

**Adopted Minutes
Spanish Fork City Council Meeting
June 22, 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 Sorensen.

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

Staff Members Present: David A. Oyler, City Manager; Richard J. Heap, Engineering/Public Works Director; Richard Nielson, Assistant Public Works Director; Emil Pierson, Planning Director; Dale Robinson, Parks and Recreation Director; Dee Rosenbaum, Public Safety Director; Kent Clark, Finance Director; Jeff Foster, Electrical Superintendent; Guy Chang, Electric Meter Technician; Louise Nuzman, Library Director; Connie Swain, Deputy Recorder.

Citizens Present: Janis Nielsen, *Spanish Fork Press*, Rodger Hardy, *Deseret News*, Robert Pittelli, Gae Grunander, Tony Grunander, Lisa Olson, Kent Huff, Rich Harris, Clyde Bradford, Jenny Baadsgaard, John F. Mendenhall, Richard Mendenhall, Kevin Baadsgaard, Marla Hughes, David Woodhouse, Farley Eskelson, Brian Redd, Ray Lewis, Corbin Carter, Craig Simpson, Charles Tilton, Dan Willis, Rena Peacock, Amy Oliphant, Harvey M. Bloch, Al Salazar, Judd Johnson, Travis Leifson, Wayne Lasson, John McNaughton, Mechelle Leifson, Nancy Stone, Kevin King, and Dennis Mitchell.

Change Order I-15 - Storm Drain Project

Mr. Heap said during construction of the storm drain line along I-15, a soft sand condition was discovered near the railroad tracks which provided no base for construction. The contractor had concrete material available. The contractor, Harper Contracting, is requesting a change order in the amount of \$3,500.80 for concrete stabilization material, over excavation, and the removal of trench material.

Mayor Barney said the original amount of \$14,000 requested was out of line. The amount of \$3,500.80 is fair for the work provided.

Mr. Heap recommended approval of the change order in the amount of \$3,500.80.

Councilmember Kelepolo made a **motion** to approve the Change Order requested by Harper Contracting in the amount of \$3,500.80. Councilmember Wadsworth **seconded**, and the motion **passed** with a unanimous vote.

Bid Tabulation - Dump Truck Bed

Mayor Barney said a request was received to table the Bid Tabulation for the dump truck bed to allow additional investigation.

Councilmember Kelepolo made a **motion** to table the Bid Tabulation for the dump truck bed until the next city council meeting. Councilmember Sorensen **seconded**, and the motion **passed** with a unanimous vote.

Purchase of 46Kv Replacement Transformer

Mr. Heap said during the last city council meeting the transformer lost on the Canyon Road substation was discussed. A transformer which has not been in use and holds a full warranty was located. The transformer should be replaced as soon as possible to allow for backup during any power outages that may occur. The transformer will be \$318,000 plus additional funds for the expansion of the transformer pad. The replacement transformer will provide twice the capacity of the last transformer.

Mr. Oyler said the transformer and the pad expansion will cost approximately \$345,000.

Mayor Barney asked if the transformer being replaced had an existing warranty.

Mr. Heap said the transformer to be replaced had been in service for some time and had no warranty remaining.

Councilmember Barber asked for the life span of the new transformer.

Mr. Heap said the transformer should last 30 to 40 years.

Mayor Barney asked for the length of the last power outage.

Mr. Heap said the utility workers expended six to eight hours relocating all the power. The system worked well and was able to handle the load. Without the replacement transformer the city will experience extensive outages if the problem occurs again. The transformer needs to be replaced as soon as possible.

Councilmember Barber made a **motion** to approve the expenditure for the transformer and the related costs to get it installed and operational. Councilmember Kelepolo **seconded**, and the motion **passed** with a unanimous vote.

Re-plastering Pool Bids

Mr. Robinson said this item was brought to the attention of the city council previously. There have been problems with rough surfaces in the pool causing an excessive amount of cuts on the feet of swimmers. The shallow area was sanded in an attempt to remedy the problem, however, the problem continued. After seeking professional advice it was discovered the plaster surface of the pool had outlived its life expectancy. The professionals recommended draining the highest problem area, which is the shallow area, and replacing the plaster surface. This will allow the pool to remain open and the balance of the pool can be drained and resurfaced before the pool reopens next year. Three bids were received for the draining and resurfacing of the shallow area

of the pool. The low bid was received from CEM Sales and Service in the amount of \$22,235.00.

Councilmember Kelepolo asked for the cause of the pool surface problem.

Mr. Robinson said the plaster finish in the pool has a limited life expectancy. According to the experts, the pool surface lasted beyond the anticipated life span. The deeper end of the pool surface is not as critical since the contact by swimmers is minimal. The process will take three days and the Recreation Department would like to begin draining the pool on July 5 to avoid closures during scheduled swim lessons. Mr. Robinson recommended awarding the bid to CEM Sales and Services. They are reputable, have done many pools in the area and are currently constructing the splash pad.

Councilmember Barber asked if there is a better product available which would provide a longer life span.

Mr. Robinson said the product to be used is the same as the current product on the pool surface.

Councilmember Sorensen said he talked with the pool contractor and was told there is only one product other than replacing the pool surface with marble or something of that type.

