

**Approved Minutes  
Spanish Fork City Council Meeting  
September 20, 2005**

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

Elected Officials Present: Mayor Dale R. Barney, and Councilmembers Matthew D. Barber, Paul M. Christensen, Everett Kelepolo, and Seth V. Sorensen. Councilmember Chris C. Wadsworth was excused. *Councilmember Wadsworth participated in part of the meeting via the telephone as indicated during the last portion of the minutes.*

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/Recorder; Seth J. Perrins, Assistant City Manager; Dale Robinson, Parks and Recreation Director; John Bowcut, Information Services Director; Connie Swain, Deputy Recorder.

Citizens: Pat Parkinson, Royden Hill, Bjorn Pendleton, Anna Murdock, Karen Payne, Meg Grierson, Tia Trimble, Char'Ree Reynolds, Janice Nielsen, Jessica Wilkinson, Norma Nielsen, Brady Christensen, Wyatt Swenson, Austin Teasdale, Treaci Tagg, Grace Carter, Courtney Brown, Jim Slaymaker, Ida Kay Slaymaker, Sherman Huff, Kevin Creer, Niki Cook, Heather Hill, Tyler Koyle, Matthew Reese, Mike Tanner, Nikki Monk, Ray Clayson, Bryce Westwood, John Webster, Tyson Edwards, David Davis, Bill Summers, and Rodger Hardy.

**Agenda Request - Billboard Permit by Reagan Outdoor Advertising**

This item was called and representatives of Reagan Outdoor Advertising were not present.

**Art's Council Update**

Councilmember Christensen introduced the members of the Arts Council. They were present to promote the upcoming Harvest Moon Hurrah celebration. Mr. Pendleton has organized the committee involved in planning this event.

Mr. Pendleton said the event will take place on October 8 beginning at 4:00 p.m. and will continue until we can't party any longer. The event will include three hours of entertainment such as the Utah Valley Children's Choir, individuals from the local Krishna Temple, theater groups, bands, dance groups, and more. Door prizes will be awarded including a grand prize worth \$100. There will be a movie shown on a large portable screen in the park. All events are free with the exception of a nominal fee for old fashion photos and vendors. Mr. Pendleton advised everyone to bring their jackets and a blanket and come prepared to enjoy the event with others in the community.

Janice Nielsen said there will be free food provided. The dinner will include chili, scones, honey,

doughnuts, hot chocolate, corn, candy and more. This event celebrates Spanish Fork as a great place to live. There will be something for everyone. Please come out and celebrate with the whole community.

Char'Ree Reynolds said she is in charge of the children's area. The committee has been meeting for weeks to arrange for a great event. Her area will be catering to children of all ages. Activities will include, hay rides, pony rides, old fashion photos for a minimal fee. Hatty the Clown will provide face painting during the event.

Mr. Pendleton introduced all of the committee members.

Councilmember Christensen said he appreciates all of the effort and time donated by the celebration committee. He asked the citizens to please come and enjoy this amazing event.

A round of applause was given.

Mayor Barney again called for representatives of Reagan Outdoor Advertising. None were present.

### **Employee and Volunteer Background Checks**

This item was passed and will be presented during an upcoming meeting.

### **Farmer's Market**

As directed by the City Council Mr. Perrins presented information gathered concerning other Farmer's Markets. The information was requested following as agenda request received from Pat Parkinson during the September 6, 2005 City Council meeting.

Councilmember Kelepolo asked why we were charged a fee by the State this year.

