

**Adopted Minutes  
Spanish Fork City Council Meeting  
April 20, 2010**

Elected Officials Present: Mayor G. Wayne Andersen, Councilman Steve Leifson, Keir A. Scoubes, Richard M. Davis, Jens P. Nielson, Rod Dart

Staff Present: David Oyler, City Manager; Seth Perrins, Assistant City Manager; Dale Robinson, Parks and Recreation Director; Richard Heap, Public Works Director; Angie Warner, Office Clerk; Junior Baker, City Attorney; Dee Rosenbaum, Public Safety Director; John Bowcut, IS Director; Kent Clark, Finance Director; Mark Byers, Animal Control Officer; Karen Bradford, Assistant Parks and Recreation Director; Susan Beckstrom, Office Manager; Jason Sant, Assistant City Attorney; Kimberly Robinson, City Recorder

Citizens Present: Lana C. Harris, Jerry Simmons, Brad Fillmore, Melanie Fillmore, Mark Colton, Tate Colton, Johnathan Ward, Christina Pearson, Shauna Michelsen, Cary Hanks, Dana F. Robinson, Cary Robarge

**CALL TO ORDER, PLEDGE, RECOGNITION:**

Mayor Andersen called the meeting to order at 6:05 p.m.

Councilman Scoubes led in the pledge of allegiance.

**Employee of the Quarter**

Mr. Seth Perrins explained the employee of the quarter is difficult to select because of the great employees we have working for Spanish Fork City. He then recognized Susan Beckstrom in the Parks and Recreation Department as Employee of the Quarter.

Mr. Dale Robinson stated that Susan is the office manager for the Parks and Recreation Department. He stated that "she is the glue that holds their office together". He added that she is always the first one there and one of the last people to leave. They appreciate her and her ability to meet and communicate with the public without it their office would be in shambles.

Mr. Junior Baker introduced the new Assistant City Attorney Jason Sant.

**PUBLIC COMMENTS:**

There was no public comment given at this time.

**Agenda Request – Utility Disconnect Fee**

This item was not discussed at this time.

**COUNCIL COMMENTS:**

Councilman Davis reported Fiesta Days is coming and this is the last year for the parade Chair Aaron and Stacey Peterson. He is proud of those that volunteer their time. He also noted Arbor Day is at the end of the month they will celebrate on the last Thursday. Contact Bill Bushman at the Parks and Recreation department or check the city website for information. The Vietnam Memorial Wall is coming and they are very excited. The down payment has been made and thanks to the local businesses and those that have donated they have collected all the money they need. His last item is that the City telephone service is up and running. He has signed up for the service and his bill will cost a lot less once he is connected.

Councilman Leifson commended the Recreation Department for the excellent soccer fields. He watched his grandson play soccer and the fields are in great shape. They do a great job for the city and there is a lot of work that goes in. He noted the recycle and trash pick up has great service. For example his can was blown over and the driver got out and set the can back upright. Kudos to those that go the extra mile. He thanked the businesses here in Spanish Fork, they get asked for money and donations for all kinds of events so he wants to thank them for their participation.

Councilman Dart said the Chamber of Commerce board did a great job again this year on the Easter egg hunt. He thanked the Chamber and businesses that supported the event. Utah Valley University is honoring Jace Brinkerhoff with a hometown hero's night, admission to the game on April 30<sup>th</sup> will only be \$1 for residents of Spanish Fork.

Mayor Andersen reported this is the City Recorder Kimberly Robinson's last City Council meeting. He thanked her for her service and noted her accomplishments during her employment with Spanish Fork City.

Councilman Dart made a **Motion** to open the public hearing for the CDBG. Councilman Davis **Seconded** and the motion **Passed** all in favor at 6:23 p.m.

### **PUBLIC HEARING:**

#### **Community Development Block Grant (CDBG)**

Mr. Richard Heap noted the City has used some Community Development Block Grants to do projects in town in the past. Because of the red tape involved they cut back in applying for those grants. They have recently applied for a CDBG grant to replace the water lines. They have to go through quite a process to receive this grant they will get \$250,000 and the City will match \$200,000 they hope to start work this fall if not next spring. It will help replace the sewer and water lines at 800 North.

