

**Adopted Minutes  
Spanish Fork City Council Meeting  
November 16, 2004**

The meeting was called to order at 6:00 p.m. by Mayor Dale R. Barney. The pledge of allegiance was led by Dustin Carr, a member of the Boy Scouts.

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

Staff Members Present: David A. Oyler, City Manager; S. Junior Baker, City Attorney; Emil Pierson, Planning Director; Richard Heap, Engineering Department; Kent Clark, Finance Director; Dale Robinson, Parks and Recreation Director; Seth Perrins, Assistant City Manager; Sara Randall, Secretary; Tricia Breinholt, Secretary.

Citizens Present: Janice Nielsen, John Ross, Sara Nouk, Spencer Lamb, Joran Van Ausdal, Ashley Stubbs, Kaeley Faucett, Karen Payne, Sharon Brown, Justin Andrew, Deidre Amos, Royden Hill, Larry Przybycien, Alecia Ledward, Shelby Stone, Glenn A. James, Kaitlyn White, Jade Argyle, Dustin Carr, Doug Ford, Steve Wilson, Pat Sorensen, Kalene Kidman, Ron Williams, Sherman Huff, and Gina Olsen.

**Agenda Request - Chad McDonald - Easement to Access Property**

Mr. McDonald would be willing to pave or donate the estimated \$4,000-5,000 (half of total estimation) to help get the access taken care of.

Councilmember Kelepolo asked if we are requiring everyone else to have paved driveways.

Mr. Pierson said we would require everyone else to pave the first 20 feet of their driveway.

Mr. Baker says this is completely up to the council and that the legal issues can be worked out.

Councilmember Christensen asked if there is a problem with safety and parking? How big would a parking stall have to be?

Mr. Pierson stated that a stall would be about 8 to 10 feet, and then a driveway.

Councilmember Sorensen made a **motion** to table the agenda request by Chad McDonald, Councilmember Wadsworth **seconded**, and the motion **passed** with a unanimous vote.

**Easement Agreement - Wayne and Shirley B. Hurst**

Mr. Baker recommended easement for Wayne and Shirley B. Hurst.

Councilmember Sorensen made a **motion** to accept the agenda request by Wayne and Shirley

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

### **Storm Drain Agreement - L.D.S. Church**

Mr. Baker presented the budget and reimbursement to the L.D.S. Church for the storm drain agreement.

Councilmember Kelepolo made a **motion** to approve the Storm Drainage Agreement with the L.D.S. Church as presented. Councilmember Wadsworth **seconded**, and the motion **passed** with a unanimous vote.

### **Collection Agreement - E-Partner Net**

Mr. Baker says E-Partner Net keeps 35% of collections that they are able to collect. We write off between ten and thirty thousand dollars each year. While we do write some of the collections off, there are some that are pursued.

Councilmember Barber asked if this is a relative of someone in the city? Mr. Baker says maybe some distant relative.

Mr. Baker said we can cancel within thirty days, this is a three year agreement. E-Partner Net is based out of Springville.

Councilmember Barber would be more comfortable about opening this up if it's something we are going to do, especially if we are going to agree to three years.

Councilmember Wadsworth made a **motion** to table the collection agreement to the first meeting in January. Councilmember Sorensen **seconded**, and the motion **passed** with a unanimous vote.

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

### **Public Hearing**

#### **FY 2005 Budget Revision 1**

Dave Oyler passed out budget plan for 2005.

Richard Heap presented the budget expenditure changes for the Public Works Department.

Dale Robinson presented the budget expenditure changes for the Recreation Department.

Kent Clark presented the budget expenditure changes for Administration.

Dave Oyler presented the budget expenditure changes for the Police Department and Library. We are one of the lowest property tax cities in the state. There were only two cities that had lower

property taxes than our city.

Mayor Bamey opens floor for public comment.

Royden Hill asked why don't we get out of debt and stay out of debt? Royden Hill's proposal for budget revision:

1. Put each department on a LOWER budget and tell them this is all they will get! Now live on it.
2. Sell the golf course and use the money to pay off the broadband debt. (Which the Electric Fund is now responsible for.)
3. Sell the Broadband and pay off the PI Water indebtedness. (The Culinary water system is now the collateral on the revenue bonds for the PI.)
4. Reduce the price of our electricity and water so Spanish Fork is even a better place to live.
5. Stop competing with private enterprise. Get rid of all businesses (including snack bars, or let these out for clubs etc. to make money running.)
6. Do what is best for the people. Start acting like the Republic we are!