Mr. Perrins said the fee may have been a result of brochures they provided to the city concerning Farmer's Markets. Mr. Perrins presented the following information:

#### *Spanish Fork Market*

- Space is provided by the city
- City pays a \$20 fee to the State
- Guidelines - food items only - must meet State Department of Agriculture and Food
- Up to ten vendors participate each week
- Participants pay no fees
- The city does not administer the market - participants govern themselves
- Pat Parkinson requested the City Council expand our guidelines
- A review of other markets was requested

#### *Provo City Market*

- Administered by Central Neighborhood Chair (volunteer) and Downtown Provo Alliance

- City only gave an initial grant of \$1,300
- Market allows: farm produce, handmade crafts and ready-to-eat food
- Runs from mid-June to mid-October from 9:00 a.m. to 2:00 p.m.
- Consists of 28 booths at the peak of operation
- Requires about ten hours of work during the week to administer the market and seven hours during the event

#### *Salt Lake City Market*

- Administered by Salt Lake Downtown Alliance (DTA) - 1 DTA employee and other paid employees
- Salt Lake City is not involved in administering the market but does own the park
- Market allows: farm produce, homemade arts and crafts and ready-to-eat food
- Operates mid-June to mid-October from 8:00 a.m. to 1:00 p.m.
- Vendors are required to purchase a “Special Events Permit” - includes a tax ID number and insurance requirements
- At least 50 percent of the vendors must be allocated to farm produce
- 70 to 80 farm produce vendors pay \$170 for the 20 weeks
- 70 to 80 arts and crafts vendors pay \$335 for the 20 weeks

#### *Ogden Market*

- Administered by Downtown Ogden Incorporated (DOI)
- City contributes \$12,000 each year for advertising
- Sponsors provide other operating revenue
- Operates mid-July to mid-October from 8:00 a.m. to 1:00 p.m.
- Has strong ties to the art community - receives funding and support from a national musician’s union
- “Little Sprouts” - allows for young produce growers or crafters
- Vendors pay \$100 for the year or \$10-15 per week, and \$25 for a business license
- More than 100 total vendors
- Saturday operation requires four paid employees

#### *Similarities*

- All markets are operated or administered by Downtown Business Alliances and not their respective cities
- All require on-site supervision
- All markets allow produce, food and crafts
- All markets charge their vendors a fee to participate

Mayor Barney asked who is responsible for collecting sales tax from the vendors.

Mr. Perrins said in many cities no one is responsible for collecting sales tax.

Councilmember Kelepolo said he would prefer not to change our Farmer’s Market this late in the year but feels other options should be reviewed. He said space in the parking lot is limited and asked if the market could return to the city park. He asked if expanding the market would provide a greater opportunity to draw more people to the downtown area.

Mr. Perrins said parking at the city park may be an issue due to the library parking needs. The North Park may be a possibility but would not draw people to the downtown area.

Councilmember Sorensen agreed with Councilmember Kelepolo in that it warrants continued consideration after the current year.

Councilmember Kelepolo said there are other committees that may be able to help us. He also asked Ms. Parkinson if she would consider volunteering if the market is expanded.

Ms. Parkinson said she would be happy to volunteer.

Mr. Perrins said all of the other markets contacted are operated by a downtown alliance. He said assistance from the Chamber of Commerce may also be a possibility.

Councilmember Sorensen said it may be a good idea to discuss the possibilities with our Chamber of Commerce.

Councilmember Christensen said our current market allows local growers the opportunity to provide the residents with fresh farm produce. The growers do not make a lot of money and he cannot see charging them a fee to participate. He said if the market is expanded it will become an added expense for the community. Our current market adds no additional expense or issues to address. He is in favor of keeping the market as it currently exists.

Mr. Perrins said currently there have been no problems or complaints from those who frequent the market.

Councilmember Barber said the market currently requires no support from the city staff. If the market is expanded, the burden will need to be placed on volunteers or someone other than city staff.

Mayor Barney called for a vote.

Councilmember Kelepolo made a **motion** to continue with the Farmer's Market as it is this year and ask the Chamber of Commerce to consider other opportunities for the Farmer's Market next year. Councilmember Sorensen **seconded** and the motion **passed** unanimously. Following a roll call vote the unanimous vote was confirmed.

Mayor Barney again called for representatives of Reagan Outdoor Advertising. None were present.

**Ordinance 10-05 - An Ordinance Repealing and Re-Enacting Title 8, Chapter 20  
Concerning Abatement of Weeds, Garbage and Refuse (Continued from September 6,  
2005)**

Mayor Barney said this item is still being researched and will be rescheduled on a future agenda.

