

**Adopted Minutes
Spanish Fork City Council Meeting
December 7, 2004**

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

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 J. Heap, Engineering/Public Works Director; Kent R. Clark, Finance Director; Dale Robinson, Parks and Recreation Director; Seth J. Perrins, Assistant City Manager; Connie Swain, Deputy Recorder.

Citizens Present: Janice Nielsen, Robert Pittelli, Glenn James, Sherman Huff, Karen Payne, Sharon S. Brown, Kaye Stewart, Jared Allred, Kevin Allred, Dylan Green, Tyler Allred, Braden Elquist, Mike Elquist, Andrea Warren, Katie Newren Joshua Hansen, Richard Kimball, D. Curtis Pulsipher, Nathan Kimball, Stephen Beatty, Zach Swenson, and Norman Smith.

Other Business

Michael Davis, Riding Club President, said annually the Riding Club sponsors a needy family during the holidays. This year they decided to expand their donation and give back to the community. He presented a check in the amount of \$500 for the city's Sub for Santa program.

Mayor Barney thanked Mr. Davis and the Riding Club and a round of applause was given.

Minutes

Councilmember Kelepolo made a **motion** to approve the minutes of the October 5, 2004 city council meeting with changes as noted. Councilmember Wadsworth **seconded**, and the motion **passed** with a unanimous vote.

Councilmember Sorensen made a **motion** to approve the minutes of the November 2, 2004 city council meeting with changes as noted. Councilmember Kelepolo **seconded**, and the motion **passed** with a unanimous vote.

Councilmember Kelepolo made a **motion** to approve the minutes of the November 16, 2004 city council meeting with changes as noted. Councilmember Wadsworth **seconded**, and the motion **passed** with a unanimous vote.

Agenda Request - Chad McDonald - Easement to Access Property (Tabled from November 16, 2004)

Mr. McDonald said this item was passed after a presentation during the last city council meeting to allow time to review past minutes. He said his request is to be allowed an access to the back of his property from the park access road. His home includes an accessory apartment which is currently nonconforming. To become a conforming property covered parking is required. He plans to build a garage behind the home. The back yard access Mr. McDonald is requesting would allow him to maintain the front yard area as it exists with grass and a large tree.

Mayor Barney said the Planning Commission was told the property was not being used as an accessory apartment. It was found later that the information given was not truthful.

Mr. McDonald said his wife was concerned about disclosing an apartment due to possible ramifications. He apologized and said they are renting the apartment and have been since they purchased the property. They are trying to make it legal.

Councilmember Wadsworth asked Mr. Pierson if during the July 14 Planning Commission meeting, one of the findings was that the proposed site had adequate access.

Mr. Pierson concurred.

Councilmember Wadsworth asked if their existing driveway allows access.

Mr. Pierson said the site plan shows an additional access on the north side of the home. They are asking not to use the north access but have an access in the back yard.

Mr. McDonald said he just wants to open a couple of links in his fence to have an access to the back of his property.

Councilmember Wadsworth said one of the conditions of approval indicated the driveway was to be completed in November.

Mr. Pierson said another condition indicated they are to come before the city council and Mr. McDonald is following the direction given.

Councilmember Sorensen asked if they could have an access on the north side of the property.

Mr. McDonald said it is possible but it is a tight squeeze.

Councilmember Wadsworth asked if there is an entrance into the home on the north side.

Mr. McDonald said there are entrances into the home on both the south and north sides.

Councilmember Kelepolo asked if we will be setting a precedent if we allow access from a city park. The city could close the access at any time. There may be future owners who are unaware of the situation.

Mr. McDonald said they plan to retain the property for some time.

Councilmember Kelepolo asked Mr. Baker if the city has granted accesses similar to Mr. McDonald's request in the past.

Mr. Baker was not aware of any similar requests granted.

Councilmember Kelepolo asked for the possible verbiage if the request were granted.

Mr. Baker said if the city council wants to approve the request, the proper verbiage will need to be discussed. If approved, the information will also need to be recorded on the property to allow any future property owners to be aware of the situation. The access should not be permanent since the city may close the public access or the area could be sold in the future.

Mr. McDonald said the property is not large enough for anything other than an access driveway. He said he will sign an agreement making the arrangements terminable. The agreement could require him to install a driveway on his property if the city closes the access or the city property is sold.

Councilmember Wadsworth asked if the current public access is in violation of the city code.

Mr. Baker said if the access is used as a driveway it will need to be paved or cemented.

Mr. McDonald said he understands the public access is currently out of code by not being paved.

