

**Adopted Minutes
Spanish Fork City Council Meeting
August 5, 2008**

Elected Officials Present: Mayor Joe L Thomas, Councilmember's G. Wayne Andersen, Jens P. Nielson, Rod Dart, Richard M. Davis, Steven M. Leifson

Staff Present: Dave Oyler, Chris Thompson, Dale Robinson, Seth Perrins, Kent Clark, Junior Baker, Kimberly Robinson,

Citizens Present: Lana Creer Harris, Jen Allen, Melinda Frandsen, David Isaac, Reed Esplin, Pat Parkinson, Doug Ford, William Christensen, Barry Carlson, Gloria Carlson, Dan White, Claire White, Don Thomas, Ron Rydman

CALL TO ORDER, PLEDGE:

Mayor Thomas called the meeting to order at 6:00 p.m.

Councilman Leifson led in the pledge of allegiance.

PUBLIC COMMENTS:

Pat Parkinson

Ms. Parkinson represents the ALA band boosters. She thanked the Council for being able to participate in the Fiesta Days ice cream booth. She stated the coordinators and services were great to work with. Her comments are based on their experiences at Fiesta Days this year she then handed out comments. The primary problem with concessions is the Council chose not to conform to the requirements of the food sales. They feel despite long hours profits were cut by large margins. She thinks the City needs to set rules and abide by them.

1. Given the duplications this year it will be impossible to give the vendors priority next year.
2. She suggested an early deadline in June for booth requests 2009, the booth fee must be paid to reserve the booth.
3. Vendors that voice intent to have a booth must pay the fee.

They would like them to consider the suggestions and hopefully this year will be better.

Councilman Davis stated they held a Fiesta Committee meeting last night and considered a lot of the options; they will strive to do better next year.

Doug Ford

Mr. Ford is a Citizen and business owner in town. He stated the unwritten City meeting rules, if you violate them with your cell phone going off in the meeting you must bring donuts to the next meeting. There has been a violation of this rule by one of the Council. As a result of this Councilman Andersen has brought donuts and drinks to the meeting tonight.

COUNCIL COMMENTS:

Councilman Davis thanked Everett and Nikki Kelepolo, Mike and Alicia Norris, and Terry and Lil Shepherd for their work on the Fiesta Days Committee. He thanked all those involved and all that they have done. He added that the Youth Council will have their elections this September.

Councilman Andersen would like to express appreciation to all who participated in Fiesta Days this year. He reminded that the County Fair will be here in a couple weeks and he invites all to attend the fair.

Mayor Thomas said the windmills are up and functioning. He thanked all that participated and helped with Fiesta Days this year.

Councilman Leifson has the same comments on Fiesta Days. He thanked everyone that helped the Council appreciates it. The Parks and Recreation steak fry for all the coaches and those involved in that program was held. They appreciate all they do, it is an outstanding program.

Councilman Dart echoed the sentiments the Council have said already. He thanked all the volunteers involved in Fiesta Days this year. He attended board meeting for the South Utah Valley Animal Shelter, there will be a County-wide dog and cat license fee soon. The Senior Citizens have started up again with their meals for those over 60. He spoke with an employee that went camping in town by Canyon View Park, they took a vacation and did not even have to leave town.

PUBLIC HEARINGS:

Councilman Andersen made a **Motion** to open the public hearings. Councilman Leifson **Seconded** and the motion **Passed** all in favor at 6:23 p.m.

700 West Annexation

Mr. Anderson explained the proposed annexation. He noted there were no protests received and that Spanish Fork City is the sponsor of this annexation. It has been reviewed by DRC and Planning Commission both recommending approval.

Councilman Davis made a **Motion** to adopt the proposed 700 West Annexation based on the following findings:

Findings

1. That the annexation area is located within the City's Growth Management Area.
2. That the annexation area is planned for industrial development.
3. That the City can provide the necessary services to the annexation area.

Councilman Leifson **Seconded** and the motion **Passed** by a roll call vote all in favor.

Esplin Industrial Park Preliminary Plat Amendment

Mr. Anderson explained the proposed preliminary plat amendment located by 84 lumber. The City approved a previous plat last year, but the last plat did not include the cul-de-sac, it includes a total of 8 lots. Staff recommends approval of the amended preliminary plat as it is shown.

Councilman Nielson asked about the right of way road dedication.

Mr. Anderson stated they are working on how much will be required in the development agreement.

Reed Esplin

Mr. Esplin explained the road was 70 feet wide, the standard required width is less than that which is why he will need compensation.