**VoiceStream Wireless Option and Lease Agreement**

Mr. Baker said this is a standard lease agreement with VoiceStream Wireless for a cell tower. They are proposing the tower be constructed in the detention basin located at 1150 East 600 South. The rent amount was calculated based on the previous lease agreements with allowance for inflation and park maintenance costs which were added to a previous lease agreement regarding a cell tower in a park area.

Councilmember Barber asked if the location is listed in the lease.

Mr. Baker said the location and a legal description will be provided in an attached exhibit once the best location is determined by staff.

Councilmember Barber asked for the height of the tower.

Mr. Baker said the tower will be 80 feet in height allowing the tower to be co-locateable. Many power poles at this location are 70 to 75 feet.

Councilmember Barber asked concerning the type of tower to be constructed.

Mr. Baker said the pole will be constructed of metal.

Councilmember Barber asked where the power is underground at this location.

Mr. Pierson pointed out the power poles in the area. They are transmission lines. This pole will be similar to the poles at the ball parks and at 2550 East Canyon Road.

Councilmember Barber asked if the neighbors have been advised of the proposed tower.

Mr. Pierson said notices will be sent out and this item will come before the Planning Commission on October 5, 2005 as a conditional use permit which will include findings and conditions if approved.

Councilmember Barber asked if the City Council should approve the proposed lease agreement after the conditional use permit is considered by the Planning Commission.

Mr. Pierson said the City Council can determine when to approve the lease agreement.

Mr. Baker reviewed the new laws associated with conditional uses.

Councilmember Barber asked for the notification radius.

Mr. Pierson said everyone within 300 feet will be notified.

Councilmember Christensen asked if others were notified of the proposed cell tower.

Mr. Pierson said the applicant was asked to talk with everyone within 500 feet. We all use cell phones and this service is needed.

Mayor Barney said cell phone communication is what we are about these days.

Councilmember Barber made a **motion** to approve the VoiceStream Wireless Option and Lease Agreement subject to approval of the conditional use permit by the Planning Commission. Councilmember Kelepolo **seconded**, and the motion **passed** with a unanimous vote. Following a roll call vote the unanimous vote was confirmed.

Mayor Barney again called for representatives of Reagan Outdoor Advertising. None were present.

## **Economic Development**

Mr. Pierson said the City Council asked the staff to provide information and update the City Council concerning each department in the city. Mr. Pierson said one area he is assigned is Economic Development. The following is a brief overview of his presentation:

### *Vision Statement*

- To increase employment, promote investment and encourage growth and diversity in Spanish Fork

### *Whom does Economic Development for the city?*

- Planning Department staff - Emil Pierson and Lori Gillies
- David Oyler, Junior Baker, Kent Clark and Richard Heap
- Mayor and City Council
- Nebo School District

### *What Economic Development is taking place?*

- Respond too retail inquires - development process, available properties, traffic information, zoning requirements and demographics
- Respond to Economic Development Corporation of Utah (EDCU)
- Respond too industrially inquires - available property, city development process, financial options, utility questions and other relevant information
- Keep demographics and other information up to date

### *Planned ahead and prepared*

- The city has provided the proper infrastructure to handle new industrial and retail developments

Mr. Heap reviewed the early planning project to insure adequate infrastructure consisting of the following projects.

### *Early years*

- Spring Development - Cold Springs
- Acquired water rights
- Construct a large 138,000 volt electric substation at Trojan
- Built water storage tanks

#### *1980-1990's*

- Kirby Lane construction with utilities
- Expanded Waste Water Treatment Plant (WWTP) from 2.5 million gallons per day (MGD) to 5 MGD
- Installed 30" sewer trunk line from the plant down Main Street and along 300 West
- Installed new 30" transmission line from Cold Springs to McDonald's tripling the flow
- Redeveloped Malcolm Springs with a pump station - increased production by a factor of four
- New 12" water main down north Main Street for the industrial park
- Added new three million gallon water tank
- Installed 12" water main along north 300 West
- Installed new sewer line to Teleflex area with lift station
- Constructed Chapple Drive with utilities to the north for commercial and industrial uses
- Constructed 200 East north of RR track by WWTP with utilities
- Expanded Airport runway and taxiways
- Crab Creek Springs development with transmission line
- Installed curb and gutter, utilities along north main to Banta
- Up sized lines along Main Street
- Beautification of Main Street
- New distribution electric substation as needed
- Finger Hut utilities

