

**Adopted Minutes
Spanish Fork City Council Meeting
December 21, 2004**

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

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

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: Glenn James, Sherman Huff, Matthew Champneys, David A. Mair, Bryan Perry, Richard Seely, Seth Stickney, Jayson Albee, Shirleen Albee, Kevin Fenn, Tami Fenn, Patrick Casaday, Andrea Warren, David Olsen, Tom Scribner, Jason McGill, Garrett Andersen, Josh Bohlig, Brian Broadhead, Kayson Spendlove, LeGrand Woolstenhulme, Natalie Hollingshead, Christin Stephen, and Royden Hill.

Minutes

Councilmember Barber made a **motion** to approve the minutes of the November 6, 2004 City Council meeting as presented. Councilmember Kelepolo **seconded**, and the motion **passed** with a unanimous vote.

Councilmember Sorensen made a **motion** to approve the minutes of the December 7, 2004 City Council meeting with changes as noted. Councilmember Barber **seconded**, and the motion **passed** with a unanimous vote.

Employee of the Third Quarter 2004

Mayor Barney tabled this item until the January 4, 2005 meeting.

Agenda Request - Sign Ordinance - Matt Champneys/Spanish Fork Theater

Mr. Champneys outlined why the community theater is important to the community. Community theaters have been a tradition since the pioneers settled in the area. Spanish Fork Community Theater was established 20 years ago. The last production cost more than \$20,000 and consisted of 150 cast members. The theater board feels they are donating time and money and not getting the support they deserve from city government. He said they are not asking for funds. The city limits them on their ability to promote their productions and generate funds through ticket sales. Signs promoting their productions on public property in high traffic locations would help. Other

communities such as Provo hang banners suspended over University Avenue promoting community events. He said he realizes banners cannot be hung over streets due to the high winds. Mr. Champneys said he approached the city planning office and city manager's office and was told no with little reason why. He said in all fairness the sign ordinance does not allow for the signs he is requesting. He said the city's Festival of Lights signs are in violation of the ordinance. He said the community theater's productions are just as worthy of promotion. He does not want to see the city junked up by signs. He suggested an approval process by application for sign requests with an application fee to cover costs to the city.

Mr. Pierson said he understands the frustration but is bound by the ordinance. He reviewed the ordinance. One of the reasons for the ordinance is to protect the city from the liability. Damages or traffic confusion can be caused by signs on public property. He said there are exceptions to the ordinance. The Utah Department of Transportation gave the city permission to place the Festival of Lights signs on State Roads.

Mayor Barney said there should be a process for signs to be requested.

Mr. Pierson said the City Council recently amended the ordinance to address the problem with yard sale signs on Main Street. The City Council will need to consider all of the factors before amending the ordinance.

Mr. Oyler said after his discussion with Mr. Champneys he discussed the issue with Mr. Baker. There are two events in the ordinance which allow for signs. They are Fiesta Days and Festival of Lights. One suggestion was to look at the feasibility of amending the ordinance to allow special signing to take place to allow citizens to be made aware of important events. Signs on State roads require approval from the Utah Department of Transportation. The City Council could direct city staff to make a recommendation for possible ordinance amendments to address the promotion of important community events.

Mayor Barney asked if this matter should be addressed by the Planning Commission.

Mr. Oyler said the matter would be presented to the Development Review Committee, then to the Planning Commission and back to the City Council.

Mr. Pierson asked the City Council to remember there are many events during Fiesta Days which will involve many signs. Electric banners at the city entrances have been suggested.

Mr. Oyler said if the ordinance is amended, it will be important to include the appropriate criteria and the locations for signs to be allowed. During Fiesta Days the signs should be connected with the annual city celebration.

All of the City Council members agreed to begin the process to consider amending the sign ordinance.

Agenda Request - Miss Scholarship Donation

The applicant was not present at any point throughout the meeting and this item was passed.