Councilman Rod Dart made a Motion to open the second public hearing for the CDBG program. Public Works Director Richard Heap stated that this hearing was called to allow all citizens to provide input concerning the project that was awarded under the 2010 Community Development Block Grant Program. The city has amended its capital investment plan and decided to apply for funds on behalf of the 800 North Water and Sewer Replacement Project. The Mayor introduced the Public Works Director/City

Engineer Richard Heap who will be overseeing the project. Public Works Director Richard Heap explained that the application was successful in the regional rating and ranking process and the City has been awarded \$250,000. Public Works Director Richard Heap explained the project to those in attendance. The Mayor then opened it up for any comments, questions and concerns from the audience. There were no comments, questions and concerns from the audience. Copies of the capital investment plan are available if anyone would like a copy.

Councilman Nielson made a **Motion** to move out of the public hearing. Councilman Davis **Seconded** and the motion **Passed** all in favor at 6:26 p.m.

Councilman Leifson feels it is a good thing to get the extra money in this economy, it helps them to move forward with the projects that need to be completed.

Councilman Leifson made a **Motion** to accept the CDBG Grant. Councilman Dart **Seconded** and the motion **Passed** all in favor.

Councilman Davis made a **Motion** to open the public hearing on the Proposed Amendment to Title 15. Councilman Nielson **Seconded** and the motion **Passed** all in favor at 6:28 p.m.

**Proposed Amendment to Title 15 – the proposed Amendment would under certain conditions, permit the keeping of chickens in more residentially zoned areas of the City**

Mr. Junior Baker explained this is the Chicken Ordinance they have been working on. The first adjustment they made was to the chart. Mr. Baker explained that any lot under 5,000 square feet would not allow chickens and they are limited to single family dwellings, twin homes or duplexes. He stated this is for hen chickens only. They cannot be located in a corner side yard unless it's completely fenced. They need to be out of sight or they could bother the neighbors and create a nuisance. They do require enclosures and solid walls on all sides including a solid roof. The requirement is 2 ½ square feet per chicken, and wire mesh fencing is allowed outside the coop. The setback is 25 feet to neighboring residences, 6 feet to the primary residence, and 5 feet from property lines. The feed must be stored in predator proof containers and water must be provided at all times. There is a permit required to house chickens. It allows a diagram of the yard to be submitted and requires the applicant to sign a statement that they understand the requirements. The Planning Commission recommended that a permit not be required, the animal control division prefers that a permit be required but that is up to the Council to decide.

This item was opened for public comment.

Ms. Shauna Michelsen thanked the City Planner and Police Officers for the good job they have done creating this ordinance.

Councilman Leifson made a **Motion** to move out of the public hearing. Councilman Davis **Seconded** and the motion **Passed** all in favor at 6:36 p.m.

Mr. Mark Byers reported all the cities he has talked with have charged the permit fees and most people have been cooperative.

Councilman Dart asked if there is a greater workload created by requiring a permit.

Mr. Mark Byers knows there will be extra calls but does not feel there will be a greater workload enough to cause an issue. He feels the permit fee should be required which goes towards the calls and costs involved. He noted the residents he has talked to do not have a problem paying a fee.

Councilman Davis asked regarding the chicken coop ordinance allowing a coop and then later they use it for a storage shed.

Mr. Junior Baker stated the coop requirements match the storage shed requirements in the code.

Councilman Dart noted he hopes anyone that would like to have chickens, please consult their neighbors and make sure they are ok with it.

Councilman Nielson is concerned about the smaller lots and how close the chickens can be to the neighbors etc. He does not think it will have a huge impact on the entire city due to the small number of people interested in owning chickens.

Councilman Scoubes is not looking to charge residents to raise chickens, but feels there should be some sort of permit involved so there are not issues such as in California. He would like to ensure the Utah poultry industry does not suffer the same as in California. We really need to know where the chickens are located for disease control efforts.

Councilman Davis agrees there needs to be some type of registration.

Councilman Leifson agrees it needs to be controlled and regulated.

Mr. Junior Baker explained the beginning fee needs to be decided in their motion and in the future it will be determined by the budget.

Councilman Leifson recommended setting the fee at \$15.

Councilman Dart made a **Motion** to re-open the public hearing. Councilman Nielson **Seconded** and the motion **Passed** all in favor at 6:48 p.m.

Mr. Del Robbins wanted to make a point regarding the permit. He feels there are too many things in the city code that we do not have time to regulate and enforce. Because of that he does not feel it is necessary to require a permit. Why are they burdening the staff with items they do not have the time and resources to deal with and enforce.

Mr. Mark Byers stated the time to handle the permits is minimal, they deal with kennel permits, which are checked quite often. He can't imagine that many people will be having chickens in town, and doesn't see it as a potential problem.