Mr. Robinson said the current bid represents approximately 25 percent of the pool surface. The remaining portion of the pool will also need to be funded. He estimated \$100,000 to re-plaster the entire pool surface and a portion of this will be completed with this bid approval.

Councilmember Barber said funds for pool maintenance will need to be part of the budget every year.

Mayor Barney expressed concerns with the entire pool floating if it is drained too much.

Mr. Robinson said not enough water will be drained to cause floating problems.

Mr. Oyler said the pool resurfacing was not included in the budget. This item will need to be in the next year's budget revision.

Councilmember Kelepolo made a **motion** to accept the bid from CEM Sales and Service in the amount of \$22,125. Councilmember Sorensen **seconded**, and the motion **passed** with a unanimous vote.

6:25 - Recess

Councilmember Wadsworth left the meeting.

6:30 - Reconvene

Public Hearing - River Cove Rezone (Hill/Hughes Property)

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

Mayor Barney reviewed the procedures for a public hearing.

Mr. Pierson said this is a request by David Hughes and Gerald Hill to rezone approximately 80.37 acres from Rural Residential (R-R) to Low Urban Residential (R-1-12). The Development Review Committee reviewed the request and recommended approval with the four findings listed. The Planning Commission reviewed the request and recommended approval with the following findings. The amendment is consistent with the policies of the General Plan. The property has been removed from the flood plain. The rezone is consistent with the policies of the General Plan. The rezone meets the characteristics of the surrounding properties and Mr. Pierson reviewed the zoning of the surrounding properties. The property is within the Growth Boundary.

Mayor Barney opened the meeting for public comment.

Lisa Olson asked what has changed since the last meeting. These findings and facts have not been met. The proposed zoning does not match the character of the surrounding properties.

Kent Huff said he finds nothing has changed since the last meeting. He said he had a procedural question as to the rules of law. When something is decided the rules are kept until something has changed. The decision was good last time. The only thing that has changed is finding additional problems they did not know about.

Rich Harris said he still has concerns with the river corridor. The area is subject to severe flooding. Rodger Hardy's article in the June 8 issue of the Desert News backed up the concerns. He has request material from FEMA and it has not arrived yet. He reviewed the August 28 article and found it was confusing. He has worked as a natural resource manager for many years. His greatest concern is the River Cove Subdivision is outside of the General Plan. Most of the residents in the area were unaware of the proposed change. He requested a moratorium on any building in the Leland area until the city has met with the residents in the area and created a General Plan which meets the desires of the Leland residents.

Jenny Baadsgaard reviewed the findings in the Planning Commission notes. She understands local concerns for flooding in an area outside of the flood plain can require a higher standard. She said the property is not consistent with the surrounding property in that the matching property is on the other side of the river and trees and there is not a bridge connecting the two. The Industrial Zone is more consistent with the Rural Residential Zone than the R-1-12 Zone. The findings state considerations have been found but they are not documented. The Planning Commission was in error because of these facts.

Clyde Bradford said he has attended these meetings and understands the people building in the proposed area will be required to sign a waiver if flooding occurs not to sue the city. Why, if there is no fear of flooding, is a waiver necessary and if there is fear of flooding why is the city allowing homes on the property. He talked with an attorney and was told a person cannot sign away his legal rights.

John F. Mendenhall said he is the Spanish Fork Water Commissioner. He said he is responsible for the accounting of water within Spanish Fork River. He has not had the opportunity to review the FEMA documents. He has been contacted by residents in the area regarding statements made concerning the existing structures on the river allows control of the water flow. The structures existing on the river are not designed to control water flow. The drain in the Thistle Dam will not control water flow. Spring run off is a natural occurrence. Highway alignment with Diamond Fork Canyon was designed to control the flow of Diamond Fork Creek. Floods occur every thirty years and flooding will occur again. He is concerned with the actual flow of the river.

Richard Mendenhall said he represents the applicants. He echoes the comments of the city staff. The proposed zoning meets the zoning requirements and the Growth Boundary. He did not know how to address the flood concerns. He has received the studies and recommendations of experts. Sentiment and concerns are hard to address when not based on facts. The Planning Commission and Develop Review Committee unanimously recommended approval of the project and stated it meets the requirements.

Kevin Baadsgaard said legitimate issues have been presented. The Deseret News article presented some new issues. The flood concerns and the River Commissioner's comments would allow the City Council to review the application presented to FEMA.

Farley Eskelson said sometime down the road the bridge will be replaced eliminating the chock flow and allowing the full flow of the river width.

Marla Hughes said when the flood occurred in 1983 and 1984 there was no water at all on this property. Also, the river channel is two to three times wider than it was at that time.

David Woodhouse said none of his concerns have been addressed. He asked what will be done when the traffic increases to 3,000 cars on 900 South. The traffic study was a quickie. There could be other accesses. The proposed design forces the traffic onto the existing community. They chose to live out there for that way of life. He asked what the city is going to do with that road to address the safety concerns of the residents.

Brian Redd said since the last meeting he has thought long and hard. His concern is with the flaws in Title 17 as far as the safety of all is concerned. He requested an independent study by a company with no bias. He asked how the development will impact the roads and the area. The developer has hired professionals but the city should hire professionals from a private source.