Mayor Barney closed the public portion off and opened to council discussion.

Councilmember Wadsworth was given the floor and recited a quote: *"Economist Milton Friedman said that there are only four ways to spend money. When you spend your own money on yourself, you make occasional mistakes but they're few and far between. The connection between the one who earned it, the one who is spending it, and the one who is reaping the final benefit is pretty strong. When you use your money to buy someone else a gift, you have some incentive to get your money's worth but you might not end up getting something the intended recipient really needs or values. When you use somebody else's money to buy something for yourself, such as lunch on an expense account, you have some incentive to get the right thing but little reason to economize. Finally, when you spend other people's money to buy something for someone else, the connection between the earner, the spender and the recipient is the most remote-and the potential for mischief and waste is the greatest. Think about it-somebody spending somebody else's money on yet somebody else-that's what government does all the time."*

Councilmember Barber asked Mr. Heap about corrosion testing.

Mr. Heap stated that testing is \$16,000 and then another \$10,000.

Mayor says his concern is that we have already paid for this one time, he doesn't think it's right to have to pay again.

Mr Heap said his concern is that there is something wrong, possibly weaknesses.

Mayor said that he thinks that the architectural firm should step up and take care of any problems. He knows that we should test it. But if we test it and it's doomed for failure, who will pay for it?

Mr. Heap said his recommendation is that we put it in the budget. We don't think that will happen, but we want to make sure.

Councilmember Barber asked about the Olsen well, and if we've had a problem like that at any other wells?

Mr Heap said we had one other well that had problems. Last winter we had to go in and replace the pump under the well house because sand was going through. At that price, even if we only get 500-600 gallons/min, it would cost much more than that to replace that water.

Councilmember Barber asked about broadband meters on new construction.

Mr Heap said we are not updating the new broadband meters to new ones.

Councilmember Barber goes over figures and is not convinced of the financial benefit because he has not seen a presentation.

Mr. Oyler says these are numbers that have been changed since you approved last. You are already using money that was already approved in the budget previously. We are already in the process.

Mayor Barney said part of this has already been approved, and now we are looking at approving the new changes. If you want a larger analysis, you need to decide that. As of now, we are proceeding with the project.

Mr. Oyler said it does not have to be approved tonight, no, but you should approve to make changes.

Councilmember Kelepolo made a **motion** to close the public hearing on the budget. Councilmember Sorensen **seconded**, and the motion **passed** with a unanimous vote.

Councilmember Kelepolo made a **motion** to keep FY 2005 Budget Revision 1 open until the next city council meeting. Councilmember Sorensen **seconded**, and the motion **passed** with a unanimous vote.

### **City Donations of Funds, Municipal Services, or Waiver of Fees**

Kent Clark presented the proposed ordinance for the Donation Policy.

Mayor Barney opened the floor for public input.

Mr. Clark stated this list will be included in the budget starting in July of next year. Mr. Clark presented the list of Fee Waivers/ Donations.

Pat Sorensen, speaking for 4H, said we need to worry about our horse shows. At the end of the year, there are two horse shows one year, and then one horse show the next year. We are only

there 48 out of 52 weeks of the year, if anything else is going on, we don't use the fairgrounds. Right now there 487 kids with zip code 84660, 54 are horse projects, out of that, an estimated 50% live inside city limits. These shows are important for the kids to get their awards at the end of the year. These horse shows bring revenue into the city.

Kalene Kidman, speaking of 4H, says it is a low cost benefit for handicapped children in the area. We have cleaned up the fairground and cleaned up flowers. Four kids in Spanish Fork went to state 4H this year, this has never happened before. This benefits the community. One young person that would have otherwise gone to a youth home was able to benefit from 4H, and now is a productive mother of 2.

Sharon Brown, Spanish Fork chamber of commerce president. We hope that you will be able to grandfather the people on this list. We appreciate you and what you do, we hope we can continue to support Spanish Fork City.

Ron Williams, 738 E Skylark Drive, 4H kids gain a lot of experience and benefit in their lives. I would appreciate if you would grandfather 4H into this list.

Steve Wilson, 881 S 1240 E, said that \$85,000 is not significant at all, \$26,000 to organizations that greatly benefit the city and provide good for the citizens and the kids, this amount is not excessive at all. Would like to add support to these.

Sherman Huff said he would like to show support for this list to be grandfathered, along with others in the future being addressed.