Agenda Request - Hearthstone Development - Whispering Willows Preliminary Plat Extension

LeGrand Woolstenhulme said there are going to be buyers and a development if the extension is granted. Within a few days after the prior extension and submitting to the Development Review Committee for final approval they were informed by Richard Nielson of a storm drain issue. It took LEI and the city 60 days to resolve the issue. Once the storm drain issue was resolved, Mr. Woolstenhulme asked for bond letters. This process took another 45 days. Then they went back to the bank and the bank asked for an updated appraisal which took another 30 days. Due to unforeseen events the previous 90-day extension was insufficient. They have also incurred additional costs. During the delays the project has been enhanced. They will have to build according to the new standards with garages instead of carports. Mr. Woolstenhulme requested a 6-month extension.

Mr. Scribner apologized and said there have been some unforeseen events and additional expenses. It will be a nicer project in the end.

Councilmember Kelepolo asked if there are any concerns.

Mr. Pierson said under the new master planned development ordinance they are required to install garages and not carports. The design for the project is much nicer.

Councilmember Kelepolo asked if they will be delayed by the weather.

Mr. Woolstenhulme said they plan to install the underground utilities now and begin the foundation work in the spring. They anticipate that the project will be completed before the 6-month period expires.

Councilmember Kelepolo made a **motion** to approve the request from Hearthstone Development for a 6-month extension of the Whispering Willow Development. Councilmember Christensen **seconded**, and the motion **passed** with a unanimous vote.

Agenda Request - Michael Nelson - Request to Convert Property at 115 East 300 North to Private Physician's Office

Dr. Nelson said he is a private physician and bought a house near Main Street thinking that it would make a nice physician's office one day. He has been talking with Mr. Pierson since 1999. He was advised to wait since the area was not ready for rezoning. The property across the street was sold where Magleby's Fresh is located. He said he again approached Mr. Pierson. Mr. Pierson's concern is that the area is residential. He was told his property will never be commercial. Near his property is a flourishing business. He is requesting to convert his home to a physician's office. If a rezone is required, he will go through the process. The office will operate only 3 days per week. He has an area for parking. He is a foot and ankle specialist and

wants to keep his expertise in Spanish Fork.

Mayor Barney said the process needs to be followed. He directed Dr. Nelson to make application for a zone change.

Mr. Pierson said it would first be an application to amend the General Plan. The property is shown as residential. If the General Plan is amended to Residential Office then a rezone application will be needed. If the rezone is approved, a site plan approval will need to take place before Dr. Nelson can move forward with his plans.

Dr. Nelson said he was not given this option.

Agenda Request - Tami Fenn - Flooding in the Oakview Subdivision

Mrs. Fenn said as the City Council is aware her home and others in her subdivision received flood damage due to a failed storm drain. Her home has received thousands of dollars in damage and many man hours to remove and clean up the damage. She said that Hearthstone is preparing to replace the storm drain line and she expressed appreciation to the city and Hearthstone Development for addressing this matter. She requested the following 3 critical issues be addressed: the time line for completing the project, the efficiency of the project and regular maintenance of the storm drain line. She said these items should be addressed during the discussion with Hearthstone Development later in the meeting.

Mayor Barney said he is aware of the problem in the area. Young families have bought homes and found later that they have a lemon. Mayor Barney assured the homeowners that he will do everything he can to make sure the project is completed.

Councilmember Kelepolo concurred. He said he would also like to see Mrs. Fenn's 3 issues addressed.

Councilmember Sorensen said any person would be devastated with the flooding problems that have taken place and he concurred with Mayor Barney and Councilmember Kelepolo.

Councilmember Christensen said his heart goes out to the homeowners affected by the flooding. The City Council will make sure the issue is remedied.

Councilmember Barber said the City Council wants to make sure the issue is resolved.

Mr. Scribner said Hearthstone Development is working with the city staff and the engineers to determine what needs to be done and they are in the process of getting it done immediately. A funding option will be discussed later on the agenda.

Mayor Barney said he wants to see dirt flying in the area immediately.