Mayor Andersen thinks for all the commotion that seems to be made over the chicken ordinance, there really is not that many people that will get involved with owning chickens.

Mr. Rick Evans noted there won't be that many people, and added that Orem city does not require a permit, unlike Provo who requires a permit.

Mr. Tyler Cope said there are no comments against having chickens. He asked if they are tracking chickens why they do not track all the other birds in our areas. He feels it seems ridiculous that if someone has the right to have hens, they should have to be permitted.

Councilman Scoubes stated the problem comes from the chickens being enclosed.

Ms. Shauna Mickelson noted the reason they want to raise chickens is for learning for her children and also food production she knows it is probably not cost effective. She would be fine paying a permit fee but she also sees the point that it is a lot of wasted paperwork.

Mayor Andersen feels if people want to raise chickens to give their kids an opportunity, and the parents follow through with their children, it will be well worth it.

Councilman Scoubes likes the idea of being able to raise chickens on your property, his purpose is not for the fee but just a simple list of who has chickens. He can see at some point something happening with some type of disease, and to say to those involved that they have taken this effort is a positive thing. He would just like a simple list to say this is who has chickens and where they are at. He feels that being able to show they are taking some type of step towards knowing where chickens are located for disease is a good thing. He does not see a need for a fee but more of a list that shows where the chickens are.

Mr. Jerry Simmons suggested a five year registration list, which will lighten the burden on the residents that want to have those rights so they do not have to renew annually.

Councilman Nielson made a **Motion** to move out of the public hearing. Councilman Leifson **Seconded** and motion **Passed** all in favor at 7:04 p.m.

Councilman Nielson made a **Motion** to approve the Proposed Zoning Text Amendment without a registration requirement or a fee. Councilman Leifson **Seconded** and the motion **roll call** vote all in favor.

Councilman Davis made a **Motion** to open the public hearing on the Proposed Zoning Text Amendment. Councilman Scoubes **Seconded** and the motion **Passed** all in favor at 7:07 p.m.

**Proposed Zoning Map Amendment – the proposed Amendment would approve a Zone Change at 1968 E. 1200 South to change the zoning from R-1-9 to R-1-6**

Mr. Junior Baker explained Mr. Fillmore resides in Spanish Fork and has applied for his single lot to be moved from an R-1-9 to an R-1-6 zone. This item was denied at DRC, but the Planning Commission recommended approval. The City Planner is very passionate about the city not spot zoning and recommends denial. He is also looking at the idea of expanding the zones where accessory apartments are allowed.

Mr. Brad Fillmore represents his wife and four children. They love their home and are very active in the community. They are here due to financial circumstances which is their motive for rezoning. If this does not work they will be forced to rent or sell their home. They are aware there are several neighbors in the area that are currently illegally renting their basements and it has not caused problems for the area.

Mr. Jerry Simmons is the neighbor directly east of the property. He noted the properties directly behind them are zoned differently. He is here in support of the Fillmore's and noted the home has adequate parking. He has no control of what kind of neighbor he will get if they rent out the entire home. He has no reason to voice any concerns and is here in support of the request.

Mr. Dana Robinson stated that the Fillmore's are really great people and one of the things they need to take into consideration is the economic times. People are trying to get creative in making it work through these tough times; he respects the fact that the Fillmore's went to their neighbors. He feels they need to go ahead and make some exceptions to help families stay in their homes.

Mr. Del Robbins got involved because he likes the Fillmore's and they are here regarding the zoning and appropriate uses for this area. He is here to support them because he feels this is an appropriate use for the area. He feels they have some examples where they have decided zoning regarding individual lots with the in-fill overlay, also for the ALA setback changes. He does not think the fact that they want to be consistent is the reasoning to deny this change. He feels it may be time to look at changing the allowable uses in the different zones. He suggests that if they want to look at this change they should do a moratorium on rentals.

Mr. Tyler Cope said accessory apartments are usually due to financial hardships. He feels that sometimes the owners are not having hardships but that they are trying to help a family member or a friend that is having a financial hardship. He doesn't think it should be limited to the R-1-8 and R-1-9 zones, but the other residential zones in the community as well. He understands Mr. Andersons point with the spot zoning, but feels if they need to look at the broader picture because this could come before them again. He is in support of accommodation for the Fillmore's but asks that it be considered on a citywide basis.