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

Councilmember Kelepolo asked Mr. Baker to address the FEMA situation and the flood plain.

Mr. Baker said FEMA is a federal agency with the jurisdiction over establishing the flood plain. If the property is not in the flood plain, we can set reasonable conditions. However, we cannot

say “no” to development based on the possibility of flooding.

Mayor Barney asked if the area is really outside of the flood plain.

Mr. Baker said FEMA has jurisdiction and has removed the area from the flood plain. We are bound by their decision.

Councilmember Barber asked concerning a reasonable condition or a higher standard. He asked if we are imposing just the standard requirements.

Mr. Baker said we do not have any policy stating a standard.

Councilmember Kelepolo asked what type of condition could be considered a higher standard.

Mr. Baker said the Planning Commission recommended conditions such as the homeowners signing a waiver, the installation of river armorment, and maintenance of the river. Discussions with Utah County and the Army Corps of Engineers have been frustrating. The river cannot be maintained without their approval or face extensive penalties. However, neither will accept maintenance responsibilities of the river. Mr. Baker suggested a notice be placed on the recorded plat concerning the flooding possibilities.

Mayor Barney said with the plat notice at least there will be no unsuspecting buyers.

Councilmember Christensen asked for the distance of the river easements.

Mr. Heap said there is no easement at this time. We can obtain an easement through this development.

Mayor Barney said a choke point of the river is above the I-15 overpass. He said the engineer was correct.

Councilmember Christensen said the developer is taking the chance he will not sell the lots when he develops the property.

Councilmember Kelepolo asked regarding the concerns expressed for the character of the surrounding areas.

Mr. Pierson said if the river acts as a natural barrier for the surrounding property, then the hill acts as a natural barrier as well. The Hall/Smiley property is a residential area. The sports complex matches the characteristics of a more urban area. He asked if the industrial area matches more with urban or rural areas. Mr. Pierson said the biggest question is the character of Leland. Future planning can determine what is desired for the Leland area.

Councilmember Barber asked who determines what the adverse impact is.

Mr. Pierson said the Planning Commission and the Development Review Committee both felt there were no mitigating or adverse impacts on the surrounding area. When there is an adverse

impact we can require a wall, a berm, trees, or something similar to separate the areas. A residential area next to the residential area usually does not cause adverse impacts.

Councilmember Kelepolo said he was asked by Councilmember Wadsworth to read a statement.

Dear Mayor Barney,

Inasmuch as I have committed to attend the Library Board's annual social gathering being held tonight, I may be forced to miss a portion of our working session that might include the Public Hearing for the proposed River Cove Rezone and East Meadows Rezone as well as Staff Report for proposed Preliminary Plats for these same properties.

In such case that I am absent, here are my current points of concern for each proposed project:

River Cover Rezone/ Preliminary Plat

Concern #1: Discrepancy between what Richard Mendenhall and Farley Eskelson are claiming versus what John Mendenhall (river commissioner) purports. Following are excerpts from Rodger L. Hardy's article, "Housing along river a flood risk?", published June 8, 2004 underscoring my concerns:

- The Spanish Fork river commissioner has expressed concern that a change in the flood plain map along the river may not give a true picture for potential future floods.*
- [Richard] Mendenhall told the Deseret Morning News that new upriver structures would protect the land from flooding.*
- River Commissioner John Mendenhall (who may be a distant relative of the developer) disagrees. "There are no structures to take care of floods. That's awfully scary if that's what they're thinking," he said of speculation that a debris basin is helpful for flood control.*
- The debris basin in question is a small dam intended to keep debris under control, not water flow, John Mendenhall said.*
- The only other upriver structures that slow the westward flow of the river are a tunnel drilled to drain Thistle Lake and a culvert where the river and Diamond Fork Creek intersect that could restrict high creek flows, city engineer Richard Heap said. Neither are flood control structures.*

Concern #2: No chance to review studies and data used to convince FEMA to change flood plain designation of area in question.

- Farley Eskelson of Dominion Engineering in Murray did the engineering work on the project and submitted the application to FEMA in July 2001 but refused comment. Richard Mendenhall failed to return repeated phone calls.*
- Criteria used in persuading FEMA to change the flood plain in February 2003 is in Eskelson's study, Heap said, noting he didn't have a copy. The information was put into a FEMA-approved computer program that scientifically determines*

river flows, depths, channels, and other data to come up with the new flood plain designation.

Motion: Until these concerns can be addressed satisfactorily, I move to deny both the River Cove Rezone and Preliminary Plat.

East Meadows Rezone/Preliminary Plat

Concern #1: I haven't yet been able to determine how the fence issue regarding the neighbors turned out. Originally, the abutting property owners had demanded a masonry fence that was financially undoable and unfair to the developer.

Motion: If the fence issue has satisfactorily been resolved, I move to approve both the East Meadow Rezone and Preliminary Plat.

*Sincerely,
Chris C. Wadsworth*

Councilmember Sorensen asked why Councilmember Wadsworth approved the River Cove Rezone and Preliminary Plat on the Planning Commission and not now on the city council. However, Councilmember Wadsworth is not here to answer the question.

Councilmember Kelepolo said he has a couple of concerns. If the road through Leland is improved, it will likely increase traffic. There are inherently problems the city council will need to address.

