

**Adopted Minutes
Spanish Fork City Council Meeting
August 3, 2010**

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

Staff Present: David Oyler, City Manager; Junior Baker, City Attorney; Seth Perrins, Assistant City Manager; Dave Anderson; Community Development Director; Kent Clark, Recorder/Finance Director; Richard Heap, Public Works Director; Chris Thompson, Assistant Public Works Director; Dale Robinson, Park & Recreation Director; Dee Rosenbaum, Public Safety Director; Kelly Peterson, Electric Superintendent; Angie Warner, Deputy Recorder.

Citizens Present: Brad Gonzales, Pat Bird, Melissa Bates, Trudy Seely, Jerold Seely, Randy Larsen, Jonathan Ward, Chris Salisbury, Rick Salisbury, Cary Hanks, Lana Creer Harris, Pat Parkinson.

CALL TO ORDER, PLEDGE, RECOGNITION:

Mayor Andersen called the meeting to order at 6:01p.m.

Councilman Leifson led in the pledge of allegiance.

PUBLIC COMMENTS:

Cary Hanks with the Chamber of Commerce invited the City Council to the Barney's Corner Market ground breaking tomorrow morning at 10:00a.m. and also the Wiggy Wash ribbon cutting will be Friday at noon.

COUNCIL COMMENTS:

Councilman Leifson commented on what a great celebration we had all around. Councilman Lefison recently went to Washington D.C. for the APPA and met with representatives and senators about our concerns and what they are planning with public power.

Councilman Dart thanked the city workers and all the volunteers for a great Fiesta Days celebration. The Senior Board met and is going to start their membership drive on August 23rd. The Library Board has so many programs available to the public that he encourages citizens to participate.

Councilman Scoubes thanked everyone for a great Fiesta Days.

Councilman Davis announced that the North Park Dedication will be August 28th at 10:00 a.m. Following there will be some fun activities open to the public. Councilman Davis handed the time over to Fiesta Days Chairman Brad Gonzales.

Brad Gonzales expressed the committee's thanks to everyone. We couldn't do this without having a great team to make this event work.

Councilman Davis stated that Mike and Amber Mendenhall will be the 2011 Fiesta Days Chairs. We are also looking for volunteers to be vice chairs for 2011. Thank you to all that were involved with our wonderful Fiesta Days.

Mayor Andersen expressed his thanks for all that helped with the celebration. Mayor Andersen also announced the Utah County Fair that will be in a couple weeks. He encourages everyone to participate or volunteer.

PUBLIC HEARING:

Councilman Davis made a **Motion** to move into Public Hearing at 6:16p.m.

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

Ordinance 15-10 Impact Fee Enactment

Junior Baker stated that for many years the City has had impact fees to spread the burden of the new development. We review them regularly to make sure we are fair. The City has contracted with TischlerBise to put this study together. Mr. Baker introduced Dwayne Guthrie with TischlerBise to give a short presentation.

Dwayne Guthrie gave a power point presentation on the proposed Spanish Fork City impact fees.

Mayor Andersen asked for any public comment.

Chris Salisbury with Salisbury Homes stated that this ordinance will affect our company. We understand things cost money; we are not opposed to paying impact fees. We just found out earlier today that this item was going to be discussed tonight. We have done an initial review of the figures and have found that there will be an increase anywhere from \$823.00 to \$5,807.00. This affects first time home buyers greatly. The fee structure is based on the square footage of a home. As per Ombudsman Brent Bateman charging fees based on square footage is illegal. The Utah Impact Fee Act prohibits the city from using a fee to increase a level of service for a particular purpose. In the State Bill 37 Impact Fee Revision, if impact fees were unjustly charged the City would have to go back and pay the developer and anyone who has paid the fee. If this Ordinance is passed we would have no choice but to challenge it. We are asking you wait; do not pass this tonight and let's bring the builders together and work together and figure out where the numbers are coming from. Mr. Salisbury is not opposed to an increase if it makes sense.

Councilman Nielson asked that it sounds like you are not opposed to an increase if the increase is not tied to square footage.

Chris Salisbury replied that he knows money has to come from somewhere for improvements. Every circumstance is different but based on prior cases it shouldn't be done by square footage.

Councilman Davis commented that if the impact fees are not brought in then we push it over to the developers to do more.

Councilman Nielson asked where Spanish Fork stands compared to other cities on impact fees.

Chris Salisbury replied that Spanish Fork is on the higher end.

Pat Parkinson attended one of the past budget meetings a bit ago and is wondering why we have to increase impact fees when we have excess in the electrical fund that the City has already used for other areas.

Councilman Leifson replied that the electrical rates are more than likely going to be going up so there won't be excess.

Councilman Nielson said the City has extra money in one fund to cover other costs that don't raise enough to cover itself. We choose to take from the electric fund because it is better than raising the property tax.

