

**Adopted Minutes  
Spanish Fork City Council Meeting  
July 17, 2007**

Elected Officials Present: Mayor Joe L Thomas, Councilmember's Matthew D. Barber, Chris C. Wadsworth, G. Wayne Andersen, Seth V. Sorensen, Steven M. Leifson

Staff Present: Junior Baker, City Attorney; Seth Perrins, Assistant City Manager; Dave Oyler, City Manager; Dave Anderson, City Planner; Dee Rosenbaum, Public Safety Director; Richard Heap, Public Works Director; Kent Clark, Finance Director; Steven Money, Special Events; Kimberly Robinson, Deputy Recorder

Citizens Present: John Davis, Allen Carter, Julie Carter, Kelly Mitchell, Andrea Mitchell, Linda Bartholomew, Byron L. *Illegible*, Joyce N. *Illegible*, Jeff L. Peery, Kyle Lowe, Andrew Haun, David Lowe, Roger Tuckett, Matt Cole, Paul Bradford, Darin Farnworth, James Memmott, Heather Stevens, Steve Murdock, Lori Ann Sleight, Kevin Sleight, Raychellene Talbot, Dianna Brandon, Shalee Lewis, Clarissa Broomhead, Alina Haycock, Ashley Harward, Clyde W. Johnson, Susan W. Johnson, Micky Mantle

**CALL TO ORDER, PLEDGE, RECOGNITIONS:**

Mayor Thomas called the meeting to order and lead in the pledge of allegiance at 6:00 p.m.

Steven Money

Mr. Money presented cowboy hats to the Council and introduced Mike Davis, Phil Distephano and James Memmott of the Diamond Fork Riding Club.

Mr. Memmott introduced the 2007 Fiesta Days Rodeo Royalty. Queen, Kristie Kidman; 1<sup>st</sup> Attendant, Elisa Williams; 2<sup>nd</sup> Attendant, Chelsea Jepperson.

The Royalty introduced themselves and where they are from.

Mr. Money invited all to attend the rodeo, and thanked the Diamond Fork Riding Club for everything they do.

Raychellene Talbot

Ms. Talbot introduced the Miss Spanish Fork Royalty.

The Queen Dianna Brandon, explained her platform, early education. She has had a great experience working with the kids and learning how important their education is.

Mayor Thomas recognized Commissioner Paul Bradford for all his years of service on the Planning Commission.

Mr. Bradford thanked the Mayor and Council for the opportunity to serve. He said it has been a great experience the past six years. It is exciting to see the growth in Spanish Fork and it has been great to work with the members of the Planning Commission.

**PUBLIC COMMENTS:**

Mr. Broderick requested changing the name of Spanish Fork to Whoville for Suissical the Musical.

The Council agreed they do not have a problem naming Spanish Fork the honorary name of Whoville during the Fiesta Days Celebration in support of Suisiscal the Musical.

Mayor Thomas extended an invitation for all to come attend and support Suissical the Musical.

**COUNCIL COMMENTS:**

Councilman Wadsworth reported the Trails Committee meeting will be next week, He appreciates all the effort put forth by the committee.

Councilman Sorensen encouraged everyone to visit and support the sidewalk sales on Main Street during the Fiesta Days Celebration.

Councilman Andersen expressed his appreciation to the citizens of the community, the Mayor, Council, and all those extending special interest to him. He appreciates the concern of everyone. He said you have no idea the amount of help that gives someone knowing people are thinking about them and he expresses his love and appreciation to everyone, he is looking forward to this week's celebration.

Mayor Thomas encouraged all to enjoy the Fiesta Days festivities, to get involved and have some fun with it. He is asked daily what vendors will be coming to the North Park development, announcements should be happening soon. He can say there are some really good things happening for all in Spanish Fork.

Councilman Barber reported they have completed a new section of walking trail by the golf course called the dripping rock trail.

Councilman Wadsworth explained Staker Parsons donated funds to complete that section of the trail and we owe them a debt of gratitude.

Councilman Barber said the Fiesta Day's celebration has started. It is all done by volunteers and that is what makes Fiesta Days what it is. He asked all to please come out and enjoy the festivities.

Councilman Wadsworth invited all to come to the flag retirement ceremony tomorrow night at 7:00 p.m., it is a very sobering experience to honor those individuals.