Mr. Pierson said a residential driveway is required to have the first 200 feet paved. The public access is not considered a driveway to a home. Currently it is just an access and meets the city code.

Councilmember Barber said the minutes indicate the first 20 feet are to be paved.

Mr. Pierson said it should be 200 feet.

Mr. Baker said they need to meet the standards.

Mr. McDonald said he received two quotes to pave the public access consisting of 3,800 square feet. The two quotes were \$3,268 and \$5,320. The quotes do not include curbing.

Councilmember Kelepolo asked if we can use city money to do what we normally would not do.

Councilmember Barber asked if the request is approved and Mr. McDonald pays to pave the public access, who will maintain the pavement.

Mayor Barney said he would want the driveway on his property if he were paying for the pavement.

McDonald said it seems to make sense to keep the greenery currently in their front yard. They do not want to pave their front yard. He said no one else will care.

Mayor Barney said he agrees with Councilmember Kelepolo. We should not set a precedent on private property.

Councilmember Kelepolo said he is troubled by any obligation caused in the future. He is therefore opposed to providing the access as requested. Obligating the city would cause problems with future maintenance or problems if the property were sold in the future.

McDonald said it seems a terminable agreement would address the concerns.

Councilmember Kelepolo said if granted it is always difficult to take it back if needed even if a terminable agreement exists.

Councilmember Christensen asked Mr. McDonald if he planned to use the property as a duplex when he purchased it.

Mr. McDonald said the property was sold to him as a duplex. He has been renting the apartment to tenants since purchasing the property. It was later that he found it was an illegal duplex.

Councilmember Christensen said he is also concerned with setting a precedent and he is opposed to granting the request. Mr. McDonald bought the property as is.

Mr. McDonald asked if it would make a difference if the entire public access were paved.

Councilmember Christensen said granting the request would set a precedent.

Councilmember Sorensen said it makes more sense to use the driveway on the north side of the property and not open up other problems.

Councilmember Wadsworth asked Mr. McDonald if he is going to replace the entire fence.

McDonald said they are working on replacing the fence.

Councilmember Barber asked if the existing driveway to the north of the property meets the city code.

Mr. Pierson said it was approved at the time it was built. The city acknowledges the property as a duplex. Right now it is a legal non-conforming duplex.

Mr. McDonald concurred and said it just needs to have covered parking to meet the requirements.

Councilmember Wadsworth asked if the access on the north side of the house is possible.

Mr. McDonald said right now the existing driveway ends at the back corner of the house. The cement needs to be replaced. If his request is not approved, he will install the driveway on the

south side of the house. He said he just wanted to try and save their frontage and a large tree at the corner of the property.

Councilmember Kelepolo made a **motion** to deny the access requested by Chad McDonald.

Councilmember Sorensen **seconded**, and the motion **passed** with a majority vote.

Councilmember Wadsworth was opposed to the motion.

Recognition - Presidential Volunteer Service Pin

Norman Smith said volunteers contribute and make a big difference. He said President Bush has established a system of awarding bronze, silver and gold pins to volunteers for their hours served. Bronze pins are for those who served 100-249 hours, silver pins are for those who served 250-499 hours, and gold pins are for those who served 500 or more hours. The following individuals volunteered in the city office and will receive pins: Earline Holley-bronze, Lila Snow-bronze and Renee Snow-gold. A total of 63 pins are to be awarded in our community this year.

Mayor Barney thanked Mr. Smith for the service he provides by organizing our volunteer program. A round of applause was given.

FY 2005 Budget Revision No. 1 Adoption (Tabled from November 16, 2004)

Mr. Oyler said the public hearing for the budget was held on November 16.

Councilmember Sorensen asked for information concerning the truck purchase.

Mr. Oyler said Richard Nielson will be available later in the meeting to address the truck purchase.

Councilmember Barber asked if new cost analysis information concerning the automated metering system is available.

Mr. Oyler said there is no new information available.

Mayor Barney called for a motion and a vote.

Councilmember Kelepolo made a **motion** to approve the FY 2005 Budget Revision 1 and presented. Councilmember Sorensen **seconded**, and the motion **passed** with a majority vote. Councilmember Wadsworth was opposed to the motion. Councilmember Barber was in favor of the budget with the exception of the items listed in the major budget expenditures changes related to meter connections. Those items were: trailer for trencher/plow, trencher/plow, new F550 with dump bed and metering supplies.