#### *2000's*

- Constructed a 138,000 volt substation
- Installed the PI system to free up culinary water
- Enlarged the WWTP to population of 34,000 and now in the process of expanding to 44,000
- Installed citywide fibre optics and cable system

Mr. Bowcut said Spanish Fork Community Network (SFCN) was a vision resulting from requests from residents and businesses. Economic Development was also part of the planning process and vision for the new economy. SFCN is a critical part of the new economy. Spanish Fork City is ready. SFCN is a self-sustaining service and also pays its portion of the bond payment and also allows us to service our current businesses well. For example, Nature Sunshine utilizes a dedicated fibre optic link. This positions us to provide these services to businesses as needed as well as provide this service to residents.

Mr. Pierson said he has a neighbor who is the Information Technology Director for Nature Sunshine and he said the technology provided by the city is highly valued by Nature Sunshine. The city had vision and planned ahead. The information technology services provided by the city are available to companies immediately. We are prepared for economic development needs. Mr. Pierson continued his presentation.

*Existing Businesses and the jobs provided*

<b>Alcoa</b> -High quality aluminum extrusions	<b>220</b>
<b>Banta</b> -Printing Company	<b>140</b>
<b>Caselle Inc.</b> Designs municipal software	<b>56</b>
<b>Ensign-Bickford</b> -Manufacture explosives	<b>120</b>
<b>Klune Industries</b> -Integrated engineering and manufacturing company	<b>150</b>
<b>Longview Fibre</b> -Manufacture of paper packaging products	<b>230</b>
<b>Mountain Country Foods</b> -Manufacture and distribute food products	<b>156</b>
<b>Nature Sunshine</b> -Manufacture and distributor of health care products	<b>224</b>
<b>Nebo School District</b>	<b>2,371</b>
<b>PDM Steel</b> -Steel warehouse/processors	<b>60</b>
<b>Rocky Mountain Composites</b> -Design and manufacture composite materials	<b>31</b>
<b>J.C. Penny's</b> -Distribution Center	<b>140</b>
<b>Provo Craft</b> -Craft products	<b>258</b>
<b>Emerald Precision</b>	<b>70</b>
<b>Macey's</b>	<b>285</b>
<b>Albertson's</b>	<b>91</b>
<b>Cal Ranch</b>	<b>20</b>
<b>Shopko</b>	<b>81</b>
<b>Kmart</b>	<b>72</b>
<b>TOTAL</b>	<b>4,775</b>

*Retail Developments*

- Focus on bringing in more commercial projects
- The city's sales tax revenue was \$2,671,83 in 2005 which was around 35% of the General Fund Revenue and is projected to be 25% for 2006
- Changes are being made in the sales tax process that could affect municipalities and the amount of sales tax revenue received
- We don't want to rely on one or two businesses for our sales tax revenue

*Sales tax Revenue* - our sales tax revenue continues to increase

*Incentives - Commercial*

- Can we give incentives to commercial developments? No, but Redevelopment Agencies (RDA) and Economic Development Agencies (EDA) can be used for commercial developments
- What incentives could be requested and do we need to give incentives for commercial developments? It will depend on the location and the existing infrastructure. Incentives could be a deciding factor on whether a commercial retailer locates in Spanish or somewhere else.
- Who is our competition? South Provo, Springville and Payson
- We need to know who they are and what they have to offer

*Industrial Developments*

- State's view of economic development (job growth)
  1. The State is developing new incentives to make Utah more competitive with adjacent states: New Mexico, Idaho, Nevada, Colorado, Wyoming, Arizona and others
  2. Ensign-Bickford Company will be relocating - Ninety (90) employees will be out of work

- According to the 2006 budget the city should receive around \$847,338 in property tax this includes all residential homes and businesses
- The budget for the Fire and Ambulance division of public safety is \$857,398.
- City Property Tax Rate is on the average 30% lower than neighboring cities