Councilmember Sorensen said he contacted David Church, Legal Council for the Utah League of Cities and Towns. Mr. Church said the city cannot change the rules in the middle of the game or during the approval process. Any changes to be made must occur prior to the vesting of a development request.

Councilmember Kelepolo said the FEMA issues have been approached and are regulated by Federal guidelines. He agreed with Councilmember Sorensen in that the rules cannot be changed once the game begins. The property in question is vested and falls under the existing guidelines. The city council is required to follow existing ordinances, rules, and guidelines.

Councilmember Sorensen said Mr. Church also said the city cannot tell private property owners what to do with their property. The neighbors may not like it but it is an individual's right to develop their property. Other property owners in the area will likely be approached by developers. The city wants what is best for the community while respecting the rights of property owners.

Councilmember Christensen read the following letter he wrote.

I would like to apologize to all our residents who live in the Leland area for prolonging this residential development. It didn't have to happen like this. As a city council no matter how we may feel about some issues or developments we are bound by principles,

ordinances, and statutes that were enacted through legislative process by past city councils, commissions, and citizens. We are bound to follow them. If we don't, we are and can be applicable for litigation in the courts. At a public hearing on April 6, 2004 one of your resident neighbors stated the process in backwards and residents are involved in the process too late. All the decisions were made while this neighbor was on the Planning and Zoning Commission. When the general plan and traffic plan were created, it was determined the Leland area had no arterial roads or access roads running east and west. The logical location for the corridor was determined to be 900 South. Minutes from the March 3, 2004 Planning Commission meeting indicate a motion was made to give the city council a positive recommendation on the Hughes/Hill (River Cove) Rezone of 80.37 acres at 900 South Delmonte Road. The recommendation was to rezone the property from Rural Residential to Low Urban Residential with the following findings:

- The zone change is consistent with the General Plan, including any policy of the Capital Improvements Plan*
- The General Plan shows this property as Residential 2.5 to 3.5 units to the acre and the R-1-12 zone is within that density*
- Consideration has been given to include any conditions necessary to mitigate adverse impacts on adjoining or nearby properties*
- The developer considered mitigation measures to reduce flooding on the property. A second was made to the motion and the motion passed unanimously. During the city council meeting on May 4, 2004 the River Cove Rezone request was denied by a three to two vote. I find it somewhat troubling that after a public hearing for this rezone the city councilman who also serves on the Planning Commission and in Planning Commission Meeting had voted unanimously to approve the River Cove Rezone is now deciding to deny the zone change. Also, another current councilman who was serving as a city councilman at the time the General Plan and the Traffic Plan were created and passed by legislative process has also decided to deny the zone change. We as a city council took an oath to uphold the principles, ordinances, and statutes of Spanish Fork City and its legislative enactment of the plans.*

Councilmember Sorensen said he has researched the laws and even though he is not thrilled with developing the area since he comes from a rural area himself, he has sworn to uphold the city ordinances and plans. He said he is in favor of approving the rezone.

Mayor Barney said a vote is needed before a poll is taken.

Councilmember Kelepolo made a **motion** to approve the River Cove Rezone. Councilmember Christensen **seconded**, and the motion **passed** with a unanimous vote.

A poll of the votes continued.

Councilmember Kelepolo expressed appreciation for the comments made by Councilmember Sorensen and Councilmember Christensen. He said the city council has reviewed the laws and the flood plain areas as designated by FEMA. He was in favor of approving the River Cover rezone.

Councilmember Christensen said he enjoyed the freedoms of growing up on a farm. He hates to see it but the city needs to grow to allow our children and grandchildren to live here. The city council is bound by the laws, ordinances, and plans enacted in the past. Councilmember Christensen was in favor of approving the rezone.

Councilmember Barber expressed appreciation for the comments made. He said the city council is bound by laws, standards, and policies, however, we can disagree on what the law says. He said the portion of the law stating the city council can require a higher standard and the finding requirements can be interpreted differently. He said he is opposed to the rezone.

Based on the voting poll the motion passed with a majority vote. Councilmember Barber was opposed to the motion when polled.

Public Hearing - East Meadow Rezone

Mr. Pierson said the East Meadows rezone request consists of 19.84 acres located at 750 South 2000 East to be rezoned from Rural Residential (R-R) to Medium High Residential (R-1-6). The surrounding properties are zoned UV-C, R-3, and R-R.

Mayor Bamey opened the meeting for public comment.

Ray Lewis asked for clarification of the property line.

Mr. Pierson said the red line shown is the surveyed property line.

Corbin Carter said there is a fence running on the south end of the property, however, the survey marks the property line.

Mr. Lewis said an irrigation ditch waters the property to the south and the development may cause irrigation problems. He requested a berm to protect the development from flooding. He also said he is concerned with the surveyed property line.

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

Councilmember Kelepolo said the R-1-6 zone will be close to the commercial property.

Mr. Pierson said the city council will need to determine how they would like the property to develop. Commercial developments would like to see the highest density possible to create as many shoppers as possible. The R-1-6 zone is a midrange density. The area to the northwest is zoned R-1-8 and the areas to the southeast is zoned R-1-12.