Independent Audit Report

Councilmember Kelepolo made a **motion** to table the Independent Audit Report until Dec. 21,

2004. Councilmember Sorensen **seconded**, and the motion **passed** with a unanimous vote.

City Donation of Funds, Municipal Services, or Waiver of Fees (Tabled from November 16, 2004)

Mr. Oyler said a copy of the proposed donation policy has been provided and a discussion took place during the last city council meeting. Now the city council needs to decide on the policy. A list of the past donations and waivers was provided in the amended agenda packet. A donation policy was drafted due to a new State law requiring a public hearing prior to the approval of any donations or waiver of fees.

Councilmember Sorensen said it is a sound policy which will alleviate future problems.

Councilmember Barber asked if the policy should include a time frame for the public hearing to occur following the filing of a waiver application.

Councilmember Kelepolo suggested requiring applications to be received prior to May 1. Therefore, the applications can be considered during the public hearing for the fiscal year budget approval.

Councilmember Barber asked what happens when an application is received after the budget public hearing.

Mr. Oyler said a public hearing could be held at any time during the year for applications received at anytime other than just prior to the budget public hearing.

Councilmember Barber suggested a public hearing be held within 60 days of the waiver application filing.

Mr. Oyler said according to the policy each application will need to be screened and approved by the Finance Committee before and if a public hearing is held.

Councilmember Kelepolo asked if a time frame could be included in the policy.

Mr. Oyler said a time frame could be set after the Finance Committee screens the application and it is approved to come before the city council. Adequate time needs to be provided due to the time requirements for noticing a public hearing.

Councilmember Kelepolo said only a couple of the city councilmembers serve on the Finance Committee. He asked if those few councilmembers should decide if a request should come before the city council.

Councilmember Wadsworth said there are a few things to still consider. He read the following:

Guiding Principles for establishing city donation policy:

1. The public treasury belongs to the citizenry, not to the city entity or staff.

- 2. Nobody spends somebody else's money as carefully as he spends his own.*
- 3. Sound policy requires that leaders consider long-run effects and all people, not simply short-run effects and a few people.*
- 4. It is wrong for government to do for people what they can and should do for themselves.*
- 5. Government should not advantage one individual or group at the expense of another.*
- 6. Is the proposed decision setting precedence for policy-making? If so, is it the right precedent?*

Mayor Barney said this appears to be sound advice. Some of the events have already been approved and cannot be changed.

Councilmember Kelepolo said right now he personally likes the policy prepared. We need to make sure we are within the State guidelines. Then we need to set the policy and decide to whom the city will donate to. Each of the donations can be reviewed each year before re-approval.

Councilmember Wadsworth said we may want to consider creating a Cultural Arts Council.

Councilmember Kelepolo said the city already has an Arts Council.

Councilmember Wadsworth asked if they could raise funds to support themselves and these events.

Councilmember Kelepolo said each entity's financial situation is different. The idea to have the Arts Council support some of the events is not totally out of the question.

Councilmember Wadsworth said other communities have similar events supported by their Arts Council. There are some events that should be supported by the city. He asked if a report could be made available concerning the funds requested, a full disclosure of the group and people involved with a full accounting of how the money was spent.

Mr. Oyler said direction is needed from the city council as to the content of the reports requested. For example some of the donations include a fee waiver.

Councilmember Wadsworth said the report should indicate the net cost for waiving fees or cash donations.

Mr. Oyler said the first three events listed on the table consist of fee waivers. Is a full financial statement being requested concerning each event?

Councilmember Wadsworth said if fees are waived someone will have to compensate for the loss to the city.

Mr. Oyler said one of the waivers was granted to all active military service personnel toward utility bills. The loss was absorbed by all of the utility customers.

Mayor Barney said the city has been donating to the Jr. Livestock Show for many years. How do you weigh the benefit of this event?

Mr. Oyler said the city staff needs direction as to the content of the report requested.

Councilmember Kelepolo said the report should indicate the event and the amount to be donated or waived.

Councilmember Sorensen said two entities included in the list have city councilmembers serving on their boards and the financial statements are reviewed by the boards.

Councilmember Wadsworth asked concerning the \$16,000 donated to the Chamber of Commerce for memberships.

Mr. Oyler said a few years ago the city agreed to pay a portion of the Chamber's yearly budget. A portion of their budget includes membership fees.

Mayor Barney said a lot of revenue received by the city is generated through tax dollars received from businesses receiving benefits from the Chamber of Commerce.

Councilmember Sorensen said the annual Christmas Light Parade is supported by the Chamber of Commerce. They are using these funds for the good of the community.

Mr. Oyler said the Chamber also supports the annual Easter Egg Hunt and other events throughout the year.

