

**Adopted Minutes
Spanish Fork City Council Meeting
November 20, 2007**

Elected Officials Present: Mayor Pro Tem Matthew D. Barber, G. Wayne Andersen, Steven M. Leifson, and Chris C. Wadsworth

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

Citizens Present: Hailey Robbins, Moriaham Rodriguez, Ray Swenson, Carol Swenson, Kimberly Dewey, Jens Nielson, Richard Davis, Gloria Christensen, Jerry Christensen, Anne Brierley, Joseph Brierly, Troy Christensen, Heather Campbell, Jamie Evans, Heather Anderson, Jed Morley, Mecacla Anderson, Terena Anderson, Stacy Tanner, Jeff Heaps, Gary Larsen, Nick Anderson, Gentry Houghton, Layne Moody, Sam Golightly, Roger Harris, Rodney Dart

CALL TO ORDER, PLEDGE:

Mayor Pro Tem Barber called the meeting to order at 6:00 p.m.

Haleigh, Evan and Mickelson Barber led in the pledge of allegiance.

PUBLIC COMMENTS:

Don Thomas explained about the autopulse system purchased with a grant. He explained the machine takes the place of one individual.

Diane Woolford

Ms. Woolford is standing here today because of the system, on September 22nd she went into full cardiac arrest. She was the first one to use the system, and because of the outcome her husband and her would like to do a fundraiser and purchase another system. She would like the Council to match the funds she earns to purchase the equipment.

Councilman Andersen does not see a problem with the city participating.

Ms. Woolford does not feel it is fair for one person to have use of the system and not the other she would like to have both ambulances equipped.

Mayor Pro Tem Barber is a firm believer this equipment is the key to Diane being here today, and he fully supports it.

COUNCIL COMMENTS:

Councilman Andersen has concern with the Sunday article in the paper he does not know that it represents what is really happening. He then read the article, and noted the Chamber of Commerce is the one that put the book together. He pointed out that as a Council they have not sat down and discussed any of the items in the article. He wanted to make sure it is clarified that the items discussed are not set in stone. The item of being able to borrow money from the city

has never been discussed and he does not feel it is the place of the city to play the part of a banker. He feels responsible to clarify these items.

Councilman Wadsworth encourages all to support the Festival of Lights which runs Thanksgiving through New Years every night.

Mr. Perrins explained this year there will be new hay rides by reservation for the Festival of Lights. This is the 15th year of the Festival of Lights and there will be free things on certain nights.

Councilman Leifson arrived at 6:18 p.m.

Councilman Wadsworth encourages all to think of the blessings we have being Americans and to count our blessings.

Mayor Pro Tem Barber reported regarding the announcement at the East Bay development, the North Park development is still taking place and the stores that will be there he feels the citizens will be very happy with, the project is still moving forward.

PUBLIC HEARING:

Councilman Andersen made a **Motion** to move to public hearing at 6:22 p.m. Councilman Wadsworth **Seconded** and the motion **Passed** all in favor.

Maria Christina Dominquez Zone Change Request

Mr. Anderson explained the request is for a zone change not a site plan. The applicant is requesting to change the zoning from R-1-6 to commercial 2. The DRC and Planning Commission recommend denial.

This item was opened for public comment.

Gloria Christensen

Ms. Christensen lives across the street and also has a home occupation, she requests denial.

Joseph Brierly

Mr. Brierly lives across the street and asked that it be denied, he noted they know in the future it could go commercial but not yet.

Troy Christensen

Mr. Christensen is the neighbor to the east and requests denial.

Councilman Wadsworth feels this is straight forward and based on the findings of Planning Commission should be denied.

Councilman Wadsworth made a **Motion** to deny the proposed Maria Cristina Dominquez Zone Change request, changing the zoning at approximately 630 East 800 North from R-1-6 to Commercial 2, based on the following findings:

Findings:

1. That the proposed Zone Change is not consistent with the General Plan.

2. That the proposed Zone Change would establish incompatible uses on adjacent properties.
3. That the subject property is not sufficiently sized to accommodate a functional commercial development.

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

Spanish Fields Business Park Plat Approval Request

Mr. Anderson explained the property is located on Chappel Drive and 1100 East. The development would connect Chappel Drive and 1100 East. Due to future road use and expansion staff recommends requiring an additional 15 feet from the subject property. Wetlands were also a concern if they apply, the areas are to be identified as unbuildable on the final plat. The DRC and Planning Commission recommend approval with the conditions.