Mayor Andersen stated that impact fees are to cover only impacts of new development. It covers the cost to service that new development. Mayor Andersen said we have to ask the question do we spread the cost over the total number of people that are already here; or do we have the new development take care of its own cost.

Pat Parkinson asked if there is a document that shows the bottom line with the comparisons.

Dave Oyler responded yes.

Carol Merrill with Utah Valley Home Builders said that the builders that we represent will be impacted. There are specific guidelines and rules that must be followed with the state code. It's a lot of technical detail and we would love to work together and figure more creative ways for the financial problems.

Lana Creer Harris asked about the difference in the recreation impact fee. It shows that it goes down so how are we going to pay for it. What about the library that we need, where is it shown?

Dave Oyler replied that impact fees cannot be charged for a library.

Dave Anderson added that we would have to bond or raise property tax for a library.

Junior Baker replied that it is not illegal to charge impact fees based on square footage if the analysis supports it. The City posted this public hearing two weeks ago and it was sent to a three different associations. Regarding Senate Bill 37, we are in compliance with that law.

Councilman Nielson asked if implementing these impact fees is something we need to do. It seems prices just keep going up.

Junior Baker stated that there is not a maximum impact fee. But you cannot charge a fee greater than the maximum amount shown by your analysis. The question is does the City want the new growth to pay it or all the current residences. Impact fees are not a legal requirement; it allocates the cost of the development to who is causing the impact.

Councilman Davis clarified that this is the maximum shown here tonight.

Junior Baker replied you cannot exceed the numbers presented tonight.

Mayor Andersen stated that we did the impact fee study on roads & recreation because they are a need. When people move in and impact that facility they need to pay their fair share.

Dave Anderson reviewed the comparisons. This gives some idea of how we compare to the surrounding cities. Every city charges their fees different and we are 4th lowest among these other 10 cities. Other cities in Utah County just charge a flat fee.

Councilman Dart asked if the trend is to base impact fees on square footage.

Dwayne Guthrie replied yes, both the National Homebuilders Association and HUD recommend basing impact fees on square footage.

Chris Salisbury asked if the square footage is based on finished square footage or the total square footage of the home.

Dwayne Guthrie replied that it is total square footage.

Pat Parkinson would like a comparison of the different sizes of homes.

Dave Oyler stated that the City Council instructed city staff to split this into two phases. We will provide the second part of the study after the first of the year.

Junior Baker stated that this ordinance will not be effective for 90 days, if it is passed tonight.

Rick Salisbury stated yes, this ordinance will affect us. Is there another way, can it be assessed on a property over time? Any increase is hard and he disagrees with the way it's figured and what it's based on.

Councilman Davis asked Carol Merrill when they received the notice.

Carol Merrill replied that they probably received it but can't do anything until you see the data.

Councilman Nielson expressed that we as the City probably feel that we have under charged in the past and the City cannot subsidize anymore.

Dave Oyler stated that one of our concerns is we want all of the parties involved. We sent notice to the following parties: Utah Homebuilders Association, Utah Realtors Association and Associated General Contractors and invited them to help participate.

Chris Salisbury we didn't receive the letters or notices, why can't we be directly contacted.

Councilman Davis asked Carol Merrill if her company forwards the information to the developers.

Carol Merrill replied yes.

Mayor Andersen said we can send information to people but we can't follow up with everyone to make sure they received it.

Carol Merrill asked if there is a cycle of implementing impact fees.

Dave Oyler stated that the City hasn't changed impact fees since 2007.

Carol Merrill feels that raising a fee to bring in development isn't the way to do it.

Mayor Andersen responded that we are not opposed to bringing in the development if the needs of our city and citizens are met.

Councilman Davis asked what our practice for sending out notices for raising impact fees.

Dave Oyler said by the state law it says we have to post on the state website. We went above and beyond and also sent it to associations.

Junior Baker replied that we didn't extend invitation to local contractors because it could be discrimination if we miss someone.

Councilman Dart made a **Motion** to move out of Public Hearing at 8:06p.m.
Councilman Leifson **Seconded** and the motion **Passed** all in favor.

Councilman Nielson feels we have to justify the fee. If we have to add another cost let's keep it as low as we can.

Dave Oyler asked Councilman Nielson if he wanted more information on the importance of both of the proposed impact fees.

Chris Thompson explained the street impact fee is being proposed because the lack of city funds to pay for street improvements. If we can't charge a fee, we may have to deny developments because there is no money to fund the road for that development. There is not always money in the general fund or street fund. Mr. Thompson went over some of the projects and how much they cost.

Discussion about developers building parks in their developments.

Councilman Dart pointed out that most of the impact fee is going towards the streets. He agrees that new residents should pay for their new impact on the city.

Councilman Leifson added that we are in a tough economy and it's hard to ask people to pay more, but we have to take care of our city and citizens. We hired a consultant that specializes in this area to help us work this out and make the best decision.