Councilmember Christensen said the Economic Summit is supported by the Chamber and this one event is worth far more to the city than the \$16,000 they receive once a year. The amount received by the Chamber is less than \$1 per citizen. They provide a great benefit to the city and we are receiving a bargain.

Councilmember Barber said there should be a deadline in which the applications are to be received.

Councilmember Kelepolo said the donation applications should be required by May 1. The Financial Committee will meet that week and present the information to the city council during a public hearing.

Mr. Oyler said the entities with ongoing programs can be told to provide their applications by the deadline indicated, however, other requests may be received throughout the year.

Councilmember Kelepolo concurred. He discussed the possible verbiage change to accommodate miscellaneous applications received after the budget public hearing.

Mr. Oyler said the policy can be adjusted at any time if needed. The staff needs direction from the city council as to the current policy.

Councilmember Sorensen said this is a working document and will be revised from time to time. The policy presented is a good building block.

Councilmember Wadsworth asked if the city council is opposed to including additional criteria. He read the following.

The criteria used to grant a donation

- 1. The [event]/purpose should be governmental or non-profit.*
- 2. The [event]/purpose shall not be associated with a formal educational organization, public charter, home school, private or athletic event.*
- 3. The [event]/purpose cannot compete with a city sponsored event nor duplicate an event sponsored by the city.*
- 4. The event/purpose should provide an economic benefit to the city.*

During the discussion Councilmember Wadsworth also recommended the following additional criteria:

- 5. The event/purpose should promote the general welfare [see *footnote below] of the citizenry (or benefit a substantial number of Spanish Fork citizens. "Substantial" needs to be defined.)*
- 6. A beneficiary cannot receive more than one type of donation (cash, municipal services, and fee waivers) for each event unless it can show that the donation does not pose a burden on the public treasury, or give an advantage over other beneficiaries.*
- 7. A full disclosure of the group and people involved with a full accounting of how the money was spent.*

**Footnote: U.S. Constitution, Article 1, Section 8, Clause 1: "The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States..."*

Councilmember Christensen said some events do not specifically benefit a substantial amount of the residence, however, they provide a benefit to the community.

Councilmember Kelepolo said we need to qualify what substantial is. He suggested the benefit to the residents be reviewed by the Financial Committee.

Councilmember Wadsworth again requested to add other criteria. He wants the policy to be more explicit.

Councilmember Kelepolo said the Financial Committee can qualify the requests.

Councilmember Sorensen said if the policy is highly restrictive, then we are legally bound.

Councilmember Barber asked if a line in the policy should read "must be" instead of "should be."

Mr. Baker said the current verbiage is appropriate.

Councilmember Kelepolo said we do not know what future requests will be received and the purpose is to filter the requests but allow the city council to make the final decision. The policy should not be too restrictive.

Councilmember Barber said he agrees with a time frame for the application reviews to hold the Finance Committee more accountable.

Councilmember Wadsworth said the policy should be based on sound principles. The event/purpose should promote the general welfare of the citizenry (or benefit a substantial number of Spanish Fork citizens. He said the word "Substantial" needs to be defined.

Councilmember Kelepolo asked how we clarify the word "substantial."

After some discussion Councilmember Barber suggested deleting the word "substantial."

Councilmember Wadsworth agreed. Councilmember Wadsworth said each entity should not receive more than one type of donation (cash, municipal services, and fee waivers) for each event unless it can show that the donation does not pose a burden on the public treasury, or give an advantage over other beneficiaries.

Mayor Barney said each donation requested should undergo the filtering process.

Councilmember Kelepolo said if he were the entity and only one donation could be received he would just ask for one lump sum.

Councilmember Sorensen asked why an entity receiving various donations is an issue. Some entities receive multiple donations and the events benefit the residents involved.

Councilmember Wadsworth said the policy needs to be based on sound principles.

Councilmember Sorensen asked Councilmember Wadsworth what the principles are.

Councilmember Wadsworth said the policy is too broad.

Councilmember Kelepolo made a **motion** to approve the donation policy including the process to refer the applications to the Finance Committee to review and forward to the city council if appropriate and the event or purpose should be beneficial to the citizens of Spanish Fork.

Councilmember Sorensen **seconded**, and the motion **passed** with a majority vote.

Councilmember Wadsworth was opposed to the motion.

Mr. Oyler said a motion should also be made to approve or disapprove the annual events listed for this budget year.

Councilmember Kelepolo made a **motion** to approve the fee waivers and donations as listed and ask that each entity submit their applications by May 1, 2005. Councilmember Sorensen

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

Mr. Oyler said the public hearing for the budget is held in June. The hearing is noticed in May. This may not allow adequate time and the application deadline may need to be April 1.