#### *Incentives for Industrial Developments*

- Plug-n-play properties which means land is ready to be built on
- Property tax rate is 36% lower than neighboring cities
- City-owned and maintained fiber optic, broadband network and electrical system
- Population of 400,000 within a 25-minute commute of Spanish Fork
- Executive airport with a 5,700 foot runway and an international airport 50 miles away
- A community that emphasizes technology and quality of life
- Available property at a reasonable cost

#### *The Perfect Fit*

- Spanish Fork has received numerous site visits from interested companies
- We are making the final lists but we are not landing the companies. Why?
  - Other Cities and States offer better incentives
  - Individual land owners' prices cannot be regulated or controlled and will continue to increase.

#### *Balanced Vision*

- Changes are being made in the sales tax process that could affect municipalities and the amount of sales tax revenue collected
- A new company brings property tax and jobs for our children, which brings additional residential growth, and additional money spent in the local economy thereby increasing our sales tax revenue

#### *Goals*

- Bring more high-tech companies to Spanish Fork
- Identify industrial sites and recruit more companies to Spanish Fork
- Retain, support and encourage existing businesses to expand
- Help vacant buildings and properties find tenants
- Expand our commercial (retail) base
- Encourage the commercial developers to expand to Spanish Fork
- Keep the City demographics and information packets up to date

Mr. Pierson said his presentation will be posted on the city's website.

Mayor Barney thanked Mr. Pierson for the presentation.

### **Other Business - Appeal of Revocation of Macey's Alcohol License**

*7: 15 p.m. - Councilmember Wadsworth participated in this portion of the meeting via the telephone. He was unable to attend the meeting in person due to an illness.*

Mr. Baker said the City Council is sitting as a quasi-judicial role addressing an appeal filed by Macey's dealing with an alcohol license violation. Mr. Baker said the ordinance regarding alcohol sales is regulated by State Law. The city entered into an agreement with Utah County. As part of the agreement the County conducts periodic alcohol sales compliance checks. As part of compliance checks, they notify the city of any violations. During compliance checks in May

and July, Macey's sold alcohol to an underage individual. Our ordinance appoints Kent Clark as the hearing officer. The hearing was held in mid-August as which time Mr. Clark did what he had to according to our ordinance and revoked Macey's alcohol license for a period of six months to begin on October 31. At the same time the second violation occurred the County also notified the city that our ordinance which requires a more strict penalty than the County by requiring a mandatory revocation of six months. Following the notification the City Council amended our ordinance which currently indicates a revocation period of up to six months. This allows the hearing officer to have some discretion regarding the penalty. By constitutional law, if the ordinance changes during an appeal period the business in question is allowed a lesser penalty. Mr. Davis represents Macey's and is present to request a lesser penalty. Mr. Baker said this is a civil proceeding. The City Council can rely on the past law or the current law and have the authority and discretion to stick to Mr. Clark's ruling by revoking the license for six months. This represents a very severe penalty for Macey's. Based on mitigating circumstance the City Council may determine a lesser penalty is appropriate. Macey's does not dispute the fact that the violations occurred.