Gina Olsen, 436 S Woodland Hills Dr., behalf of 4H youth club. I want to reinforce the benefit that my daughter has received with her disabilities. This is one place that she has found success. We do not take prime time use of the buildings. Hopefully there will be more opportunities for my daughter as she grows and progresses.

Mayor closes public hearing.

Mr. Clark, in reference to the grandfathering part, because they are grandfathered once, it doesn't mean it will continue to be grandfathered every time, it just shows on the list each year. One other item, there are some things not on the list that are contractual agreements, that are not necessarily listed as donations from the city. If one department of the city donates something to another part of the city, it is not necessarily a donation, it is part of working within the city.

Mayor Barney said this \$85,000 is a very small amount of what is actually being shown within the city. He said of 4H, it's the cost of business to keep our kids busy, and benefit them, I can see in this audience that there are many people that donate their time to this.

Councilmember Christensen said he sees a problem with college rodeo, he thinks they have had two years, they can start paying some of the money. We are still cleaning up the messes after the college rodeo. We got them started, and I think they now should be on their own.

Glen James said they should be paying something after the first year.

Councilmember Christensen said if they are charging the public, they should be paying something. As far as 4H it's a great program, I support them.

Councilmember Kelepolo said we hope to receive calls and emails so that we can make a final decision on December 7th.

Councilmember Kelepolo made a **motion** to close the public hearing and to table the Donation Policy until December 7th. Councilmember Christensen **seconded**, and the motion **passed** with a unanimous vote.

### **Amended Spanish Vista Preliminary Plat**

Emil Pierson presented the request to amend Spanish Vista preliminary plat on east side of the project. The developer is requesting to reduce the density by eliminating town homes and make into single family home sites. The DRC committee met on November 3<sup>rd</sup> and recommended that you approve that. Total of 311 units, reducing the previous number of units. The developer has submitted a number of elevations of the proposed homes.

Councilmember Kelepolo asked, on the back side of these homes, is there a fence ordinance?

Mr. Pierson said they have agreed upon that and they have no problem with the proposal.

Councilmember Wadsworth asked how many town homes will still be in the plan?

Mr. Pierson answered, 38.

Councilmember Wadsworth made a **motion** to approve the Amended Spanish Vista Preliminary Plat, with conditions. Councilmember Kelepolo **seconded**, and the motion **passed** with a unanimous vote.

### **Lease Agreement - Tracy Livingston - Wind Meteorological Tower**

Mr. Baker stated we can terminate the lease with 90 days notice if we sell the property. Mr. Livingston would like to address council about concerns about the 90 days termination time.

Tracy Livingston said the tower we would like to install is a temporary tower, however the issue is our level of commitment, the cost that it will take to put this tower in place. Those costs are approximately \$30,000 to put it up and approximately \$5,000 to take it down. Those costs will be lost costs if we have any less time than six month. Our risk is substantial if we don't have at least that time to get the data that we need.

Mayor Barney said he thinks it's something that we should be committed to this experience and we should consider at least another 90 days.

Councilmember Kelepolo asked, you would have to have this in place by the summer?

Mr. Livingston said we would have to have the tower in by this December before bad weather hits. Our anticipation is to have this decision made tonight, and we will get the tower up within this next week.

Councilmember Christensen asked how enthused is this possible buyer?

Mr. Pierson said this property is valuable because of the railroad spur. The company that is looking at this property would be able to use this spur practically right to their back door.

Councilmember Sorensen asked would that have an impact on the well?

Mr. Pierson said there would not be any impact on the well. My concern is for economic reason. We could also lose jobs for Spanish Fork City.

Councilmember Christensen said maybe they could lease that property to Mr. Livingston for the remainder of that time?

Mr. Livingston said the turbines are compatible with economic development. The turbines themselves will be taking up a lot less room than this tower. But we need to put up the tower to be able to get the data on what the turbines are doing. I think it's a workable arrangement, and we have a window to be able to do this.

Councilmember Kelepolo said he thinks we should take advantage of what resources we have. He thinks we need to allow that six months, to find out if it will be a good resource for us.

Mr. Livingston said down the road, we could work something out, as long as we are able to have that six months. I think there is a workable solution. As long as we have this lease signed, we can move forward on the project.

Mr. Baker said we can make another change, we put in there that he could have access to the property. Mr. Livingston has asked permission to connect to the meter at the Olsen well for strobe lights to meet FAA requirement, for an additional \$10 a month to cover the strobe lights. He needs to get moving, he wants to go forward.

