

**Approved Minutes
Spanish Fork City Council - Special Meeting
September 12, 2005**

The meeting was called to order at 6:30 a.m. by Mayor Dale R. Barney.

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; S. Junior Baker, City Attorney; Emil Pierson, Planning Director; Seth J. Perrins, Assistant City Manager; Kent R. Clark, Finance Director/Recorder; Connie Swain, Deputy Recorder.

Citizens: Rodger L. Hardy, *Deseret News*, Lana Creer Harris, *Spanish Fork Press*.

Ordinance No. 13-05 - An Ordinance Amending the Spanish Fork Municipal Code Concerning Sexually Oriented Businesses

Mr. Baker said Provo City recently amended their sexually oriented business licensing ordinance. This caused a need for us to review our ordinance. After reviewing our ordinance some needed changes were discovered. Mr. Baker reviewed the changes including defining sexually oriented businesses which sell sexual devices or adult magazines. We found our current ordinance needed to be tightened up. Mr. Baker turned the time over to attorney H. Craig Hall of Chapman and Cutler. Mr. Hall assists legislative groups in drafting sexually oriented business ordinances.

Mr. Hall said he talked with Mr. Baker on Thursday concerning the proposed changes and said the changes will meet our needs. He suggested reviewing the process of making amendments and also additional review of our ordinance and pointed out the need for a reorganization of some terms. He questioned if “sexual encounter center” needed to be included in the ordinance. He reviewed a related case regarding regulations in a commercial free space and said the city or legislative body is given a lot of discretion as to what is allowed. Mr. Hall also recommended that within the next few weeks the city adopt a more comprehensive revision to fix additional areas of concern. He said he is available to discuss the details in a less public session.

Mr. Baker said there are two basic ways to adopt a sexually oriented business ordinance. He prefers an ordinance defining the percentage of related merchandise to be displayed in the establishment. The ordinance also defines sexual devices and makes reference to advertising this type of business. Another purpose of the ordinance is to allow certain types of art classes offered at colleges or universities. This ordinance cannot prevent sexually oriented businesses in Spanish Fork but can prohibit those types of businesses in commercial and residential areas. By constitutional law the ordinance cannot eliminate these types of businesses but can minimize it.

Councilmember Kelepolo asked if the only changes in the ordinance are the definitions.

Mr. Baker said the amendment tightens our ordinance. Also, our current ordinance refers to the old Zoning Ordinance, Title 17. The amendment makes reference to the new Zoning Ordinance, Title 15. Mr. Baker reviewed the zones allowing sexually oriented businesses. It also defines the distance allowed from residential areas to protect those types of areas.

Councilmember Wadsworth pointed out a typographical error in the ordinance.

Mr. Baker said he would make the correction before the ordinance is published.

Councilmember Barber asked concerning signage.

Mr. Baker said in section A(7) the amendment refers to advertising and allows advertising on the premises only.

Councilmember Sorensen made a **motion** to accept Ordinance 13-05, An Ordinance Amending the Spanish Fork Municipal Code Concerning Sexually Oriented Businesses. Councilmember Kelepolo **seconded**, and the motion **passed** with a unanimous vote. A roll call vote confirmed the unanimous vote.

Adjournment

Councilmember Kelepolo made a **motion** to adjourn. Councilmember Christensen **seconded**, and the motion **passed** with a unanimous vote. The meeting adjourned at 6:45 a.m.

Connie Swain, Deputy Recorder

Approved: October 4, 2005