

**Adopted Minutes  
Spanish Fork City Council Meeting  
October 15, 2013**

Elected Officials Present: Mayor G. Wayne Andersen, Councilmembers Steve Leifson, Rod Dart, Keir A. Scoubes, Richard Davis, Brandon Gordon.

Staff Present: David Oyler, City Manager; Junior Baker, City Attorney; Seth Perrins, Assistant City Manager; Dave Anderson; Community Development Director; Chris Thompson, Public Works Director; Dale Robinson, Parks & Recreation Director; Kent Clark City Recorder/Finance Director; Steve Adams, Public Safety Director; Angie Warner, Deputy Recorder; Jered Johnson, Engineering Division Manager.

Citizens Present: Krisel Travis, Troy Walker, Bobilyn Bassett, Sam Brinkerhoff, Riley Matsuoka, Jorge Aguero, Hampton Bassett, Brett Proctor, Maddy Shearer, Derrick Brundage, Kevin Payne, Danyelle Payne, Tage Johnson, Mike Mendenhall, Cary Hanks, Carl Creighton, Brock Anderson, Zack Tolbert, Cade Parkinson, Michael T. Adams, Bridger West, Garrett Worthen, Stephen Tibbs, David Eliason, Brody Eliason, Kay Christensen, Kayson Christensen, Mr. Dahl.

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

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

Garrett Worthen led in the pledge of allegiance.

**PUBLIC COMMENTS:**

**Agenda Request –Kevin Payne**

Kevin Payne presented the council a copy of his speech and read the following:

*I appreciate your attention tonight. Unfortunately the reason I am here is the same as it was in 2007, I need to remind the city council of our settlement reached that year and stress the importance of upholding our agreement.*

*In December 2007 I signed a settlement agreement with this city resolving pending litigation. Many members of this council, including Mayor G. Wayne Anderson voted unanimously to approve resolution 08-01. And closed both the dispute I made that the counter suit the City filed against me.*

*Just under 7 years later someone has apparently decided to re-visit this contract to find a way to try to manipulate it to allow the city to put in a larger roadway along 700 E; and in my opinion breach the contract we have held.*

*When construction began this summer on the 700 east roadway I was prompt and frequent in expressing my concern that the roads new layout would prevent enough room from ever placing the new sidewalk as the contract stated and our understanding of the final settlement with Spanish Fork city back in 2007. This can be found in section (3a) of the settlement agreement. It states "All public infrastructure and related improvements, including sidewalks along 700 E. adjacent to the Payne property shall be located at least two feet outside or to the west of the existing fence line to the west side of the Payne property."*

*Now that the road curb and gutter have been completed it is evident that it will now never leave me with the possibility to have a sidewalk according to the terms of our agreement. The recently installed ADA ramp on the corner of 700 E and 800 N already encroach several feet and actually run past into our property to put a 4' wide sidewalk in.*

*My first act was to ask my attorney to look and see if this was some sort of oversight or misunderstanding. After careful deliberation it became apparent that a dialogue must begin with the city to find out where this went wrong. So a letter was sent.*

*The response from the city of Spanish Fork through Mr. Junior Baker, the city attorney was unbelievable. Not only did Mr. Baker acknowledge that there will now not be enough room to place a sidewalk in the location according to the settlement, furthermore, I will need to remove the fence at my expense and allow*

*the city to place the sidewalk inside my property if I ever do want the sidewalk installed. The letter then explains that if we chose to reopen our case then the city will choose to reopen theirs, as some sort of way to make me think twice about standing up.*

*Mr. Baker continues with the explanation that there are many areas in the city where the sidewalk is not completed, but in this instance I will now never be afforded the right to have a sidewalk along my property in compliance with the settlement. It will require me to give up land that was settled in our agreement in 2007, land inside my existing fence line that was installed years before we ever purchased this, our first home, further diminishing the value of my property.*

*How can I as a citizen of this town ever have any faith and confidence in our elected officials when a simple agreement that has lasted since 2007 will not be upheld. A response from several city officials, and according to Mr. Baker, stating that the sidewalks and public infrastructure must be located and not demanding it meant that I will never get a sidewalk in that location. Mr. Baker leans on the city's record of not completing sidewalks throughout Spanish Fork as a great excuse to leave me without one. I look at this as a poor planning and leadership. Looking for an excuse to skirt responsibilities does not reflect well for the city and only hurts our image. I have lived here over 10 years, and may live here for 10 more. I have yet to see a similar sidewalk omission as bad as this looks. While he is correct, even the South side of my property has no sidewalk, but it is easily negotiated, easy to remove the snow and accessible to all who travel across the unfinished section every day. In stark contrast the new unfinished section on the west side is a disaster zone and entirely impossible to navigate as trees and utility poles block major sections with slopes that drop as much as (10) inches in just a few feet. This is an accident waiting to happen. Thus far the accidents that have already occurred have only involved my family and have not required serious medical attention. But with the road opening recently, we are seeing that the vehicles traveling it requires a person to walk on the sidewalk for safety, but walking down the area where the sidewalk should be, could and will be more dangerous than walking along the side in the road. This can only be expected to increase as water, snow, ice and other citizens attempt to traverse this section.*