Councilman Andersen made a **Motion** to approve the proposed Preliminary Plat for the Esplin Industrial Park subject to the following conditions:

1. That the applicant meet all of the conditions of the previous approval.
2. That the wetland issue be resolved before phase two of the development is approved.
3. That a development agreement be executed to provide for the dedication and construction requirements of 1100 East.

Councilman Nielson **Seconded** and the motion **Passed** by a roll call vote all in favor.

Farnsworth Zone Change

Mr. Anderson explained the two properties involved with the proposed zone change. They are requesting R-1-9 zoning which is consistent with the adjacent property owners.

William Christensen

Mr. Christensen is confused about the lots because it includes his property.

Mr. Anderson explained from a zoning perspective it would remedy the zoning compliance issues on his property now. He also stated the adjacent lot owner would have to bring the lot into compliance with the subdivision laws.

Mr. Christensen stated he is now in compliance with this change.

Councilman Leifson made a **Motion** to approve the Farnsworth Zone Change based on the following findings:

1. That the proposed change is consistent with the General Plan.
2. That R-1-9 zoning is consistent with the surrounding zoning of the property to the north.

Councilman Dart **Seconded** and the motion **Passed** by a roll call vote all in favor.

White Zone Change

Thomas Zone Change

Mayor Thomas recused himself because he is a land owner and Mayor Pro Tem Andersen then chaired the meeting.

Mr. Anderson explained the reason for reviewing these items together is because they are part of the same zone change. He then explained the General Plan will need to be changed for the additional properties included in the zone change because they are not currently in the General Plan. He noted the proposed change is for the Commercial-2 (C-2) zone. The Planning Commission had a recommendation of making contact with the property owners that are on the north side of 900 north to explore their desire to have the General Plan for their properties changed as well. They felt professional office uses would be a great option for those additional properties.

Mr. Anderson explained he believes the property to the north, should the Council change the zoning, will be developed commercial in the immediate future.

Barry Carlson

Mr. Carlson owns the property on 900 north, he has talked to the other two property owners and they both would like to know what is going on.

Dan White

Mr. White stated they are asking for the zone change because they are impacted by property on both sides. Looking into the future it will happen either now or later. They would like to ask for the zone change because of the current zoning on areas around the property.

Lana Creer Harris

Ms. Harris asked them to state the discussion said in the Planning Commission meeting.

Mr. Anderson reviewed the draft minutes of the Planning Commission meeting. The names in the minutes and the two different items covered. Mr. Jensen requested there should be a buffer from residential to commercial. Mr. Thomas made comments on behalf of the property owner. Mr. Anderson gave thoughts on some prospective tenants. Mr. Jensen expressed concerns relative to the height of buildings and would like to see the entire block zone changed.

Gloria Carlson

Ms. Carlson said they have had the trailer court behind them, they worry about a great big high building being built with restaurants and stuff. They feel it should be zoned commercial so they can move and find somewhere nice to live.

Mr. Thomas represents the trailer court, they found they have defective wiring and can't support the trailers. The property owners adjacent are in favor of the change and just wish they were included. He feels it will be an improvement to the city.

Councilman Leifson likes the idea Planning Commission suggested about transition from commercial to residential, with some office space. It softens the impact on the residential adjacent.

Councilman Davis is not sure he wants to change it to C-2 he would rather keep it C-O.

Ms. White is asking for C-2 because the corner is a good place for commercial use with the post office and those looking at the property would like a larger commercial area. They would like the zoning to be even with the corner of the red line or end of the trailer park.

Discussion was made regarding the transition areas for the properties.

Mr. White explained the problem with the depth of the lots being too shallow if it was combined with the adjacent property to be included with another project as commercial it would help.

Discussion was made regarding the benefits of including the lots as commercial and the lot sizes.

Councilman Andersen does not have a problem with changing the zone, and feels it makes more sense to include all the lots to the edge.

Councilman Nielson commented on the notification policy. He would be in favor of including as many people as we can in what is going on in this area. He recommends approving what they have tonight, and contacting the others in the area to discuss future issues.

Councilman Andersen agrees they need to make the quality of life as best as possible for all those affected by this.

Councilman Leifson made a **Motion** to accept the White General Plan Amendment based on the following finding:

1. That the proposed change is consistent with the proposed Zone Change to the north.

Councilman Nielson **Seconded** and the motion **Passed** by a roll call vote.

Councilman Davis voted Nay. He feels it is a good boundary to continue as a C-O and keep 900 as C-O and 1100 as C-2.

Councilman Leifson made a **Motion** to approve the Thomas Zone Change to C-2 based on the following finding:

1. That the proposed change is consistent with the General Plan, provided that the White General Plan Amendment is approved.

Councilman Dart **Seconded** and the motion **Passed** by roll call vote.

Councilman Davis voted Nay.