Mayor Barney said the irrigation concerns should be addressed.

Councilmember Kelepolo said rezone request seems to be contiguous with the surrounding area.

Councilmember Barber made a **motion** to approve the East Meadows Rezone request consisting

of 19.84 acres located at 750 South 2000 East to be rezoned from Rural Residential (R-R) to Medium High Residential (R-1-6). Councilmember Kelepolo **seconded**, and the motion **passed** with a unanimous vote.

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

River Cove Preliminary Plat

Mr. Pierson said the applicant, WestField Development, is requesting to develop a 205 single family lot subdivision. The property consists of 80.37 acres and is zoned R-1-12. To the north is the Spanish Fork River, to the east is property zoned R-1-12 and is known as the Quail Hollow by the River subdivision. To the south is property zoned R-R and I-1. West of the proposed development is property zoned R-R. The preliminary plat request was tabled at the April 6 city council meeting. During the May 4 city council meeting the rezone request was denied and the preliminary plat request was not heard. An access to the development will be available to the south from the Quail Hollow subdivision and an access from 900 South. Also, an access will be available across the river when the road to Volunteer Drive is complete and the river bridge is constructed. The developer removed the town homes from the plans. Property on the north side of the river will be deeded to the city. The General Plan policies will be followed by the developer. The Planning Commission reviewed the proposed development in detail on March 3 and recommended approval of the River Cove Preliminary Plat subject to 29 conditions and the density matrix.

Mayor Barney asked when the bridge across the river will be constructed.

Mr. Mendenhall said the construction phase was adjusted to allow one sewer lift station. He would like multiple accesses to the development as soon as possible. The lots in the development will most likely be sold to individual buyers and may be a slow process. He did not think the bridge will be necessary until traffic patterns start to develop. The bridge could be built when the developer or the city staff determines it is a necessity. The Development Review Committee recommended the bridge be built when 50 percent of the homes develop or 60 percent of the lots are sold.

Mayor Barney said as a matter of safety the bridge should be built in the first phase of the development.

Mr. Mendenhall said there is no time line established for the building of the road from the river to Volunteer Drive.

Mayor Barney said there is no sense in building the bridge without a road.

Mr. Pierson said Fieldstone Development has agreed to build the road from the river to Volunteer Drive along with Plat B. There is still one property purchase required to complete the road. The road may easily be completed this year or the first part of next year.

Councilmember Christensen asked how quickly the bridge can be constructed.

Mr. Heap estimated the bridge construction at 45 days.

Mr. Mendenhall said the construction of the bridge can be completed in approximately 30 days after the approval and the permit process is complete.

Councilmember Sorensen asked for the setback on the properties and pointed out the flood plain area.

Mr. Mendenhall said there are two lots along the river with building areas outside of the 100-year flood plain area. The rear yard setbacks are 25 feet.

Mr. Pierson reviewed the lot sizes.

Mr. Mendenhall said the plan is a concept plan. The original designed was based on a progression of lots sizes. He can work with the Develop Review Committee to determine the best layout and may request variances based on the river armorment. A variance would reduce the density a little.

Mr. Pierson said the city council would need to approve the variance, if requested. The city staff cannot grant a variance.

Mr. Mendenhall said they will come back before the city council concerning the two lots affected by the lot width. An access will be provided to allow maintenance of the river. The city will own the property to the north of the river.

Councilmember Barber asked what changes have been made to this proposal since it was presented to the Planning Commission.

Mr. Mendenhall said this is the third or fourth revision. The density has been decreased and the attached housing has been removed. However, the plans have not changed since last presented to the Planning Commission.

Councilmember Barber asked the staff concerning the issue of adjusting the phases due to the sewer lift station and the bridge.

Mr. Pierson said staff discussed the phasing and the location of the sewer lift station. The Fieldstone and WestField Developers were encouraged to get together and install one lift station with access from both developments.

Mr. Pierson said the health and welfare of the community are considered when determining the need for an emergency access and the location of the sewer lift station.

Councilmember Barber said the bridge seems urgent.

Mr. Pierson said the bridge would provide the best flow for traffic.

Councilmember Barber said the conditions do not state the time frame for the bridge.

Mr. Mendenhall said they agreed during the Planning Commission meeting to install the bridge in the first phase of the development. However, concerns have been expressed with increasing traffic on 900 South by installing the bridge sooner than needed.

Councilmember Barber asked concerning condition number 3, what is a flood plain update.

Mr. Mendenhall said Councilmember Wadsworth's concerns are based on conjecture and speculation. The development has to meet the requirements of FEMA. There really is not an update and the condition was based on a newspaper article. In the article comments made by Mr. Mendenhall were taken out of context to cause alarm.

Mr. Eskelson said there were concerns with silt in the river bed, a study has been completed and can be provided. Also, a verification that there is no back water curve was needed. Mr. Heap has requested update information and the condition is based on this information now available. The city staff will review the updated information.

Mr. Heap said since FEMA prepared the flood plain maps in 1998 there have been sediment or cross section area changes. He said he asked Farley Eskelson to reshoot the area. Mr. Heap reviewed the updated information provided. The river will need to be maintained regardless and the Army Corps of Engineers or Utah County is responsible for the river maintenance.