Mayor Bamey asked Mr. Heap whether it will interfere with revamping the Olsen well.

Mr. Heap explained that it would not.

Councilmember Kelepolo asked Mr. Livingston if that six months is all he needs.

Mr. Livingston said it's marginally what he needs, but he wants to be able to compromise.

Councilmember Kelepolo asked Mr. Livingston if we gave until April, if that would give the data he needs.

Mr. Livingston affirmed that it would give him what we needs.

Mr. Pierson advised that most companies would want to be under construction in the spring.

Councilmember Kelepolo said that it comes down to what is most important to us at this time.

Councilmember Sorensen said he thinks it's a great project, he's just concerned if we put it clear into August, that would create a problem if we do sell the land.

Mayor Barney said but once they have that tower up, they would have the ability to work around it.

Councilmember Christensen said he doesn't like the idea of going clear until August.

Councilmember Kelepolo said he personally thinks it's something we can work out.

Councilmember Sorensen said he thinks we ought to do the six months at least.

Mr. Heap said we could put in there that we could buy him out as an option.

Mayor Barney advised, let's make them both work, if we can.

Mr. Baker said we'll do a year's lease, but we can't terminate prior to June 1<sup>st</sup>.

Mr. Heap asked Mr. Livingston if someone did come in and wanted to start work in April or May, if he would be willing to work with them? Can we use that property for anything else?

Mr. Baker advised not unless we make a change to the lease.

Mr. Livingston said he doesn't have any problems with that as long as it's marked.

Councilmember Kelepolo made a **motion** to approve the Lease Agreement with Tracy Livingston of Wasatch Wind, LLC, with a change in condition 5, make it terminable with 60 days notice, but not earlier than June 2, 2005 and condition 10 with million dollar liability and million dollar excess policy on the insurance. Councilmember Sorensen **seconded**, and the motion **passed** with a unanimous vote.

### **Aspen Meadows Connector's Agreement**

Mayor Barney said some of his concerns were with the sewer line they didn't lay, which should have been taken care of.

Councilmember Barber said his concern is that it's overcharged.

Mayor Barney said they verified the prices paid the contractor.

Councilmember Kelepolo made a **motion** to accept the Aspen Meadows Connectors Agreement. Councilmember Christensen **seconded**, and the motion **passed** with Councilmember Barber voting Nay.

### **Change Order - Spanish Fork Gun Club Storage Shed Project**

Dale Robinson said we need addition to change the roof to match the existing roofs. It is still in the previously approved budget.

Councilmember Kelepolo made a **motion** to approve the Change Order for the Spanish Fork Gun Club Storage Shed Project as presented. Councilmember Barber **seconded**, and the motion **passed** with a unanimous vote.

### **Purchase of Equipment**

Mr. Robinson said they need additional funds for a Kawasaki Mule, \$436.00 over what was previously approved. \$7,436.00 total cost.

Mr. Baker said the \$7,000 has already been approved, what needs to be approved is the additional \$436.00.

Councilmember Kelepolo made a **motion** to approve the purchase of Kawasaki Mule for equipment purchase in the amount \$7,436.00 as presented. Councilmember Christensen **seconded**, and the motion **passed** with Councilmember Wadsworth voting nay.

### **Other Business**

Councilmember Christensen said in reference to the sesquicentennial celebration, it has been a great year.

Councilmember Wadsworth said the library is having lighting problems, Jeff foster is working on the lighting problems at the library. Also, we are in the process of electing a new chair. We got a new member, Anne Osborn, she has accepted and we are pleased. In regards to Planning Commission, we have two members that are leaving. He will get a list of names to the Mayor within the next couple of weeks. The Finance Committee has been working on the donation policy, it's not finalized yet, but we are working on it. Councilmember Wadsworth suggested that we could look into having citizens on the Finance Committee.

Seth Perrins said citizens are requesting a sidewalk for transportation by spanish oaks. They are looking into an arrangement to take people to a secondary location.

Mayor Barney said we will have some drastic changes in the department of transportation on a statewide level. They want to give us roads, but the hope is that if they want to give us the roads, that they also want to give us the money to maintain the roads.

### **Adjournment to Executive Session**

Councilmember Kelepolo made a **motion** to move into executive session. Councilmember Sorensen **seconded**, and the motion **passed** with a unanimous vote.

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Connie Swain, Deputy Recorder

Approved: December 7, 2004