This item was opened for public comment.

Kent Barber

Mr. Barber said they have submitted all their information to the Army Core of Engineers.

Mayor Pro Tem Barber noted the developer is his cousin.

Jamie Evans

Mr. Evans asked how big the lots are going to be.

Mr. Anderson stated they are on one acre lots.

Councilman Leifson made a **Motion** to approve the proposed Preliminary Plat for the Spanish Fields Business Park subdivision based on the following finding and subject to the following conditions:

Finding:

1. That the proposed plat does conform to the City's requirements for subdivisions in the Industrial 1 zone.

Conditions:

1. That the applicant address redlines provided by the City and submit 3 corrected copies of the plat for the City's files.
2. That the applicant make any necessary adjustments to the right-of-way widths on his submittal for Final Plat approval.
3. That the applicant have the wetland issues reviewed and approved by the Corps of Engineers and any unmitigated wetland areas be identified as unbuildable area on the Final Plat.

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

Christensen General Plan Amendment

Envision General Plan Amendment

Mr. Anderson explained he would like to discuss both these agenda items together.

These items were opened for public comment. There was no comment made.

Kimberley Dewey

Ms. Dewey represents the party's developing the area. She understands the idea of urban sprawl, but she noted they should be considered.

Points of Support for the Christensen General Plan Map Amendment

We are convinced that the current density of 1.5-2.5 U/A set forth in the General Plan will not meet the needs of the developers and the projected future homeowners that will want to reside in that area. This is primarily due to the following facts:

- 1. Plans for 2550 E.: (the road DIRECTLY WEST of the proposed area) to be turned into a high capacity, major collector road.*
- 2. Plans for 100 S.: (the road DIRECTLY SOUTH of the proposed area) to be turned into a high-capacity collector road.*
- 3. Rocky Mountain Electric High Power Utility Lines that run through the area (DIRECTLY EAST of the proposed area).*
- 4. Additional Traffic brought to the immediate area by the High School parking lot (located DIRECTLY WEST of the proposed area).*
- 5. Possibility of a 3-acre substation (for DIRECTLY SOUTH of proposed area) one of only two sites proposed by City Planner.*
- 6. Very high-likelihood of commercial development to the NORTH of the proposed area (as talked about by City Planner and DRC).*
- 7. Possibility of 120k Spanish Fork City electric lines with 80 foot tall, wooden poles (proposed by DRC to run DIRECTLY WEST of proposed area)*
- 8. All areas directly to the West of proposed area are zoned 2.5-3.5.*
- 9. Additional demands proposed by DRC as conditions of annexation (re: additional road right of ways, trail right of ways, utility right of ways, that the city recently “discovered” it might need), that may have the effect of making the development if subdivision cost prohibitive.*

We believe that this change is absolutely necessary to allow us the latitude to create a Master Planned Development Concept Plan that is economically feasible for the developer, while still creating a subdivision that is attractive and copasetic with the areas surroundings.

We strongly believe that there is enough unique circumstances to warrant this proposed.

We don't want to exceed the areas utility limitation of density 2.7-2.8 for the Northeast Bench area (density limitation as stated by Richard Heap.)

We would like to point out that both the Planning Commission and City Council will have ample opportunity to provide feedback, limitations, and conditions during the Preliminary Plat approval process for our subdivision plan.

However, after hearing the above arguments in support of the General Plan amendment, if the City Council is not convinced of its necessity, we ask the City Council to consider the following alternatives:

- 1. We would be willing to bring back the easterly lines of our proposed area to match to the line of Rocky Mountain Power utility lines.*
- 2. City Council could table its decision on this matter pending the final outcome of the DRC on the unresolved issues listed above.*

They are concerned it will not be economically feasible to develop.

Councilman Wadsworth asked regarding the trail that will impact the property.

Mr. Anderson explained there will be a trail that will run through the Rocky Mountain Power corridor. He mentioned he is concerned about adjusting the 2550 East general plan line.

Councilmember Andersen noted the sewer capacity issue and that they need to keep that in mind when dealing with anything on the East Bench.

Ms. Dewey explained that the Council should consider each request based on the circumstances.

Councilman Leifson asked if they table this item and wait for more information would it change the outlook.

Mr. Anderson stated with what is going on in the area and the discussions they have had he does not see the recommendation changing.

Mr. Baker suggested the Council do a General Plan review for the bench area and spread out the density.