Councilmember Barber asked what good is the report if we cannot do anything about it.

Councilmember Wadsworth returned.

Mr. Heap said the report also indicates if the river armorment is adequate.

Mayor Barney said the river has adequate width and depth, however, without proper maintenance the water will come out above or below this area.

Councilmember Kelepolo said 900 South access is shown as a Y intersection. He said a T intersection was also discussed.

Mr. Mendenhall said he prefers the safest and most functional intersection. It was determined after talking with the neighbors, city staff, and the engineer that the Y intersection is the safest and most functional.

Councilmember Kelepolo asked Chief Rosenbaum concerning his opinion of the intersection.

Chief Rosenbaum said he is a law enforcement officer and not a traffic engineer. He is concerned with the steep grade of the road resulting in vehicles sliding. He asked if there is a way to minimize the grade of the road.

Councilmember Kelepolo asked Mr. Baadsgaard if he was concerned the improvements to 900 South may increase traffic.

Mr. Baadsgaard said improvements to 900 South will increase traffic. Also, he does not want the Y intersection.

Councilmember Wadsworth asked Mr. Mendenhall concerning his comment that he quoted items incorrectly. Councilmember Wadsworth said our decision is only as good as the data we have.

Mr. Mendenhall said he is not the engineer of the project. He does not want his comments taken out of context. He did not state the structures upstream will eliminate flooding. Also, the comment made that he does not return calls or refused to comment is unfair. He is not trying to obscure the facts. He said he has spent thousands of dollars to insure the facts are available and presented to all concerned. He said he asked Mrs. Hughes, who has lived on the property for many years, if the property has ever flooded and she said it has not. The comments by other residents create unnecessary alarm.

Mayor Barney asked for a vote.

Councilmember Christensen said the time frame for the bridge is his concern. He wants the traffic flow to go through the area soon.

Mr. Pierson said Fieldstone has started Plat A of the Spanish Fields Subdivision.

Councilmember Christensen said the bridge needs to be in. The current residents in Leland will be the ones creating the increased traffic pattern. The road from Volunteer Drive to the river needs to be completed so the bridge can be installed with phase one of the River Cove Development.

Councilmember Kelepolo said the concern is with the drivers from the west going east. The improvements on 900 South need to be adequate to provide safety without increasing traffic unduly. The Y intersection is the safest.

Councilmember Sorensen said the bridge should be installed early to reduce traffic on 900 South. The city council can review the remaining areas and decide how to develop in the future and determine needed changes to the General Plan.

Mr. Mendenhall asked if the bridge could be required within a couple of months from the completion of the road to eliminate unnecessary expense prior to the need for the bridge.

Mayor Barney said the bridge can be required when half of the road plus ten feet is constructed.

Mr. Mendenhall asked Mr. Pierson concerning the roof pitch requirements.

Mr. Pierson reviewed the requirements of the master planned development.

Mr. Mendenhall said he did not understand the requirements of a master planned development. He said his covenants, codes, and restrictions will be of a higher standard than required.

Councilmember Christensen said condition number one requires improvements along Del Monte

Road.

Mr. Mendenhall said during the neighborhood meeting with the Leland residents the improvements of curb, gutter, and asphalt along Del Monte Road were discussed. He will meet the requirements along Del Monte Road.

Councilmember Christensen asked Mr. Mendenhall if portions of the development are sold to other developers, will he sign off on all house plans as required.

Mr. Mendenhall said they will have a committee to review all of the building permits.

Mayor Bamey requested a fence on the west side of the development.

Mr. Baadsgaard said he was told the property would be fenced on the west side.

Councilmember Sorensen asked what kind of fence will be installed.

Mr. Mendenhall said he has lost connection with some details of the covenants, codes, and restriction which may require fencing. However, he accepted the condition requiring fencing on the west side of the development.

Councilmember Kelepolo said the bridge completion could be required within a few months of the completion of the road to the bridge.

Mr. Pierson suggested a condition requiring the bridge in the first phase of the development or when the river bridge road is completed.

Mr. Mendenhall said they will agree to construction the bridge if they receive reasonable notice concerning the time frame for the road.

Mr. Pierson suggested the bridge required within six months of the river road completion.

Councilmember Kelepolo made a **motion** to approve the River Cove Preliminary Plat subject to the following conditions.

1. Install improvements along Del Monte Road with the exception of the sidewalk,
2. Receive approval from the Engineering Department prior to any excavation of hill areas,
3. Provide a flood plain update and a wetlands report to the city,
4. The developer is to bond for a 14-foot asphalt pedestrian access between lots 50 and 51 connecting to the city trail upon the development of 50 percent of the lots,
5. Provide the city with a copy of the covenants, codes and restrictions (CC&R's) for the development to the city,
6. The developer is to sign off on all house plans in the subdivision,
7. Provide the city with a title report for all of the property and work out all boundary issues,
8. Meet all of the construction and development standards,
9. The developer of the Butlers' property is to participate in the cost of constructing