Mr. Rick Evans hates to see the Fillmore's lose their home, he would like them to consider there are several people with illegal accessory apartments, and every time they make an exception there will be others wanting the same exception. There are

already fairly strict requirements for accessory apartments, so the notion that additional zones can have more accessory apartments is not going to happen. They must still meet the requirements of a conditional use. Expanding the ability to have accessory apartments is what needs to be done because the rules are there. He suggests a moratorium to look at the requirements for accessory apartments.

Ms. Melanie Fillmore said they would like to make this legal, and they do not think they will get an influx of people that want to rent their homes, it is quite costly to make a legal accessory apartment.

Mr. Baker stated Mr. Anderson thinks they should review possibly expanding the accessory apartment requirements.

Councilman Scoubes feels in watching the Planning Commission meeting there was a zoning code text amendment mentioned. He noted the zone change opens the potential for other allowed uses on the property. He is not in favor of changing the zoning due to future allowable uses on the property. He asked regarding the timing for the changes if they change the text.

Councilman Dart feels the big issues are adequate parking and the neighbors, there seems to be support from the neighbors and he feels they need to take a look at the other zones. He would support this change as long as they look at the other zone requirements.

Mayor Andersen asked if it was prolonged until July what effect it would have on the Fillmores.

Ms. Melanie Fillmore said they have made arrangements to make their bills through the summer.

Councilman Nielson stated the neighbors are confused, if they make the change it would be only for the single lot. It does not affect the surrounding homes, if they make a change to the overall zoning, even then they would still have to meet the requirements. He believes that when you get to smaller city government it is appropriate to look at things on a case by case basis. There is not a parking issue and he would support the change with the statement they cannot do this for a lot of others.

Ms. Melanie Fillmore said Mr. Robbins is right there is a sense of immediacy for them and it would deplete their savings. She stated there is concern about the time frame for changing the text.

Councilman Davis feels there is a way to do this but they want to do this right. His recommendation is to deny this and review the issue with the zoning requirements. It has not been the practice of the city to zone one lot. It is a bigger issue than just spot zoning, but they need to go back and discuss this issue as a whole.

Mr. Baker stated when looking at changes to all the zones, July would be the earliest but it could lead to some discussion that would require a lot longer time.

Councilman Leifson asked if there is some way they can help the Fillmore's and still resolve this issue.

Mr. Baker stated the Fillmore's have followed the proper course they would prefer people to take. He reminded the Council that spot zoning is legal and that it would solve the problem at this time.

Councilman Scoubes feels if they do the spot change now any change applied for could potentially come close to when they are working towards redoing the zoning. It would allow them to keep their home and allow the city to do their research regarding these rules.

Councilman Leifson made a **Motion** to move out of the public hearing. Councilman Davis **Seconded** and the motion **Passed** all in favor at 7:55 p.m.

Mayor Andersen commented he feels very uncomfortable about spot zoning, it has potential to open things that could get out of control. He feels each zone has specific things that can and cannot be done in that zone. He would feel much more comfortable if they did a zone text amendment for this whole issue, there are already requirements in place that limit the accessory apartments. He suggests that Staff, Planning Commission and City Council get together and move this item along to get it done.

Councilman Scoubes made a **Motion** to approve the proposed zone change to R-1-6 as requested. Councilman Nielson **Seconded** and the motion **Passed** by a roll call vote.

Councilman Scoubes - Aye

Councilman Dart - Aye

Councilman Leifson – Aye, for the reason that we move to get this resolved and changed quickly because there is a need out there and he is glad they brought it to their attention. It is something that needs to be addressed.

Councilman Davis – Nay, for the reason that it is unfair to the neighbors and they need to be heard. A better way to do this is by going back and making the amended requirements regarding this issue.

Councilman Nielson – Aye

Mayor Andersen instructed staff and everyone involved to work on the zone text amendment changes so they can get this worked through in a timely manner.

### **CONSENT ITEMS:**

#### **a. Minutes of Spanish Fork City Council Meeting - March 30, 2010**

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

### **NEW BUSINESS:**

**Consideration for adoption of a resolution authorizing the issuance and sale of not**

## **more than \$6,000,000 aggregate principal amount of Water Revenue Refunding Bonds, Series 2010; and related matters**

Mr. Kent Clark explained in December the city refunded the Electric bonds and now the Water bonds are right on the edge of generating enough savings to warrant a refunding. In order to refund the bonds, the city must give 30 days notice. The plan is to work with Jonathan Ward with Zion's Bank. With the resolution in place, they will take it to a bidding auction to get some competition to generate lower rates. The lower rates will save the city more money.