Appointment of Board, Commission, and Committee Members

Mayor Barney presented the following individuals for appointment to board, commission and committee vacancies:

Bjorn Pendleton and Cindy Gleaves - Arts Council

Susan Barber - Parks and Recreation Committee

Russell Olsen - Utility Board

Sherman Huff and Dave Lewis - Planning Commission

Mr. Barney said there are 2 vacancies on the Planning Commission. There is a vacancy with a 1-year term and a vacancy with a 5-year term. The City Council will need to determine the terms to be filled by the individuals appointed.

Councilmember Kelepolo made a **motion** to approve the appointment of Sherman Huff to the Planning Commission for 5 years and Dave Lewis to the Planning Commission for 1 year. Councilmember Sorensen **seconded**, and the motion **passed** with a majority vote. Councilmember Barber was opposed to the motion.

Councilmember Kelepolo made a **motion** to accept the other individuals to the positions as stated. Councilmember Christensen **seconded**, and the motion **passed** with a unanimous vote.

Public Hearing - Ordinance Z07-04 - Hill Property Rezone - 1000 West 900 South

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

Mayor Barney reviewed the procedures for a public hearing.

Mr. Pierson said the applicant is unable to be present. He requested this item be tabled until the first meeting in January or the City Council can proceed in his absence.

Mayor Barney said we will proceed without the applicant since the public hearing is scheduled.

Mr. Pierson said the applicant is requesting to rezone the property at 700 South 700 West from R-R to R-1-12. The General Plan shows the property as 1 to 2.5 units to the acre. Also, they will request the River Cove Subdivision be amended to include this property. The property consists of 13 acres. The adjacent properties are zoned R-1-9 and R-1-12. The Development Review Committee and Planning Commission have reviewed the request and both recommended approval with the 4 findings listed in the agenda packet.

Mayor Barney opened the meeting for public comment. No comments were given. The public comment portion of the meeting was closed and the meeting was opened for City Council discussion.

Councilmember Kelepolo asked if there are any issues with the flood plain.

Mr. Pierson said there are none.

Mayor Barney said both the Development Review Committee and Planning Commission recommended approval.

Councilmember Christensen asked if this area will become part of the River Cove Subdivision.

Mr. Pierson concurred and will review the plans if the rezone is approved.

Councilmember Christensen made a **motion** to approve Ordinance Z07-04 to Rezone the Gerald Hill Property at 700 South 700 West with the following FINDINGS:

1. The property has been removed from the flood plain,
2. The rezone is consistent with the policies of the General Plan,
3. The property meets the characteristics of the neighborhood in that the surrounding properties are zoned R-1-9, R-1-12 and R-R,
4. The property is within the Growth Management Boundary.

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

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

River Cove Amended Preliminary Plat

Mr. Pierson said this is a request from West Field Development to amend the River Cove Subdivision from 205 units to also include the Hill property. The developer has acquired some capacity including some from Jim Biesinger. They have also reduced the number of overall lots. The lots range from 9,500 to 20,000 square feet in size. They are proposing the same exteriors as the subdivision to the south. The Development Review Committee and Planning Commission have reviewed the request and both recommend approve with the 5 conditions listed in the agenda packet. Condition number 4 was amended slightly by the Planning Commission.

Councilmember Kelepolo asked concerning the park.

Mr. Pierson said the developer will be installing the trail and cleaning up trees in the area as needed.

Mayor Barney asked if this request is approved, when will the bridge construction begin.

Mr. Pierson said the bridge construction will begin in January or February.

Councilmember Kelepolo asked how many lots were reduced on the south side.

Mr. Pierson said he is not sure of the exact number but they cannot exceed the capacity he acquires.

Mr. Baker said the packet contains an outline of the changes.

Councilmember Sorensen asked concerning the lots along the river.

Mr. Pierson reviewed the lot layout along the river and said the area along the river will be deeded to the city.

Mr. Heap said if basements are constructed they must be 1 foot above the flood plain.