Mayor Pro Tem Barber is trying to consider the long term planning of the entire area.

Councilman Andersen said when they look at the entire area they will have to be careful or they will not have enough sewer capacity.

Councilman Andersen feels ok to decide tonight because he has been working with the sewer.

Mayor Pro Tem Barber is fine to look at the information again and see if it has an affect on this property.

Councilman Wadsworth made a **Motion** to continue the public hearing to December 4, 2007, for the Christensen General Plan Amendment at approximately 200 North and 2600 East, changing the General Plan from Residential 1.5 units per 2.5 acre to Residential 2.5 to 3.5 units per acre Mayor Pro Tem Barber **Seconded** and the motion **Passed** all in favor.

Councilman Andersen made a **Motion** to approve the Envision proposed General Plan Amendment at approximately 600 South 2550 East, changing the General Plan from Residential 1 unit per 5 acres to Residential 1.5 to 2.5 units per acre based on the following findings:

Findings:

1. That the proposed Amendment would allow for development that is consistent with what the City is planning in the immediate vicinity.
2. That the City has adequate utility capacity to serve development with the Residential 1.5 to 2.5 units per acre General Plan designation.

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

Proposed Changes to Title 15

Mr. Anderson explained the change in the proposed language that would give the Planning Commission discretion to change the required 50 feet to as little as 10 feet. The applicant is also requesting an additional change to remove the conditional use and place it as a use subject to conditions.

This item was opened for public comment.

Jed Morley

Mr. Morley is the owner of property, and noted there are very few I-2 locations that this change will affect.

Councilman Andersen does not feel comfortable taking it out of the conditional use. He feels they need to maintain discretion to look at those projects on a case by case basis.

Councilman Leifson agrees and feels the public should have a say and does not have a problem changing the setback requirement.

Councilman Leifson made a **Motion** to approve the proposed Zoning Text Amendment based on the following findings:

Findings:

1. That the proposed changes allow for more functional development.
2. That the proposed changes do not reduce the City's ability to impose site specific conditions to mitigate any adverse impacts on the surrounding area.

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

Councilman Andersen made a **Motion** to close the public hearing. Councilman Leifson **Seconded** and the motion **Passed** all in favor at 7:42 p.m.

CONSENT ITEMS:

Minutes of Spanish Fork City Council Meeting – November 6, 2007

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

The Council took a five minute break at 7:43 p.m.

NEW BUSINESS:

Canvass of 2007 General Election

Mr. Clark explained the canvass of the 2007 General Election.

Richard Money Davis
Rodney C. Dart
Jens P. Nielson

Mr. Clark also explained the reason for the votes changing the night of the election.

Councilman Leifson made a **Motion** to accept the 2007 General Election Canvass. Councilman Andersen **Seconded** and the motion **Passed** all in favor.

Allied Waste Contract Amendment

Mr. Heap explained this item has been brought to the Council before and they have brought the information the Council has requested. From the staffs perspective they get concerned about changing contracts in the middle of the process. They feel a national company should know the costs when they do the bids.

Councilman Leifson stated his position has not changed since last time, he bids a job and if he loses money he can't go back and ask for more. He feels they knew going into this they are a big company, they had a competitive bid. He is sorry, he wants all to make money, but in good conscience he has to protect the citizens money, they already adjusted the fuel charge. He feels there will be some they will make money on, and some they will lose on, they all have to go through that learning curve.

Councilman Andersen's greatest fear is setting a precedent, the bidding process is set in place to accomplish business, and if that gets compromised and they low bid thinking they can go back and ask for more it defeats the process of bidding. He feels they will honor their contract, but if they adjust that now it will set a precedent he is not willing to make.

Councilman Wadsworth feels the same way, and said they should adjust the cost next time they bid.

Rees Demille

Mr. Demille stated that the cost adjustment is the cost of a can of soda per household.

Councilman Leifson Made a **Motion** to deny the Allied Waste contract amendment. Councilman Andersen **seconded** and the motion **passed** all in favor.

Historic Committee Appointments

Mayor Pro Tem Barber explained they are under a time frame for the grant, Bruce Fallon, Sharlene Irvine, and Eva Bradford are the ones that volunteered to serve on the Historic Committee.

Councilman Barber made a **Motion** to appoint Bruce Fallon, Sharlene Irvine, and Eva Bradford to the Historic Committee. Councilman Andersen **Seconded** and the motion passed all in favor.