Mr. Davis introduced Bill Summers, manager of the Spanish Fork Macey's. Mr. Davis said there were two instances, on May 19 and July 27, when inappropriate and improper transactions occurred. He said there are mitigating factors. A hearing was held before Kent Clark, the hearing officer, on August 25, 2005. Mr. Davis said at that point he and Mr. Summers plead their case. Although Mr. Clark and Mr. Baker were sympathetic to the mitigating factors, they felt bound by the ordinance. He said he filed a letter of appeal. On September 6, 2005, the City Council met and amended the ordinance by allowing the hearing officer to consider mitigating circumstances in determining the penalty. He asked the City Council to allow the six-month revocation to be adjudicated under the new ordinance and impose a lesser penalty. The mitigating circumstances should be considered. The May 19 violation involved a male team member at the store. When this team member was hired, he underwent training on the proper handling of alcohol and tobacco products. After the County became responsible for training this same cashier underwent additional training through the County. The cashier was issued and he displayed a certification card. During the compliance check an underage individual came in and presented an alcoholic beverage for purchase. At that time the register required the team member to enter a date of birth. Mr. Davis provided a document which indicated an electronic copy of the transaction. It records the key strokes. The key strokes indicate the cashier transposed the birth date year of 1986 to 1968. As a result the sale of alcohol was transacted. The team member was issued a criminal citation and imposed a \$200 fine. Macey's immediately handled the situation. It was evident it was a key stroke error. The team member was suspended without pay for one week and demoted from a cashier. He was again required to attend the alcohol and tobacco training course. The second violation occurred at Macey's on August 25 and involved a female team member. She was also trained when hired and again trained by the County in August. Macey's is not required to provide a second level of training and could have saved money by requiring employees to attend the County training also. During this compliance check an underage individual presented an alcohol item for purchase. The cashier entered the correct birth date into the system. The screen turned red and the team member made an individual choice to alter the date of birth to allow the individual to purchase the item. Mr. Davis produced the electronic journal again indicating the team member altered the date of birth to allow the sale to happen. She was cited and fined for her conduct. Macey's immediately terminated this team member. Mr. Davis said the employer made every attempt to train the

employee. However, the employee still has the choice of transacting the sale or not. He asked what the employer could have done differently to prevent these situations. Other mitigating factors are the store policy provided to each employee, one on one training for every cashier at the Spanish Fork location, and a review of the software package to determine if wording could be added to assist the cashier during these types of transactions. This has been difficult for Bill Summers since Macey's has been operating in this community for 22 years and has never had this issue in the past. Mr. Davis said a 6-month revocation will not stop individuals from drinking alcohol. The business will go somewhere else. A piece of that business may contribute to other communities. A conservative estimate of dollars that would be lost by Macey's is \$250,000 if the six-month revocation is imposed. Mr. Davis said with the mitigating circumstances this penalty seems excessive. He asked the City Council to rescind the order of revocation and allow Macey's to continue to keep their alcohol permit and transact alcohol sales at the Spanish Fork location.

Councilmember Sorensen asked if the only previous violation for Macey's occurred 13 years ago.

Mr. Summers concurred. He said they have had many compliance checks preformed for alcohol and tobacco sales and have received many recognitions from the County for the efforts made by Macey's. He said if the City Council knows of a better way to prevent this from happening, Macey's would do it in a heartbeat.

Councilmember Sorensen asked the ages of cashiers.

Mr. Davis said they are required to be 18 years of age or older. Oftentimes Macey's is dealing with younger cashiers than found in convenience stores.

Councilmember Kelepolo reviewed the electronic recording of the transaction and said they occurred at 3:35 p.m. and 5:02 p.m. which are busy times.

Mr. Davis said the compliance checks often occur during peak times of operation. The long lines can create additional pressure to cashiers.

Councilmember Kelepolo asked if the warning to the cashier stops the register.

Mr. Davis said the underage warning does not lock up the register but will not allow the product to be sold without completing the age verification process.

Councilmember Wadsworth asked Mr. Davis if the software analysis indicated any possible improvements that could be implemented.

Mr. Davis said there are always possible improvements. They looked at providing the cashier with possible verbiage or statements to make to individual attempting to purchase the item. They have made requests to the software writers.

Councilmember Wadsworth asked if the system could prompt the cashier to again verify the date of birth.

Mr. Davis said the additional prompt to verify the date of birth is a good suggestion. They might be able to program this into the software. Requiring the cashier to make a dual entry may be helpful. In the case of the male team member this would have prevented the sale but most likely in the case of the female who decided to alter the date it may not have made a difference.

Councilmember Wadsworth agreed that the employer can only provide so much training. People are left to govern themselves. He asked Mr. Davis if the female team member indicated any reason that prompted her to make the alternation.

Mr. Davis said he assumed she felt uncomfortable in having the discussion with the individual in not conducting the sale. She did not want to create a confrontation.

Mayor Barney said the store should have a policy of termination of employment if a cashier sales alcohol to a minor.