- a pedestrian/vehicle bridge over the Spanish Fork River to the percent indicated by an updated traffic study,
10. Construct the River Cove Project as per the preliminary plan document contained in the packet,
 11. The developer is to provide an engineering study of the stability of the existing river rip rap,
 12. Construct no duplicate homes within 120 feet of another,
 13. Receive approval of the electrical design for the development from Jeff Foster of the Electrical Department,
 14. Construct T-driveways on the lots from Volunteer Drive to 900 South and T-driveways are strongly recommended for side entry garages on homes located on corner lots, especially on 66-foot rights-of-way,
 15. Construct no more than 205 units in the development,
 16. Pipe or eliminate all irrigation ditches in the development and provide a letter of approval from the irrigation company,
 17. Provide a 20-foot access easement along the south side of the river for maintenance purposes,
 18. Receive points according to the attached and approved density bonus matrix,
 19. Deed all open space areas to the city as part of the first plat,
 20. Re-vegetate any graded hillsides,
 21. Install the feeder power line from the hill at lot 1 and follow along River Ridge Lane,
 22. Locate post office boxes as directed by the US Post Office,
 23. Construct a 10-foot pedestrian and equestrian trail on the north side of the river according to the Spanish Fork City Standards,
 24. Remove only the trees as determined by the Shade Tree Commission from the park area on the north side of the river, to be removed at the developer's expense,
 25. The developer is to pay the cost of connecting the trail through the park area on the north side of the river as well as constructing the trail under the proposed bridge,
 26. Provide a right-of-way description to the City Engineering Department prior to the City Council meeting for the River Bridge Roadway,
 27. Receive signatures from property owners on a disclosure acknowledging that the area has flooded in the past and the city is held harmless of any flood damage and the wording for the disclosure is to be determined by the developer and the city attorney,
 28. Meet the single family home size requirements according to the R-1-12 zoning (1,400 square feet on ramblers and 1,000 square feet on main level for 2-story homes),
 29. Build the homes with high quality materials, with at least a 5/12 roof pitch, landscaping within one year, and masonry on front elevations as stated in the CC&R's,
 30. Install a 6-foot fence along the west side of the development using material aesthetically pleasing to the property,
 31. Construct the river bridge within six months of the completion of the road from Volunteer Drive to the river and provide bonding with phase one of the development,

32. Require all construction traffic to travel on Del Monte Road,
33. Return to the city council with any areas requiring less than a 25-foot rear yard setback.

Mr. Mendenhall also requested a reduction of the 25-foot rear yard setback with respect to lots 78, 79, 80 and 81.

Councilmember Sorensen said he is not in favor of a reduction in the rear yard setbacks.

Mr. Pierson said the city council could allow buildings up to but not beyond the flood plain area.

Councilmember Kelepolo said he would feel more comfortable with a buffer zone between the homes and the river.

Mr. Baadsgaard requested construction traffic travel on Del Monte Road and not 900 South.

Councilmember Kelepolo said he wants to maintain the 25-foot rear yard setback providing a buffer zone. He also added a condition to the motion requiring all construction traffic travel on Del Monte Road.

Mr. Mendenhall said the city council could require a catch basin.

Councilmember Sorensen said the problem arises when one property constructs a berm and another does not.

Mr. Pierson suggested requiring a six-foot berm along the river.

Mr. Mendenhall requested a condition that the rear yard setbacks could be reduced if concerns are addressed and possible flooding is alleviated.

Councilmember Kelepolo said the developer could be required to work with city staff if setback reductions are requested.

Councilmember Sorensen said he would prefer any requests for changes in setbacks come back before the city council.

Councilmember Kelepolo added the condition that the developer return to the city council with any areas requiring less than a 25-foot rear yard setback.

Councilmember Christensen **seconded**, and the motion **passed** with a Majority vote. Councilmember Wadsworth was **opposed** to the motion.

8:52 Recess

9:00 Reconvene

East Meadows Preliminary Plat

Mr. Pierson said this is a request by Carter Construction to develop an 88-unit subdivision. There is capacity available for this subdivision. This will be a straight up subdivision with single family homes and twinhomes. The Development Review Committee and the Planning Commission recommend approval of the East Meadows Preliminary Plat with 11 conditions.

Mr. Carter said they have resolved a lot of issues. He made a power point presentation of the design of the development including the standard features, construction materials, and exterior options. They meet with LEI and the East Bench Canal Company. He presented the canal rerouting design in accordance with LEI's recommendations. He reviewed the phasing of the development. They are looking forward to being involved in this community.

Mayor Barney asked Mr. Lewis, an adjacent property owner, about the water concern.

Mr. Lewis said there are concerns with the irrigation ditches running parallel to the development flooding the property near the back fence line.

Mr. Carter said they met with the adjacent property owners concerning preventive maintenance. They cannot control water on other properties. The water flows and collects on their property and has for some time. Mr. Carter said he met Mr. Lewis and asked if the ditch ending on his property went all the way through at one time. The water master said the ditch ran through Mr. Lewis's property at one time and he suggested the ditch continue through the Lewis property with a head gate at the end to allow control of the water flow. Mr. Lewis does not want to release any water rights.

Mr. Lewis said originally the ditch went through to water the properties to the north, however, the water was rerouted. He said eventually he removed the ditch since it was not in use. He also said he would have no problem with extended the ditch through his property with a head gate at the end.

Councilmember Kelepolo asked concerning the fencing on 2000 East.