Mr. Baker said the policy does not specify a deadline date.

George Bradford Boundary Line Agreement

Mr. Robinson said the George Bradford Boundary Line Agreement consists of a small piece of property to be acquired for the trail system.

Councilmember Barber made a **motion** to approve the George Bradford Boundary Line Agreement and authorize the mayor to sign the agreement. Councilmember Christensen **seconded**, and the motion **passed** with a unanimous vote.

Golf Course Fees - Roy Christensen

Mr. Robinson said Roy Christensen from the golf course is present to request a change in some of the golf fees.

Mr. Christensen proposed an increase in the fee for yearly pass holders as indicated in the agenda packet. Also, instead of the passes being valid during the calendar year they will be valid from January 15 to November 15. He also proposed a cap of 225 season passes to be sold per year.

Councilmember Barber asked concerning the request to waive the \$10 fee for resident cards.

Mr. Christensen said when a new card was printed a \$10 fee was charged due to the cost of the new printing machine. The fee is no longer necessary and he suggested eliminating the \$10 printing fee.

Councilmember Kelepolo made a **motion** to approve the proposed golf fee changes as presented. Councilmember Wadsworth **seconded**, and the motion **passed** with a unanimous vote.

Mr. Robinson asked if Mr. Christensen could present a report concerning the use of the golf course by the high schools.

Mr. Christensen said there have been recent problems concerning the use of the golf course by the high schools and what is to be provided. He suggested writing a policy stating specifically what is to be provided in order to eliminate any misunderstandings.

Councilmember Kelepolo said one issue is if all of the regions are willing to follow the policy. If we are the only golf course following the guidelines, we look like the bad guys. He was concerned the other golf courses will not follow through.

Mr. Christensen said he has met with all of the golf course managers in the area. They have all agreed that the policy is a good idea and they are willing to follow it. Mr. Christensen said the purpose of meeting with the other golf courses was to get their approval. They all agreed to sign and carry out the policy.

Truck Purchases

Richard Nielson said there are two trucks budgeted for \$95,000. The trucks being requested will cost approximately \$110,000. The first truck is a new 2-ton truck with a roll-off bed. The roll-off system will provide increased versatility. The second truck is a pick-up with a service bed. Originally a 3/4 ton truck was requested, however, the Motor Pool Department is requesting a 1-ton truck to eliminate overloading. Pictures of the trucks were presented. The advantages of a roll-off bed have been discussed previously with the city council. This system will allow beds to be dropped off and remain at various locations and still allow the truck to be used on other projects.

Councilmember Barber asked if the roll-off bed system can be operated by one person.

Mr. Nielson concurred. Also, there are several types of beds available which could be purchased in the future such as an asphalt truck bed and a water truck bed.

Councilmember Kelepolo asked if the truck beds will be interchangeable.

Mr. Nielson concurred and said there will be a higher up-front cost but we will save money on future purchases.

Mayor Barney said he can see the advantages.

Councilmember Kelepolo asked for the longevity of the trucks.

Mr. Nielson said the trucks last at least 15 or 20 years.

Councilmember Wadsworth asked how the truck with the roll-off system could do the work of several trucks.

Mr. Nielson said the truck can be used as a dump truck, salter truck, water truck, or asphalt truck with the different beds available. This allows for more versatility.

Councilmember Sorensen said money is saved with only one person needed to operate the roll-off bed and to pick up another bed.

Mr. Nielson concurred. He said the roll-off system saves on man power since several people were needed for a long period of time to exchange beds on the current trucks being used.

Councilmember Kelepolo made a **motion** to accept the proposal for the purchase of two trucks as presented in the amount of \$110,000. Councilmember Wadsworth **seconded**, and the motion

passed with a unanimous vote.

Other Business

Councilmember Christensen reminded everyone of luminary night at the cemetery to be held on Christmas Eve after it is dark. Salem City has held this event for many years. A suggestion was given to those using paper bags with candles in them as a luminary. The bags will not catch fire if the candle is placed in a jar before it is placed in a paper bag. Councilmember Christensen said this a beautiful and special event and encouraged everyone to attend.

Adjournment to Executive Session

Councilmember Kelepolo made a **motion** to move into an executive session to discuss legal issues. Councilmember Sorensen **seconded**, and the motion **passed** with a unanimous vote. The meeting adjourned at 7:49 p.m.

Connie Swain, Deputy Recorder

Approved: December 21, 2004