Mr. Davis said under the circumstance of the violation involving the male team member it was apparent he simply transposed two digits. Macey's imposed penalties upon the employee and felt this was adequate.

Mayor Barney said the business is responsible for all of their employees. It is important we do not sale alcohol to minors. If so, they have no business working at that location.

Councilmember Christensen said Macey's past record is good. He is often a patron of the Macey's store and supervision levels appear to be high at all times. He suggested the possibility of a bell indicating the need for a supervisor when alcohol sales are being transacted.

Councilmember Barber asked if alcoholic beverages are currently being sold at Macey's throughout the appeal process.

Mr. Baker said the revocation becomes effective on October 31. This additional time was granted to allow the store to handle alcoholic beverages in stock. Mr. Baker explained the compliance check procedure. He said if the City Council relies on the criminal law they are required to take into account the new ordinance. The county notified us of the difference in our ordinance and the County ordinance after the violation occurred. At the hearing Mr. Clark did not impose a fine. The City Council can eliminate any portion of the revocation and/or impose a fine of up to \$500. If a revocation is imposed, the City Council can determine on what dates the revocation is to be applied. This gives the City Council more discretion. The downside if spreading the revocation over several weeks is the difficulty in monitoring the store.

Councilmember Kelepolo said the obvious mitigating circumstance is the training that took place. If they were in violation, what is the proper thing to do? He related it to his work. If a student signs a computer use agreement and violates the agreement the student is punished and not the teacher. Macey's has gone to extensive lengths to train employees.

Mr. Summers said they have been training employees to this extent for ten years.

Councilmember Wadsworth said if there are bad laws they should be repealed as soon as

possible but as they exist they should be enforced.

Mr. Baker concurred. But he said the courts have said they are entitled to a lesser penalty under the new law. We are also bound by the courts. The City Council has the discretion to go either way. The entitlement does not set an automatic lesser penalty but allows for discretion.

Councilmember Barber said on the same line the rule of law is what is important and sets us apart from other governments. He feels due to the mitigating circumstances and based on the ruling that we can apply the lesser penalty.

Councilmember Wadsworth said he is okay with upholding the new ordinance but does not want to eliminate the penalty entirely. Perhaps the focus should be on a monetary penalty and a lesser revocation period based on the ruling of the Utah Supreme Court.

Councilmember Kelepolo asked if the fine can be up to \$250.

Mr. Baker said the new ordinance sets a fine of up to \$500. Macey's has asked the City Council to consider the new ordinance.

Councilmember Sorensen said none of the members of the City Council would disagree that there should be a penalty. The Macey's organization has done an admirable job in preventing this problem from happening.

Councilmember Kelepolo asked concerning the motion to be made.

Mr. Baker recommended the motion include the penalty. Macey's needs to know the extent of the penalty in order to plan for inventory. As a judicial body the City Council can convene to an executive session to discuss the penalty.

Councilmember Kelepolo said he would feel comfortable with discussing this issue with the City Council in a closed session.

Councilmember Sorensen agreed.

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

Councilmember Christensen made a **motion** to reconvene the regular session of City Council meeting. Councilmember Sorensen **seconded**, and the motion **passed** with a unanimous vote.

Councilmember Sorensen made a **motion** to impose Macey's with a \$500 fine and an alcohol license revocation for 14 consecutive business days beginning on October 1 and ending after October 17. Councilmember Wadsworth **seconded**, and the motion **passed** with a unanimous vote. Following a roll call the unanimous vote was confirmed.

Mayor Barney said we needed to send a message that there will be no tolerance for underage alcohol sales.

### **Other Business - Councilmember Report on Assignments**

Councilmember Barber said he serves on the Utah Municipal Power Agency (UMPA). Power rates are driven by the market. UMPA generates millions of dollars in off system sales. He also said he would like to clarify comments being made concerning the Fiesta Days Craft Fair. The Fiesta Days Committee is chaired by many volunteers. None of those volunteers benefit personally from the events. All of the events are free, except for the fees charged and received by the craft fair chairperson. The committee decided all of the events needed to be equal and to be chaired by volunteers who receive no personal monetary gain. The offer to continue to chair the event was offered to the past individual who declined the offer. Therefore, the craft fair was eliminated this year. The intent is not to cancel the craft fair in the future but to have someone step up and volunteer to chair the craft fair next year.