Mr. Carter said the fence will go all the way along the development. Mr. Carter said they are not required to install a fence, however, they want boundary lines and have agreed to install a fence along the south side of the property. They proposed a no climb fence. The existing property owner requested a chain link fence. Mr. Carter said they agreed to install a six-foot chain link fence along the south property line.

Mr. Heap said the developer will need to submit a clear title report prior to the approval of the final plat.

Councilmember Kelepolo asked concerning smells related to the horse property.

Mr. Baker said there is no prefect solution. The existing property owner is there with animal rights. One thing the city council can require is a note on the plat indicating the adjacent property contains animals causing odors and flies. Then the property is purchased with notice given to the buyer in advance.

Mr. Carter read a suggested notice required on the plat stating “this area is subject to the normal and everyday occurrences of an agricultural area.” This helps alleviate any problems related to the existing property owners.

Councilmember Wadsworth made a **motion** to approve the East Meadows Preliminary Plat with the following conditions.

1. Meet the construction and development standards,
2. Meet the zoning and setback standards for the R-1-6 zone,
3. Install driveways on the interior side of all interior lots with no garages to be on any corners within the development,
4. Work out the road alignment with the Engineering Department and post a cash bond for the 2000 East improvements,
5. Obtain a letter from the irrigation company on piping and alignment of the irrigation ditch,
6. Make all redline changes to the plat prior to going to the Planning Commission,
7. Install a six-foot masonry wall along the arterial road with the exception of lots 61 and 74 to have a four-foot masonry wall,
8. Meet the electric standards as directed by Jeff Foster of the Electric Department,
9. Install trees, stamped concrete, tree grates, a sprinkler system, and a wall as per the city planner along 2000 East or provide a cash bond as per the Spanish Fork City Arterial Street Standards,
10. Address all existing homes,
11. Submit a preliminary title report,
12. Install a six-foot chain link fence along the south property line of the development.

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

Executive Session

No need for an executive session was expressed.

Other Business

Mr. Oyler asked for clarification concerning when city council meetings are to be televised.

Councilmember Kelepolo said the two regular city council meetings could be televised and not the work session to reduce costs. Or, if the other councilmembers want, all sessions could be televised.

Mayor Bamey said with the issues being addressed tonight many citizens would have liked to have the opportunity to view the meeting.

Mr. Oyler requested specific direction from the city council.

Councilmember Kelepolo said all public hearings should be televised.

Mayor Barney agreed.

Mr. Oyler said the cost to televise the meetings is minimal.

Councilmember Kelepolo said if the cost is minimal, all meetings should be televised.

Councilmember Barber said some work sessions are tedious. He suggested only filming the regular sessions.

Councilmember Christensen said the public hearings and regular sessions should be televised and the other meetings could be televised as needed.

Councilmember Kelepolo concurred.

Councilmember Sorensen concurred.

Councilmember Wadsworth agreed with regular sessions being televised and work sessions televised with adequate notice. He said televising meetings will allow more citizens to view the meetings.

Councilmember Kelepolo said the city council will notify staff a week in advance if a work session is to be televised.

Mr. Oyler said on July 6 Councilmembers Wadsworth, Kelepolo, and Barber will be out of town. Therefore, the next scheduled city council meeting will be July 20, 2004.

Mr. Pierson said the next Planning Commission meeting is scheduled for July 14, 2004.

Mr. Oyler said the Finance Committee needs to meet to discuss the recreation software issues.

Councilmember Kelepolo said he could meet Thursday after 1:00 p.m.

It was agreed the Finance Committee will meet Thursday, June 24, 2004 at 1:30 p.m.

Mr. Oyler said the Assistant City Manager Position has been offered to Kelly Udall. Mr. Oyler reviewed his background and qualifications and said he comes with high credentials. He will begin working on July 6.

Councilmember Barber asked if Mr. Udall will receive training from MaryClare Maslyn.

Mr. Oyler said some training may be possible before Ms. Maslyn is scheduled to leave.

Mr. Oyler said Ms. Maslyn has been a value and a great resource to the city and will be greatly missed. He said the arrangements for Fiesta Days and many other duties along with the Risk Management and Human Resources duties were some of the many shoes she has filled. He will express his appreciation to her personally since she is not present.

Mayor Bamey said any time there has been a problem MaryClare has handled it in a timely manner.

Councilmember Kelepolo said he has worked with MaryClare Maslyn for six and half years and she has always been willing to work and her door is always open. She has saved the city a lot of time and money on risk management issues.

Councilmember Christensen said he appreciated working with MaryClare Maslyn as a city councilmember and as an employee for the city. During problems with his wife's illness she was extremely helpful and he appreciated her hard work.

Mayor Barney asked if the German Marshall Memorial Fellows are scheduled to visit Spanish Fork City this year.

Ms. Swain said the fellows are scheduled for a visit the end of October.

Adjournment

Councilmember Kelepolo made a **motion** to adjourn. Councilmember Wadsworth **seconded**, the motion **passed** with a unanimous vote, and the meeting adjourned at 9:45 p.m.

Mayor Barney said if the river bridge is completed in 30 days, he will treat all present to a steak dinner.

Connie Swain, Deputy Recorder

Approved: August 3, 2004