Mayor Barney said the sandy ground will allow the water to travel.

Mr. Heap said the engineer will need to provide a certificate before they can build basements.

Councilmember Christensen asked concern the traffic in and out of the subdivision.

Mr. Pierson pointed out the access points.

Councilmember Kelepolo made a **motion** to approve the River Cove Amended Preliminary Plat with the following conditions:

1. Meet all of the Construction and Development Standards, including the American's With Disability Act requirements for the sidewalks and the conduit size and wiring requirements for meter reading,
2. Meet all prior conditions,
3. Follow the density calculations allowing for 242 units, but not to exceed 205 buildable total units unless additional sewer capacity credits are acquired,
4. Pay for ½ of West Park Drive for the portion which borders this development,
5. The final plat on the north section of the property cannot be recorded until the title issues are resolved.

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

Special Events Policy

Mr. Baker said a new version of the Special Events Policy is in the amended agenda packet. The new version incorporates all changes recommended by the Recreation Committee. Mr. Baker reviewed the changes.

Councilmember Sorensen said the policy looks good but he is concerned with time limits for events to end.

Mr. Baker said the noise ordinance addresses this issue to a degree. Also, there are no residential areas near the Fairgrounds. If the City Council wants a time limit it can be added.

Councilmember Kelepolo said the Rodeo does not go past 11:00 p.m.

Councilmember Christensen said some events go into the night until around 4:00 a.m.

Mr. Baker said if we are not hearing about noise problems then it must not be an issue.

Councilmember Kelepolo asked concerning lighting.

Mr. Baker said the lighting on the Sports Park should not cause a problem. Lighting at the old

ballpark may be an issue.

Councilmember Kelepolo said there may be issues with noise and lights.

Mr. Baker said a time limit can be made part of the policy.

Mr. Oyler said if there is a big concern with noise it will be related to concerts and dances.

Mr. Baker said the noise ordinances address the noise level and the time of day limits.

Councilmember Sorensen said the policy could be approved tonight and amended later if needed.

Mr. Oyler said the City Council should not rely on the noise ordinance to control the noise.

Mr. Baker suggested an addition to the ordinance requiring the Recreation Committee to set time limits as needed based on the event.

Mr. Oyler said an event is being requested for Spring 2005 and the policy is needed.

Mr. Robinson said he would not have problem with a time limit but allow the Recreation Committee discretion.

Councilmember Christensen asked concerning the affect of a time limit on the Gun Club.

Mr. Baker said the shoots should be completed within the time limit.

Councilmember Sorensen made a **motion** to approve the Special Events Policy with a time limit at the discretion of the Recreation Director or his designee, but not to exceed 1:00 a.m.

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

Bid Award - Billboards

Mr. Baker said a request for proposals concerning the bill boards was submitted to 10 companies following a proposal received from Simmons Media. The RFP was submitted at the request of the City Council. The billboards are changed 4 times per year. Also, revenue generated for the rental of the backside of one of the billboards is part of the proposal. Simmons Media gave two options with their proposal. Mr. Baker recommended accepting the bid from Simmons Media and requested direction from the City Council as to the option desired.

Councilmember Sorensen said he would like to see the contract reduced to a period less than 10 years.

Councilmember Kelepolo made a **motion** to award the bid to Simmons Media with option 1 and authorize the staff to negotiate a 5-year term. Councilmember Sorensen **seconded**, and the motion **passed** with a unanimous vote.

Ordinance 16-04 - Ordinance Authorizing Telecommunications Meetings

Mr. Baker said during a work session the City Council talked about an ordinance allowing electronic meetings. Mr. Baker has drafted an ordinance and he reviewed the draft. The ordinance would allow the city to involve a member of City Council or staff to participate in a meeting from a remote location. The public must participate from the anchor location which is the city office.

Mayor Barney asked to make the decision when the full quorum is present.

Councilmember Kelepolo asked if a member can pick and choose which meetings to participate in. There may be some issues and some content items which we could require the members of the City Council or staff to be present.