Councilman Nielson made a **Motion** to adopt resolution #10-04 Authorizing the issuance and sale of not more than \$6,000,000 aggregate principal amount of Water Revenue Refunding Bonds, Series 2010; and related matters.

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

## **NRCS River Trail Grant Agreement Amendment**

Mr. Dale Robinson explained the amendment to the agreement was not received and asked that this item be tabled at this time.

## **Cable TV Rate Increase**

Mr. John Bowcut explained it was decided by Council to do the cable rate increases every year and to only pass along the costs that the cable companies charge the City. The City is different than most cable companies that they do not protect their margin but pass the cost through that that the companies charge. This rate increase is just to cover the cost increase, they are not trying to gouge the customer they are only trying to cover the City's costs.

Basic went up \$.17

Expanded up \$. 2.57

Digital Basic \$2.89

Full Package \$2.89 – There is a contract dispute with Showtime.

He then explained the NCTC it is important to keep our relationship with them. Showtime is expected to do a deal with the NCTC. If they do we would continue to carry their channels. It is their hope that the deal will get done. If it does not happen the Showtime package will go away and we will no longer carry those channels.

Mr. Bowcut then presented a breakdown of where the actual changes come from.

Councilman Leifson made a **Motion** to approve Cable TV rate increase as presented Councilman Davis **Seconded** and the motion **Passed** all in favor by a roll call vote.

## **Arrowhead Trail Del Monte Road Traffic Signal & Intersection Reconstruction Cooperation Agreement**

Mr. Richard Heap explained where the intersection with Del Monte Road and Arrowhead Trail warrants a stop light. They have negotiated the City only having to pay \$100,000 of the total \$300,000 and they recommend approval of this Interlocal agreement with UDOT adding a stop light and making the intersection a lot safer.

Councilman Dart made a **Motion** to approve the agreement for the Arrowhead Trail Del Monte Road Traffic Signal and Intersection Reconstruction Cooperation Agreement with UDOT. Councilman Scoubes **Seconded** and the motion **Passed** all in favor.

### **Disk Golf Presentation**

Mr. Dale Robinson presented information regarding the disk golf course. It is the newest facility in the Parks and Recreation department and the hours of operation are 8:00 a.m. to dusk. The course is located in the old gravel pit which will eventually be a park but for now they have designed a disk golf course. Bank of American Fork donated the money to build the kiosk and the park came from a grant through Utah County. The course was designed by a professional disk golfer.

### **CLOSED SESSION:**

Councilman Leifson made a **Motion** to adjourn to Closed Session for Real Property. Councilman Dart **Seconded** and the motion **Passed** all in favor by a roll call vote at 8:36 p.m.

Councilman Dart made a **Motion** to move out of Closed Session back to the Budget Work Session. Councilman Davis **Seconded** and the motion **Passed** all in favor at 8:59 p.m.

### **BUDGET WORK SESSION:**

#### **Review of Tentative Budget FY 2011**

Mr. Dave Oyler explained the budget process and noted that the city has saved funds over the years and will also use funds accumulated in the General Fund. The State Auditor says we must spend some of our excess General Funds. Some of the items they have looked at in adjusting the General Fund is to try to get revenue coming into the General Fund without relying on the electric fund. Adjusting the telephone franchise tax up to 3 ½% is another area the Council would like to look at to generate some revenue.

The Parks and Recreation fees will be adjusted. Discussion was made regarding the cost of the Festival of Lights. Councilman Nielson asked regarding sponsors for the Festival of Lights. Mr. Dave Oyler explained the city would need to have sponsors and not ask for donations. The idea of a season pass was brought up and discussed.

The utilities challenges are coming regarding the power. The city will be assessed roughly a 8 ½% to 9% increase in our rates from UMPA. The city is looking at having a smaller PCA and bringing up the rate structure to take into consideration the increase. The Garbage rates could be lowered \$.50 for cans and \$.50 for Recycling cans as well. The city is looking at increasing the storm drain fees \$.50 which will net a \$.00 increase.

The water fund was discussed regarding the bond payments and other General Fund items.

Councilman Leifson made a **Motion** to adjourn. Councilman Dart **Seconded** and the motion **Passed** all in favor at 9:40 p.m.

ADOPTED: May 4, 2010

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Kimberly Robinson, City Recorder