Councilmember Kelepolo the Airport Board has been pursuing new businesses to build hangars at the Airport. The Recreation Committee has been addressing recent issues and he expressed his appreciation for those volunteers. He also expressed appreciation for those candidates running for the election. There are a lot of issues of concern needing clarification. We need to make sure citizens have accurate facts. Spanish Fork City is very transparent in all we do. The City Councilmembers are available at all times and are ready to take input from citizens. There are many issues and he hopes the correct information is being provided. He encouraged citizens to contact the individuals with the correct information. Taking shots at staff is improper. The issues should come to the City Council. A decision was made by the City Council to stay with the 4-10 hour work week. The survey resulted in a request from citizens for a 5-10 hour work week. Also, the salary schedule for city employees has been discussed extensively. The comment continues to be made that our city manager makes more than governor. Councilmember Kelepolo said there are 35 people on the governor's staff that make more than the governor ranging from \$113,000 to \$206,000 per year. He thanked those who are willing to serve on the City Council, all of which have a common goal to serve the city.

Councilmember Sorensen said the Utility Board met to discuss pressurized irrigation rates.

Mayor Barney said he met with the Council of Governments and he questioned when the flood control program will be organized. He was told the County is trying to put together a flood control committee. He hopes his successor will continue to pursue this issue. A flood control program is critical. Senator Bennett visited with mayors in south Utah County to discuss issues. Senator Bennett talked about Highway 6 and said the Federal Government is aware of the problems with Highway 6. This past month Richard Nielson, one of our employees, was selected as Outstanding Public Employee of the Month in the State of Utah. Mayor Barney thanked Mr. Nielson for the fine job he has done for the city. Chief Rosenbaum was also recognized.

Councilmember Christensen encouraged everyone to participate in the upcoming Harvest Moon Hurrah celebration on October 8. A lot of effort and planning have gone into preparing for this event. On Monday the senior citizens will be provided with information concerning social

services. South Utah Municipal Water Association encouraged everyone to be concerned with water resources. The government issued a proclamation declaring the need to conserve water. This is why we put in a pressurized irrigation system. He served on the City Council when the system was approved. The building of the system at that time saved the city money. The economy was not that good and we were able to acquire materials at lower prices. We got cheaper construction bids and lower interest rates. The meters are set up to make the citizens responsible for their usage. Our city as a whole is below the middle range for the utility rates. He asked Mr. Clark to review the rates. There are citizens who are misled and need to receive accurate information. As the city grows the rates will continue to decrease.

Mr. Clark said we surveyed other utility offices in large cities in the county concerning utilities offered and their rates. He reviewed each of the rates. He reviewed the amount it costs to live in Spanish Fork in comparison with living in other cities. Spanish Fork falls in the middle range for almost all of the utilities. Spanish Fork was the highest for culinary and pressurized irrigation water rates. As the bonds are paid off the rate will continue to decline. Spanish Fork has the lowest property tax of all of the cities compared. Spanish Fork also provides cable TV and internet services which are provided at a lower price than offered in other cities. We are lucky to have the revenue made which allow property taxes to remain low.

Councilmember Kelepolo said pressurized irrigation is a big issue the keeps coming up. Residents asked why our pressurized irrigation rates are not as low as Payson. Payson began the pressurized irrigation system in 1990. Every city takes on issues at different times. Our pressurized irrigation system was constructed 12 years later than Payson's. Other cities need to deal with issues such as curb, gutter and sidewalks. Payson is now dealing with this issue at a time when costs for that issue are much higher.

### **Adjournment**

Councilmember Christensen made a **motion** to adjourn. Councilmember Sorensen **seconded**, and the motion **passed** with a unanimous vote. The meeting adjourned at 9:01 p.m.

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Connie Swain, Deputy Recorder

Approved: October 18, 2006