Councilman Davis said he looks at these fees and it affects him because he is a contractor. He was elected by Spanish Fork citizens to represent them and he has them in mind.

Councilman Davis made a **Motion** to approve the Ordinance 15-10 Impact Fee Enactment.
Councilman Dart **Seconded** and the motion **Passed** all in favor with a roll call vote.

Councilman Nielson – Aye

Councilman Davis – Aye
Councilman Leifson – Aye
Councilman Dart – Aye
Councilman Scoubes – Nay - Impact fees need to be raised and this is the maximum that we can charge. Councilman Scoubes feels the City does not need to charge the maximum.

Dave Oyler asked the City Council if they still want staff to precede with second phase of the impact fees.

Mayor Andersen responded yes.

CONSENT ITEMS:

- a. Minutes of Spanish Fork City Council Meeting - July 20, 2010
- b. Sterling Hollow 5 Million Gallon Reservoir, Change Order #1
- c. Cold Springs Collection System Reconstruct
- d. Cold Springs Collection System & Miscellaneous Water System Engineering Contract Amendment

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

NEW BUSINESS:

Planning Commission Appointment – Brad Gonzales

Mayor Andersen would like to appoint Brad Gonzales to the Planning Commission.

Councilman Dart made a **Motion** approving the Mayor's appointment of Brad Gonzales to the Planning Commission.

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

Consideration of a Resolution of the City Council of Spanish Fork City, Utah (the "Issuer") Authorizing the Issuance and Sale of Approximately \$5,900,000 Aggregate Principal Amount of Water Revenue Refunding Bonds, Series 2010, Authorizing the Taking of all Other Actions Necessary to the Consummation of the Transactions Contemplated by this Resolution, and Related Matters.

Kent Clark introduced Randy Larsen with Bond Council firm of Ballard Spahr and Jonathan Ward with Zions Bank Public Finance. Mr. Clark said the City passed a parameters resolution in April to begin the process of refunding the Water Bonds issued by the city for the Pressurized Irrigation system. The bond interest rates continued to drop and we would like to refinance our bonds to a lower rate. It has become advantageous for the city to complete that refunding at this time.

Randy Larsen explained that we are asking the City Council to allow the underwriter some flexibility in selling the bonds. If you approve this resolution it will tighten the parameters but give the Mayor, City Manager or Finance Director the authority to pull the trigger and allow the underwriter the flexibility to pick a good rate on a good date. Mr. Ward estimated the savings could be around \$40,000 per year for the remaining life of the bonds. The refunding bonds will go to the underwriter to be sold sometime around the 16th or 17th of the month.

Councilman Leifson made a **Motion** to approve the Resolution 10-08 Consideration of a Resolution of the City Council of Spanish Fork City, Utah (the "Issuer") Authorizing the Issuance and Sale of Approximately \$5,900,000 Aggregate Principal Amount of Water Revenue Refunding Bonds, Series 2010, Authorizing the Taking of all Other Actions Necessary to the Consummation of the Transactions Contemplated by this Resolution, and Related Matters.

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

Councilman Nielson - Aye

Councilman Davis - Aye

Councilman Leifson - Aye

Councilman Dart - Aye

Councilman Scoubes - Aye

Presentation Utah County Substance Abuse Prevention Presentation – Melissa Bates

This item was continued.

Ordinance 16-10 Home Occupation in Accessory Buildings – Junior Baker, City Attorney

Junior Baker stated that currently home occupations must take place in the home. This ordinance is expanding that option to an accessory building. Mr. Baker reviewed some of the requirements and restrictions.

Discussion about parking for patrons.

Jerold Seely expressed that if you allow businesses in residential areas then they are no longer considered residential. If they don't have a permit then they cannot conduct business.

Councilman Leifson made a **Motion** to approve the Ordinance 16-10 Home Occupation in Accessory Buildings.

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

Councilman Nielson - Aye

Councilman Davis -Aye

Councilman Leifson -Aye

Councilman Dart -Aye

Councilman Scoubes -Aye

Councilman Davis requested a 5 minute recess at 9:36p.m.

Reconvene at 9:43p.m.

NRCS Grant Agreement – Dale Robinson, P & R Director

Dale Robinson stated that this agreement has some modifications from the first agreement. This contract for the Spanish Fork River Trail Project has to be utilized by the end of this year.

Councilman Nielson made a **Motion** to approve the NRCS Grant Agreement.

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

North Park & Spanish Fork River Trail Project Updates – Dale Robinson, P & R Director

Dale Robinson gave an update on the North Park production. The ribbon cutting will be August 28, 2010 at 10:00a.m.

Dale Robinson also gave an update on the Spanish Fork River Trail Project.

ADJOURN:

Councilman Dart made a **Motion** to adjourn.

Councilman Leifson **Seconded** and the motion **Passed** all in favor at 9:57p.m.

ADOPTED: August 17, 2010

Angie Warner, Deputy Recorder