**CONSENT ITEMS:**

**Minutes of Spanish Fork City Council Meeting – June 5, 2007; June 19, 2007**

**POTW Ordinance**

**Amendment Master Facility Use agreement – Nebo School District**

**Ordinance Making Amendments to the Election Section of the Municipal Code**

**Wasatch Wind Contract Amendment**

**Contract for County Grant Funds**

**Contract with Western Unlimited – Rodeo Ticket Sales**

Councilman Sorensen made a **Motion** to accept the consent items. Councilman Barber **Seconded** and the motion **Passed** all in favor.

### **PUBLIC HEARING:**

Councilman Barber made a **Motion** to move to the public hearing at 6:30 p.m. Councilman Wadsworth **Seconded** and the motion **Passed** all in favor.

### **Vincent Rim Estates Zone Change and Preliminary Plat Approval**

Mr. Anderson explained the zone change from Rural Residential to R-1-12 and a plat that contains 47 lots for single family homes. DRC and Planning Commission recommend approval. The only issue that was a subject of much discussion was the connection of the road. He reminded the reason for this being a public hearing is for the zone change and not for the plat.

Allen Evans

Mr. Evans owns the subdivision along the north side of the project. He would like to make sure the connectors agreements will be paid before they are allowed to finish.

Mr. Heap said the connectors agreements are normally collected prior to the final plat recording and then disbursed quarterly. He stated the connector's agreement will be ready for the next City Council meeting. He explained the agreements are based on frontage not on lots. Mr. Evans will receive 50% of whatever is collected.

Councilman Andersen made a **Motion** to approve the zoning change for Vincent Rim Estates changing the zone from R-R to R-1-12 and approving the preliminary plat subject to the following conditions:

1. That the 1700 East extension off the hill on the south side of the property be improved or be paid for by the developer pending the Engineering Department's review.
2. That an electrical 600 amp circuit is constructed through the subject property per the Electric Department.
3. That the driveway for the Dean Vincent home is relocated to a suitable location.
4. That any overhead SESD power lines be relocated.

Councilman Sorensen **Seconded** and the motion **Passed** all in favor.

### **Powell Zoning Map Amendment**

Mr. Anderson explained the request changing the zoning from R-1-6 to R-3. He then distributed some correspondence to the Council. He explained the concern is due to the allowable dwelling units per structure, currently two are allowed per structure and the applicant would like up to four units per structure allowed. The total dwelling units would be 18. The DRC recommends approval and the Planning Commission recommended approval after some deliberation but passing with a unanimous vote.

This item was opened for public comment.

Clyde Johnson

Mr. Johnson has a residence close to that area. He asked if the state road has granted access to the property because in the past it was denied. If it was changed to R-3 it would allow high

density housing and he asked if the plans were changed would they make it apartments instead of town homes.

*Councilman Barber excused himself for a short time. 6:50 p.m.*

Mr. Anderson stated that due to the parcel size the applicant would not be able to approve the development as a master plan development and they would not qualify. The answer would be they cannot do more than four structures per dwelling unit.

Mark Peterson

Mr. Peterson represents Mr. Powell. He explained the reason for the re-zone is to create a Home Owners Association (HOA) and be able to have control over the beatification of the development.

Councilman Andersen is concerned about the drainage in the development, he would like to feel comfortable that those issues will be mitigated so there will not be problems like there are currently in that area.

Mr. Heap stated they will have to provide a geotechnical report and those will coincide with the preliminary plat.

Mr. Andersen stated that is one of his biggest concerns, that drainage is addressed so they do not have problems.

Councilman Sorensen made a **Motion** to approve the Powell Zoning map amendment at approximately 1100 East 400 North changing the zoning from R-1-2 to R-3 based on the following findings:

**Findings:**

1. That given the property's configuration and situation, a town home development is appropriate.
2. That the zone change is consistent with the General Plan.

Councilman Wadsworth **Seconded** and the motion **Passed** all in favor.

**Jim Nielsen General Plan and Zoning Map Amendment**

Mr. Anderson explained the project and noted with the minimum district zoning requirement this project would not be allowed. Mr. Anderson also asked for the Councils input of appropriate uses for this property. The proposals have been reviewed by both the DRC and Planning Commissions; recommendation was that the development application be denied. He also gave some different options for this site. The subject property is currently zoned R-1-8. The applicant has certain rights to develop his property given the current zoning. Working with the minimum lot size there is the possibility to build nine single family lots. The connection of the roads has been a concern for some of the residents but is a likely use.

Mayor Thomas feels the land owner has the right to develop as long as it is not infringing upon others.

Mr. Anderson explained the applicant would like to develop storage units on the property which would require a text amendment.