Councilmember Sorensen said the draft is a great start and will be useful in the future. He said he is concerned with some issues such as public hearings.

Councilmember Kelepolo made a **motion** to table Ordinance 16-04 until January 18, 2005. Councilmember Sorensen **seconded**, and the motion **passed** with a unanimous vote.

Hearthstone Agreement

Mr. Baker said this item is related to the issue address by Mrs. Fenn. The city has been concerned with the issue. The engineer has determined what is to be done to resolve the flooding problem. The contractor has agreed to replace the storm drain line. Hearthstone Development said they have no money and have a proposal. The city will front the money and Hearthstone Development will pay back the funds. The agreement anticipates the cost of the project to be \$30,000. Hearthstone Development also owes the city \$70,000 for another unrelated issue. This agreement will allow the storm drain line to be changed as soon as possible. Mr. Baker said the city should have the funds replaced by mid January and there are penalties if the funds are not received. The agreement is secured by property. The city has no liability in this matter and he feels we should move forward with the agreement.

Councilmember Barber asked how long Hearthstone Development has owed the \$70,000.

Mr. Baker said 1.5 years.

Councilmember Barber asked why no interest is being charged.

Mr. Baker said the money owed is not under contract and he felt it is better to receive the money owed and not fight over interest.

Mayor Barney said the important issue is to resolve the flooding issue and replace the storm drain line.

Councilmember Sorensen commended Mr. Baker for negotiating the issue.

Councilmember Kelepolo asked if the 3 issues presented by Mrs. Fenn have been addressed.

Mr. Baker said the contractor is prepared to begin the work to replace the storm drain line this week.

Mr. Heap said the project could be completed in 3 days.

Mayor Barney estimated the project will take 1 week to complete.

Councilmember Kelepolo asked who will maintain the new line.

Mr. Baker said the city will be responsible to maintain the storm drain line just as any other line.

Councilmember Kelepolo made a **motion** to accept the Hearthstone Agreement as presented. Councilmember Christensen **seconded**, and the motion **passed** with a unanimous vote.

Smiley/Hall Mediation Agreement

Mr. Baker said as directed by the City Council he has contacted a mediator to address issues pending. The issue is still pending, therefore, no details will be given. The issue is related to funds owned between Mr. Smiley and Mr. Hall and the city. The mediation is scheduled for January 27, 2005 and Mr. Burnett has requested a mediation agreement be signed before the mediation process is to begin. Details of the mediation will be discussed during an executive session.

Councilmember Barber made a **motion** to authorize Mr. Baker to sign the Smiley/Hall Mediation Agreement. Councilmember Sorensen **seconded**, and the motion **passed** with a unanimous vote.

Independent Audit Report (Tabled from December 7, 2004)

Mr. Clark said the city hired Gilbert and Stewart to prepare an independent audit report. There are new requirements for the audit report. He pointed out that pages 3-10 of the audit report is a summary. He turned the time to Ben Probst of Gilbert and Stewart.

Mr. Probst reviewed the contents and highlights of the audit report presented.

Councilmember Sorensen made a **motion** to accept the Independent Audit Report as presented. Councilmember Christensen **seconded**, and the motion **passed** with a unanimous vote.

2005 Airport Grant Application

Councilmember Kelepolo made a **motion** to table the 2005 Airport Grant Application until after the approval by the Airport Board. Councilmember Sorensen **seconded**, and the motion **passed** with a unanimous vote.

Other Business

Mayor Barney wished citizens a Merry Christmas and a Happy New Year.

Councilmember Christensen reminded citizens of candle lighting ceremony at the City Cemetery on Christmas Eve this Friday evening.

Adjournment to Executive Session

Councilmember Kelepolo made a **motion** to move into an executive session to discuss land issues. Councilmember Christensen **seconded**, and the motion **passed** with a unanimous vote. The meeting adjourned at 8:07 p.m.

Connie Swain, Deputy Recorder

Approved: January 4, 2005