.

Councilmember Barber said the at-will status in critical.

Councilmember Kelepolo said the position at-will-contract creates a problem.

Ms. Maslyn said she is a little biased since she has been the Assistant City Manager for eight years. A good point made by Councilmember Wadsworth is to keep the government small. If you look at the duties, the position covers more than one persons' job. You are keeping government small by keeping one position. The duties include administration, human resources, risk

management, marketing, and communications. The position was compared with four Human Resource Directors, a Risk Management Director, Manager, an Assistant City Manager, and a Services Director. The validity study indicated the salary comparison is thorough. There is only one position that compares to the duties of the city Assistant Manager. If the position is changed to an at-will-contract position, some of the applicants will be lost.

Councilmember Sorensen asked if it becomes an at-will position then the City Manger will not be the supervisor over the position.

Mr. Oyler said if the position becomes a contract-at-will position, it will become a political appointment by the city council. All directors in the city organization are not at-will-contract employees.

Councilmember Kelepolo voted to retain the Assistant City Manager Position as classified. Councilmember Barber voted to retain the Assistant City Manager Position as contract-at-will. Councilmember Christensen voted to retain the Assistant City Manager Position as classified. Councilmember Sorensen voted to retain the Assistant City Manager Position as contract-at-will. Councilmember Wadsworth voted to retain the Assistant City Manager Position as contract-at-will.

Councilmember Wadsworth commended Mr. Oyler.

Mr. Oyler clarified the position is allowed to be continued with a contract-at-will classification. He also asked if another work session is needed.

Councilmember Barber confirmed and asked for continued discussion.

Mr. Oyler said the FY 2005 budget will be before the city council on June 1, 2004. It was determined to hold the work session for the budget on June 8, 2004. The approval of the budget will take place on June 15, 2004.

### **Adjourn to Executive Session**

Councilmember Christensen made a **motion** to adjourn from the regular session and move into the executive session of city council meeting. Councilmember Barber **seconded**, the motion **passed** with a unanimous vote, and the regular session meeting adjourned at 10:18 p.m..

### **Reconvene to Regular Session**

Councilmember Kelepolo made a **motion** to move out of the executive session and reconvene the regular session of city council meeting. Councilmember Sorensen **seconded**, and the motion **passes** with a unanimous vote, and the regular session reconvened at 11:00 p.m.

Mayor Bamey asked the members of the city council if they had any issues to talk about.

Councilmember Kelepolo said he feels more comfortable with the amount of discussion taking

place among the city council.

Councilmember Barber said there have been healthy discussions.

Councilmember Sorensen said no member of the city council should be offended by the decisions made.

Councilmember Kelepolo said all members of the city council desire to make the city a better place. He said he liked the discussion taking place between the citizens and the city council during the public hearing. He also said he understands there are Roberts Rules of Order to be followed. There must be a better way to interact with the citizens.

Mr. Baker advised the city council not to commit to a vote during any discussions prior to a motion.

Mayor Barney said it is possible to disagree without being disagreeable.

Councilmember Wadsworth said he feels strongly about certain things and makes his decisions based on principles. He said he feels the Mayor cares about him but he is not sure about the other members of the city council. He said he was told the salary study would be based on the population and learned it was not.

Councilmember Kelepolo said there was a misunderstanding. He also said each city councilmember has committee responsibilities and the city councilmembers should trust each other to carry out their responsibilities.

Councilmember Wadsworth said he still has concerns with the salary study.

Mayor Barney said the salary study has been validated and the issue is dead.

Councilmember Wadsworth said he hoped the data he is putting together will be looked at.

Councilmember Barber said decisions need to be made and then the city council needs to go forward with the majority vote. The city council needs to decide on a philosophy with each issue such as a form of government, the salary study, etc. He said he needs a higher trust level with members of the staff.

Councilmember Kelepolo said some members of the city council have expressed a need for a small form of government. He asked if the city council wants to continue providing a quality of life.

Mayor Barney said the volunteers in the city are great and many things have been accomplished with volunteers.

Councilmember Sorensen said he has talked with Mr. Baker and has requested to see the written laws to support the issues before the city council and Mr. Baker agreed to provide the information.

Mayor Bamey said there needs to be trust.

Councilmember Christensen said there also needs to be accountability.

Councilmember Wadsworth asked if the members of the city council could hold prayer prior to the meeting.

Mayor Bamey said he has a prayer in his office prior to the city council meeting and anyone is welcome to join him.

Councilmember Kelepolo said he talked with Mr. Baker concerning a prayer and was advised to make it informal if a prayer is given.

Councilmember Wadsworth provided members of the city council with copies of quotes he wanted to share.

### **Adjournment**

Councilmember Barber made a **motion** to adjourn. Councilmember Sorensen **seconded**, the motion **passes** with a unanimous vote, and the meeting adjourned at 11:55 p.m.

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Connie Swain, Deputy Recorder

Approved: June 15, 2004