Appeal of Staff Denial of Billboard Building Permit – Jamie Evans

Mr. Baker explained the duty of the Council as the appeal authority.

Mr. Anderson explained some background regarding the issue. He noted October 8, 2007 was omitted from the report he generated. He then explained the series of events that took place for this appeal.

Jamie Evans

Mr. Evans gave a presentation regarding this appeal. In 1983 a lease was signed with an option to renew for another 10 years. In 2001 he came to the city and received a lease the city has on the property, 2002, 2003 he came back to the city and requested competing for this location by a bid process. In 2003 the city decided to not renew the billboard Mayor Barney sent a letter to Simmons canceling the lease. They then received a lease of the property for a billboard from Lyle Swenson. In the lease it gives them the first right of refusal to purchase the property or the

billboard site. He then quoted the code for the rights terminated at the state level. He noted there is no state permit at this time for that location.

Mr. Baker stated we found in our records the RFP for that sign and there is a lease signed by Mayor Barney, what we don't have is a signed copy from Simmons but they state it is signed.

Mr. Evans stated the lease is for the vinyl to put on the signs it is not a lease for the billboard. He is aware of the agreement but that it is for the vinyl. When the billboard was cancelled the state permit was then terminated. They did provide the state permit first and whoever gets in line are the ones who get issued the permits. They were working to purchase the property, they were supposed to have the right to purchase the property and have not gotten that yet. In 2007 Simmons took down the sign, they then applied for the permits. They have the right to purchase the property they have a lease with Lyle Swenson but not with Staker Parsons but it runs with the property. His question is if the permit is not issued to Evans will the city pull the permit from Simmons until this is resolved. They have taken pictures of the signs, the guy wires had to be moved but they did not find any damage on the sign Simmons took down. Simmons has to have a current state permit which they do not have. The way they read our ordinance a current sign cannot be built on the city property anyway. They have met all the city requirements, and followed all the current ordinances.

Mr. Baker stated it is not our role to determine the validity of the lease, and it needs to be resolved by them first. Until that is worked out we cannot red tag the project.

Councilman Andersen does not feel comfortable trying to level the playing field when he does not know what it is. To him he feels it is their responsibility to get those things worked out and then come back to the city with a clear understanding of who owns what and who has rights to what, until then we can't make that decision.

Councilman Leifson said until we know who owns the ground we can't issue a permit, as a city it is not our role to make it easier for one or the other, they need to have their legitimate claim and then come back to the city. We can appreciate where he is coming from but the legal issues need to be worked out and then brought to the city for a building permit.

Mr. Evans stated again the permit has been cancelled and is not valid at the state level. He owns a corporation that owns a piece of property they have a lease on Simmons is claiming they signed and never had an interest in the property.

Mr. Baker stated they can't determine the validity of the lease if it has not been recorded it may not be binding, we are not in a position to decide that, we do not need to be in the middle of them to determine that they need to work it out and bring it back to us.

Mr. Evans would like it to be tabled and the Council do some research. He also noted Simmons is suing him on some other issues. He stated first they must sue the city to get the permit issued and once it is issued then he will let Staker know they are going to build and then they can file to get it resolved.

ADJOURN:

Councilman Andersen made a **Motion** to adjourn to executive session for potential litigation and land acquisition issues. Councilman Leifson **Seconded** and the motion **Passed** all in favor at 8:57 p.m.

The meeting reconvened at 9:26 p.m.

Mr. Evans made a note documents are coming that can be attached to the record.

Mayor Pro Tem Barber made a **Motion** to deny the appeal based on the following findings:

1. According to Staker Parsons there is no lease – Mr. Evans acknowledges that there is no lease with Staker Parsons

2. Mr. Evans acknowledges that he did not record a notice of interest on the property We can't determine the validity of the lease therefore deny the appeal and the granting of a building permit.

Councilman Leifson **Seconded** and the motion passed all in favor.

OTHER BUSINESS:

Mayor Pro Tem Barber has reviewed the budget revision with staff and is comfortable, they feel they have made some drastic changes at the golf course and the revenue has been increased over 158,000 this year over last year.

Councilman Andersen reviewed and is comfortable with the budget revision, he does not have any problems.

Councilman Leifson made a **Motion** to adjourn. Councilman Andersen **Seconded** and the motion **Passed** all in favor at 9:34 p.m.

ADOPTED: December 4, 2007

Kimberly Robinson, Deputy Recorder