Mayor Thomas stated their property was under contract and the developer has expressed interest in the adjacent properties as well.

ALA Zone Change

Mr. Anderson explained the proposed zoning for the American Leadership Academy. The subject property is located between Mill Road and Del Monte road. The proposed change would take the zoning from R-1-30 to R-1-12. The motivation for the change expressed to staff has been to build and expand a facility on the property with different setbacks. He stated conditions should be made at this time.

Councilman Andersen asked how the building was built not in compliance with the present zoning.

Mr. Anderson explained the developer built the building without a permit, and there is some history involved.

Melinda Frandsen

Ms. Frandsen is a resident at South Mill Road, she did some research in the state code, and the cities land use code. Construction began in 2006. In that year a law went into affect that clarifies sections of the Utah state code. She read some of the codes stating a municipality can require Charter Schools to meet setback requirements. Only the construction company can be responsible for the building being planned, plotted, and built without application for permit. She stated two wrongs don't make a right. The City should have stopped construction when they realized it was being built without a permit. Although it may be improper to stop building on a school project it does not hinder the educational system.

David Isaac

In the Planning Commission meeting held July 2, 2008, he voiced his approval for the zone change. He applauds the current ALA for trying to conform to the proper requirements. He feels this is zoning to conform to a big mistake. They blatantly encroached upon the adjacent properties and took away a view that would not have been lost if they met the setback

requirements. His question is what will be resolved by changing the zone, this structure has footings and walls that are directly on the property lines. Changing the zoning to conform to the structure would be redundant because it will still not conform to the new zoning requirements. He feels it will instill the idea that it is easier to get forgiveness than to ask permission, 10-9a-305 Utah State Code.

Ms. Parkinson feels it is ironic they are talking about changing rules after the fact. She does not think it is without precedence that it is essentially immoral to change the rule. She does not feel this is a precedence setting thing if they change the zone. She does not know enough about the situation as to whether or not they should be allowed to build up.

Mayor Thomas was at the meeting where they made that request. He asked if there was opposition voiced by residents during construction of the building. He is asking if people are negatively affected by the structure as it is. He feels someone should have done something when it was discovered.

Mr. Thompson recalled that we did not have jurisdiction over the school to require them to get permits at the time.

Mr. Anderson agrees that the developer needed to go through the process to legally build the building. Based on his experience with the code that was in place at that time with both charter schools and the alpine school district he believes there would have been some argument about the cities authority in this situation.

Councilman Andersen recalls a lot of conflicting information as far as what should or shouldn't be done with charter schools. That was the impression given to people here in the city.

Mr. Anderson said we are talking about two wrongs don't make a right. Their typical mode of operation when it is not conforming is to find the easiest solution that is a real solution.

Mayor Thomas asked if the process had been followed back then, would it still have been approved.

Mr. Anderson explained given the impact the facility is on the neighborhood, he does not think a 30 foot tall building of that kind of square footage at that location is a substantial impact on the neighborhood.

Councilman Nielson asked if there was any mischief behind the construction of this. He stated there are questions to be considered. Is there a public safety concern now, if we make the change, is the applicant a good citizen, what is resolved if we change the zoning, and what if we don't change the zoning. If the applicant is not a good citizen you are less likely to approve the change, if it won't result in anything good you won't want to make the change or if it is a safety concern.

Mr. Davis asked about the structure underneath what footings are under there and can it support build up, how high do they want to build and what's the material going to be made of.

Mr. Anderson recommends if the Council has concerns about the conditions set they should express them now. He is concerned there is a safety issue when a final inspection has not been done and a certificate of occupancy has not been issued. If we as the city took on the building permit we required ourselves to ensure these items.

Mr. Isaac stated it is his understanding the set back ordinances are set to protect all the neighbors, the closer you get to neighboring properties the more it impacts them, especially when dealing with the height as an issue for neighboring properties. Why did they have to build it where they did. As a citizen he assumed someone was there to enforce the laws at the time it was built.

Councilman Leifson feels we don't have enough information to make a ruling tonight, someone from ALA needs to come back and tell us what they plan to do and tell us why they want this set-back. He would like more detail and what is going on, also as a point of interest they were supposed to put landscape on the west side and curb and gutter. He feels before they give permission on another project they need to take care of the business they said they would do.

Councilman Nielson asked if they were to apply today would we approve this structure to be built.

Councilman Andersen said he agrees two wrongs don't make a right, this is not just a little shed. He absolutely does not agree that we go back and change the zoning to make that building conform. Also it will set a precedent in that area that we don't want set. The people in that area wanted building lots of at least ½ an acre, but they are ok with quality developments on 1/3 acre lots. This would set a precedent they have the new zoning why can't we have that for our property. He does not want to see the precedents set so someone can come back and say they have that zoning we want it to.