Mayor Thomas clarified there would be no action taken on this item tonight because it would violate the city ordinance.

Councilman Andersen asked if there was a possibility to change the text allowing storage units in a commercial zone.

Councilman Sorensen said he would hesitate changing storage units allowable in commercial zones and feels they would work on this parcel but he would not like to see storage units allowed in some of the other commercial zones in the area.

Councilman Andersen asked if something gets worked out and sometime down the road storage units would be well lit, he asked how that lighting would affect the neighbors.

Jim Nielsen

Mr. Nielsen explained he would like to have low storage units the height of the fence, it would be a low security light and he would like to keep the lighting down along with the traffic and sound.

Gina Peterson

Ms. Peterson said she has lived in the area for 12 years and had an appraisal done on her house a few months ago. She feels the change of zoning would affect her property value. She said six years ago Mr. Nielsen came to them asking for support on projects he wanted to do such as a parking lot, which turned out to be a car wash, she does not trust him. She is concerned, he has a way with people and is a likable guy. It is her opinion that it stay zoned residential and not be changed to industrial. She stated the current wall is not as high as it legally should be, and she does not like the way he changed the project the first few times. Her appraiser said it remains to be seen how it would affect her property values.

Mayor Thomas feels storage units would not affect the neighborhood very much because the access would not change and it would be quiet.

Councilman Wadsworth asked what the appraiser stated regarding the impact on the property.

Ms. Peterson said her appraiser could not say for sure commercial would change the property value but industrial would definitely affect it. It would be hard to find examples of industrial next to residential since it is a rare occurrence and he could not say for sure.

Councilman Wadsworth said in his experience when it comes to land use there is a lot of hearsay, but they are forced to adhere to the code and enforce it. He explained when the developers come in and propose items the market changes do affect the development.

*Councilman Leifson arrived late at 7:23 p.m.*

Ms. Peterson feels she is willing to meet them half way and not change the zoning, leaving it the current zoning.

Councilman Sorensen feels the current code would not allow the zone change, so they are trying to come up with a way to get to some agreement.

Ms. Peterson asked the Council to pressure Mr. Nielsen to do the upkeep on the property as promised.

John Bailey

Mr. Bailey lives next to the property in question. He explained the way sound works and explained that the wall and buildings will not affect the noise as a buffer. He said the low level buildings do not seem like a great fit and it doesn't seem like the best use of the property. He explained they do not have a right to keep Mr. Nielsen from making a profit. He feels their property values going down will affect the overall dollars of their property values. He noted there is a high turn over for the caretakers of storage units and they do not take care of the area.

*Councilman Barber returned to the meeting at 7:30 p.m.*

Ken Larson

Mr. Larson lives nearby, he is a licensed realtor with the State of Utah. He stated it is not a large wall the kids are on it all the time and all those living in the area look straight onto the land. If he was to sell one of the houses facing the wall it affects the value as it sits right now. He understands Mr. Nielsen's quest for the best use of the property, but when it causes the property around it to be devalued it has a greater impact and should be thought through.

Bryce Walker

Mr. Walker stated in September of 2000 the amendment was made to make it a commercial property. When everyone moved there they expected it to be residential forever. There is nothing wrong with that area being developed residential and they have a right to not change the zone again. He feels the access is a bad idea how it is currently laid out.

Warren Johnson

Mr. Johnson lives adjacent to the property. There was a tower installed on the property and Mr. Nielsen said the tower was supposed to be located somewhere else on the property. They all expected it to be zoned the way it is. He also said people in the storage sheds end up setting up shops or living in them which creates noise and health issues.

John Davis

Mr. Davis lives adjacent to the property. He has lived there for two years. He purchased it fully aware of what Mr. Nielsen will build on his property. He does not have any history with Mr. Nielsen but as a commercial lender he feels to lease it out as commercial office space would be the best use of the property.

Lyle Evans

Mr. Evans lives in the area and if the property gets sold as industrial there is no recourse as to what can be allowed to build. He stated the Council has been discussing the rights of the property owner but they need to consider the rights of others in the neighborhood. He would like to see the property moved to residential or that he build commercial office, the storage units are not a good fit.

Alan Carter

Mr. Carter sent an e-mail last week, he agrees with what his neighbors have said before him. He has lived there for 12 years and the property was zoned to be residential. He likes Spanish Fork and feels it is a great place to live. They have been, and are, actively engaged in the community. He suggests the two cul-de-sac idea with one on each side to develop the property as residential.