Mayor Thomas would like Councilman Nielson's questions answered, and he would like to hear the historical nature of the laws at the time. We should ensure the safety issue and make sure that is addressed. He asked all involved to come up with some solutions.

Ms. Frandsen would like to support looking at the options.

Direction was given to Dave Anderson to make a formal request of ALA to meet and discuss the issues.

Councilman Nielson made a **Motion** to table this agenda item and continue the public hearing to the September 16, 2008 meeting. Councilman Leifson **Seconded** and the motion **Passed** all in favor.

Forbush Boundary Line Adjustment

Mr. Anderson explained where we are with the boundary line adjustment.

Mr. Baker reviewed the requirements of the law dealing with this action.

Councilman Leifson made a **Motion** to approve Forbush Springville boundary adjustment. Councilman Nielson **Seconded** and the motion **Passed** by a roll call vote all in favor.

Councilman Andersen made a **Motion** to close the public hearing. Councilman Davis **Seconded** and the motion **Passed** all in favor at 8:25 p.m.

CONSENT ITEMS:

Minutes of Spanish Fork City Council Meeting – June 17, 2008, July 1, 2008
SUVMWA Lease Renewal
License Agreement – McDonald
Senior Center – Mountain land Aging Contract for FY 2009

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

NEW BUSINESS:

Utah Valley Home Builders Association – Economic Model Report

Ron Rydman

Mr. Rydman is with the Utah Valley Homebuilders Association and is here to present a copy of the economic value report. He then explained the process of the economics in Utah County and then presented a copy of the report.

Councilman Leifson appreciates Mr. Rydmans Association, and all they do for us.

Mayor Thomas asked that the Utah Valley Home Builders send the Council some information regarding where the market is right now.

Dispatch Special Services Resolution

Mr. Baker explained the resolution needs to be adopted indicating our intent to be included in the new dispatch center. This will be less expensive than the alternatives but will still hold an increase in cost.

Councilman Davis made a **Motion** to adopt Resolution #08-13, a Resolution of the Legislative Body of Spanish Fork City, and Consenting to the Inclusion of area within Spanish Fork City in the Utah Valley Dispatch Special Service District. Councilman Nielson **Seconded** and the motion **Passed** all in favor.

Resolution of Intent to Adjust Common Boundary with Mapleton City

Councilman Nielson made a **Motion** to table this agenda item.
Councilman Dart **Seconded** and the motion **Passed** all in favor.

Lynnbrook Saddle Replacement project – 2008 Proposed Change Order

Mr. Thompson explained the project in Lynnbrook, he then explained what a saddle was. As they dug up the water main in the road it was impossible to blue stake and locate accurately. They feel he should be compensated for the additional costs of the excavation.

Councilman Leifson made a **Motion** to approve the 2008 proposed change order for the Lynnbrook saddle replacement project. Councilman Andersen **Seconded** and the motion **Passed** all in favor.

Golf Course Sprinkler System Pump Station Project Sales Tax

Mr. Robinson explained the contractor selected to do this project did not include the sales tax for this project. The sales tax will need to be paid in order to clear this up. He noted even with the bids and sales tax he was still the lowest bidder.

Councilman Andersen made a **Motion** to approve the golf course sprinkler system pump station sales tax. Councilman Nielson **Seconded** and the motion **Passed** all in favor.

Airport Master Plan Update

Mr. Thompson stated they are rehabilitating a runway on the airport. He explained the FAA gives us money in certain amounts this includes the agreement with Armstrong to do some extra work.

Councilman Nielson made a **Motion** to approve the amendment to the agreement between Spanish Fork City, Springville City, and Armstrong Consultants Inc. Councilman Davis **Seconded** and the motion **Passed** all in favor.

New Haven Emergency Water Connection

Mr. Thompson explained the memo from Richard Heap regarding this agenda item. The Utah County Health Department asked us to see if we can put New Haven on our water system. They are currently on a section of road that is proposed to be developed. They do not feel it would hurt the City to allow the school to install the water line and hook up to the cities water system. It will also increase the fire protection for some residents in this area. It is required to get approval from the Council to hook into the City system if outside the City limits. Staff recommends approval.

Councilman Andersen made a **Motion** to approve the emergency water connection for New Haven. Councilman Leifson **Seconded** and the motion **Passed** all in favor.

EXECUTIVE SESSION:

Councilman Andersen made a **Motion** to adjourn to executive session for the purpose of Pending Litigation and Personnel. Councilman Davis **Seconded** and the motion **Passed** all in favor at 8:48 p.m.

ADOPTED: August 19, 2008

Kimberly Robinson, City Recorder