Councilman Wadsworth asked Richard Heap if petitions were required.

Mr. Heap stated they were not required at the time but there was a public hearing held for the item.

Tamsen Davis

Ms. Davis seconds all the neighbors, and feels there are a lot of options. She did contact her real estate agent and the industrial zone change would negatively affect their property values.

Jason Warner

Mr. Warner seconded the comments neighbors have said. Mr. Nielsen has done a great job of communicating his intentions. He asked that some thought be given to commercial access on those roads which will affect his children and others in the neighborhood. He would support residential development on the property.

Mayor Thomas asked if Mr. Nielsen had run numbers on the Commercial impact.

Mr. Nielsen stated that residential would be an option and he would look into it.

Mayor Thomas stated they would like some more information before they spend too much time discussing this project.

Mr. Baker stated it is his understanding UDOT will not come in and put up sound walls for new development only for old development if the code requires it.

Councilman Sorensen **Motioned** to deny the Jim Nielsen General Plan and Zoning Map Amendment based on the incompatibility of the City ordinance. Councilman Leifson **Seconded** and the motion **Passed** all in favor.

Mayor Thomas asked that Mr. Nielsen come back with some options.

### **Ordinance Amendment Proposed Changes to Title 15 (continued from last meeting)**

Mr. Anderson explained the request changing the requirements for flag lots. The DRC has recommended approval the Planning Commission has recommended denial, due to concerns one being safety and the other aesthetics. He added that this is a city wide change not just site specific.

Councilman Andersen asked for clarification on the Planning Commissions concern for safety.

Mr. Rosenbaum stated he was not aware of what those safety concerns may be.

Mr. Anderson stated there are other options for language if the Council chooses to pursue them.

Linda Bartholomew

Ms. Bartholomew said the specific flag lot they are referring to has problems with access, she feels when Mark Dallin purchased the property it should have been worked out at that time. She does not think just because there is a space they should put a house there. She does not see that as an advantage to anyone.

Daren Farnworth

Mr. Farnworth said the access to the property is a 20 foot driveway, it meets all the standard requirements for flag lots. They do not want to set precedence they just want to be able to do what is already being allowed in other parts of the city.

Mayor Thomas does not think they need to fill up all the extra open space in the town.

Ms. Bartholomew feels the example homes were existing before the flag lots were created she feels it is not good to stick a house in the middle of the lot.

Councilman Wadsworth asked for clarification on the Planning Commissions decision.

Mr. Anderson stated he does not understand entirely why they made that decision. They did not like the idea of having flag lots outside the original plat area of the city.

Councilman Leifson made a **Motion** to close the public hearing and table this decision, also to get clarification from the Planning Commission, more information and all the facts. Councilman Sorensen **Seconded** and the motion **Passed** all in favor at 8:15 p.m.

The Council took a short break at 8:17 p.m.

### **NEW BUSINESS:**

#### **Contract for Lead Removal at the Gun Club**

Mr. Baker explained the City has operated the gun club for a number of years and for several years they have been looking at removing the lead. The contract was already in the state and they needed to move on it quickly. The contract will be for a 65/35 split on the cost of the lead so it will not cost the city anything.

Councilman Wadsworth made a **Motion** to approve the contract at the gun club to remove lead. Councilman Sorensen **Seconded** and the motion **Passed** all in favor.

#### **Agreement for Professional Services – Comlink Land Services, LLC – Electrical System Strategic Plan**

Mr. Heap stated they have sent out an RFP for professional services and received two back, they recommend contracting with Comlink for professional services for the electrical system strategic plan.

Councilman Barber made a **Motion** to approve the agreement for professional services with Comlink for the electrical system drainage plan. Councilman Leifson **Seconded** and the motion **Passed** all in favor.

#### **Agreement for Professional Services- Spanish Fork River FEMA Study**

## **Agreement for Professional Services – Spanish Fork River Parkway Trail Design**

Mr. Heap explained the agreements, they have received several RFP's for professional work. They met and reviewed the contracts they recommend the professional services of Bowen and Collins for the FEMA study in the amount of \$26,676.00. For the Design Trail they recommend Horrocks Engineering for professional services in the amount of \$109,800.00. Their qualifications are better for what the city needs. He also mentioned as they have the subdivisions develop in the river bottoms they will have Bowen and Collins do the work for the future development to retain consistency and help with costs.

Councilman Wadsworth stated the track record Horrocks Engineering has with the City has been great.

Councilman Wadsworth made a **Motion** to approve the agreement for professional services for the Spanish Fork River FEMA Study and the Parkway trail design. Councilman Sorensen **Seconded** and the motion **Passed** all in favor.

## **Agreement for Professional Services – North Park Design Landmark Design Inc.**

Mr. Anderson explained the agreement for professional services that would allow construction to begin on the North Park. They did request by invitation two proposals and they feel Landmark Design Inc fits the best. Tonight they ask for approval of the contract for professional services subject to approval of the last agreement.

Councilman Sorensen made a **Motion** to authorize the Mayor to execute the contract with Landmark Design contingent upon approval from the State. Councilman Leifson **Seconded** and the motion **Passed** all in favor.

## **Interlocal Agreement with Spanish Fork Redevelopment Agency**

Mr. Baker explained the RDA will handle the financial end and this is an agreement between the City and the RDA which will allow the City to fund these projects. He explained they indicated the City will provide \$4 million for the improvements; the second would be the new utility electrical rate for that area. That will not come from the tax rate from the City and this is a great example of showing how public and private can work together. One source for additional funds could be if needed the tax increment, the second is the sales tax. This is to give the City some options and give an opportunity as a city to look at different options.

Councilman Sorensen made a **Motion** to authorize the Mayor to execute the Interlocal Agreement with the RDA and adopt the resolution 07-07, a resolution authorizing the Mayor of Spanish Fork City to execute contracts related to the North Park Community Development Area. Councilman Leifson **Seconded** and the motion **Passed** all in favor.

## **Assignment of the Tenedor Agreement**

Mr. Baker explained the agreement and the city's rights and obligations under that agreement will be assigned to the RDA.

Councilman Leifson made a **Motion** authorizing the Mayor to sign and execute the assignment of the development agreement with Tenedor. Councilman Andersen **Seconded** and the motion **Passed** all in favor.

Mayor Thomas listed the candidates that have declared their candidacy in the upcoming election:

*Matt Barber	*Jeremy Coe
*Rodney C. Dart	*Richard Money Davis
*C. Timothy Ernst	*Jim Garside
*Brian R. Hughes	*Rosemary H. Jarman
*Jens P. Nielson	*Alex Stone
*Scott Ward	

He also thanked the Alcoa Foundation for their generous donation to the city for a wetlands study.

### **Board Appointments**

Councilman Barber explained Shane Marshall is the candidate for appointment to the Planning Commission.

Mayor Thomas would like to appoint Shane Marshall to the Planning Commission.

The Council agreed all in favor.

Councilman Andersen feels it appropriate to bring those looking to be appointed before the public. He feels the committees should have input on who should be appointed but that it is done by discussion of the committee. The committee should make a recommendation and then, the Council invites them to an executive session where they have an opportunity to talk about the assignment and their qualifications. He feels they should use that as a way to fill these appointments.

Mayor Thomas feels it would be great to have Shane Marshall come next time and introduce himself to the city. He also pointed out as a Council they need to be very careful that they do their homework for these appointments.

Councilman Andersen agreed and feels the committees need to look at who is on their board and where they live so they can get some representation from different areas. He does not want to see these as a political appointment either, he feels the combination of both entities will help keep it neutral.

Mayor Thomas suggests asking for those that are interested in serving on the boards and announcing it at the meetings.

Mr. Oyler stated there are currently five vacancies right now.

Councilman Leifson feels they need to be flexible.

Councilman Barber recommended Mr. Dave Lewis stay on the Planning Commission.

Mr. Baker explained the Planning Commission has been changed to serve a three year term with no longer than six year limit.

Mayor Thomas would like to appoint Dave Lewis to continue serving on the Planning Commission.

The Council agreed all in favor.

Mayor Thomas would like to see the city support the candidates as much as possible and find ways to help get people involved.

Mr. Clark explained the PCA will have a decrease in the utility rate, he gave handouts regarding that information.

**ADJOURN TO RDA MEETING:**

Councilman Sorensen made a **Motion** to adjourn to the RDA meeting. Councilman Barber **Seconded** and the motion **Passed** all in favor at 9:23 p.m.

**ADJOURN:**

Councilman Sorensen made a **Motion** to adjourn the RDA meeting back to the City Council meeting and then adjourn to executive session. Councilman Barber **Seconded** and the motion **Passed** all in favor at 9:34 p.m.

ADOPTED: August 21, 2007

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Kimberly Robinson, Deputy Recorder