*To me this is a clear case of some big city officials trying to push and pressure citizens that don't seem to fit with some larger agenda. Until recently we have long held a position we will not impede development, but this piecemeal approach taken by city officials just shows an allegiance to big developers at the residence expense. How about showing some fairness, honoring your commitments and standing for what you probably all ran on to hold these offices. Yes, Spanish Fork is growing, but just like in 2007 this can sit for another 6-10 years before major development comes. I will never forget North Park development, it was going to explode with development, Home Depot, Target and many more smaller businesses. When I look over there, yes there are some new stores, but I still see a lot of dirt and weeds. Similarly, instead of the sidewalk along my fence I have nothing but dirt and weeds. How does that reflect on potential residence and business?*

*The following is a excerpt on the subject that I found on Spanish Fork website:*

*"The City anticipates making additional improvements to 1000 North, 600 East and 700 East, however these improvements will wait until the construction of retail buildings begin on the site and the improvements are needed in the area."(Dec 8, 2009).*

*<http://www.spanishfork.org/newsevents/events/view.php?id-212>*

*No stores have begun over by us, there is still a (40') pile of dirt there. Why did this happen so quickly; we couldn't have sat down to address of this before? It appears to me that some did sit down and decide that breeching our existing contract would be an acceptable risk for the city to take. Why keep wasting public funds? Was this decision in the same meeting that repaved 700 East just to turn around and rip it all out only a few months later? Or to place a new fire hydrant inside this settlement zone and then rip it out and tear up the new curb and gutter to relocate it as well? Don't we have better places that our city resources can go than constant litigation with the Payne family? If not, then is it possible we need new leadership in charge of such funds and decisions.*

*In conclusion, I urge you to look into this matter, I will not continue to stand for this apparent breach of contract and hope to avoid another long and costly litigation.*

*Hopefully this is the first time you are hearing of this dispute, and will find it as disappointing as we have, I would be ashamed to have my name signed to this contract, or voted to approve and see how it has been misconstrued. Thank you for your time and attention to this matter, I look forward to a quick resolution, and the adequate space for the sidewalk west of my fence in compliance with the agreement.*

Mayor Andersen said that this is the first he is hearing of this situation and will look into it and be back in communication with Mr. Payne.

Junior Baker said he has some answers to the situation. Mr. Baker said that Mr. Payne sued the city several years ago and the city countersued for quiet title. Mr. Payne's property line is very close to the home, not where the fence is. The City dismissed the counter claim but it can be refilled, if needed. The sidewalk could be installed in the public right of way, but the City thought it would be best to allow Mr. Payne to enjoy the grassy area within the public right-of-way and inside the fence. An aerial photo was shown which showed property lines. The property line is right next to the home, with the entire yard adjacent to 700 East being in the public right-of-way. Mr. Baker addressed a couple of other problems: One problem is the approach for the driveway needs to be fixed. The City went to the property to fix it and Mr. Payne told them to not touch it. The City would like to get this issue resolved while the contractor is still on site. The second issue is the trailer parked on the road that eventually could receive a citation if it is not moved off of the road.

Cary Hanks, Director of the Spanish Fork Salem Area Chamber of Commerce, invited the public to the Meet the Candidates night Thursday, October 17<sup>th</sup> from 6pm-8pm at the City Office. Channel 17 will broadcast it live. If you have questions you can email those to [office@sfchamber.com](mailto:office@sfchamber.com). Ms. Hanks also invited everyone to the Main Street Trick-or-Treat on Saturday, October 26<sup>th</sup> from 1pm-3pm.

#### **COUNCIL COMMENTS:**

Councilman Davis asked Jered Johnson, Engineering Division Manager, to give an update about the construction at the airport. Councilman Davis reminded citizens to get out and vote on Election Day November 5th.

Councilman Leifson reminded citizens that there is also Early Voting for the election that starts October 22 through November 1 from 1-5 at the City Office. Councilman Leifson thanked the Chamber of Commerce for inviting the candidates to come speak at their meeting.

Councilman Scoubes said he will be attending the solid waste board meeting tomorrow and reviewed some items that will be discussed.

Mayor Andersen encouraged the citizens to get out and vote on November 5th. Mayor Andersen expressed that every vote counts and spoke of his experience of losing the election, then a recount was done and he had actually won. Mayor Andersen asked citizens to study the platforms of the candidates and vote for someone that you think will get the job done.

**SPANISH FORK 101:** 2013 General Election Voter Information –Kent Clark

#### **CONSENT ITEMS:**

Department Directors gave a brief summary of their item(s) below:

- a. Minutes of Spanish Fork City Council Meeting – October 1, 2013
- b. 1850 North Sewer Siphon 2013 Project, Change Order 1
- c. Easement Agreement with Swenson Properties, LLC
- d. Lobbyist Agreement with Marcus Faust

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

**PUBLIC HEARING:**

**Ordinance #16-13 Abandoning Sewer and Electric Easements in the Canyon Creek Development**

Junior Baker said this item was approved a couple of meetings ago, but it was found that the proper notice was not published in the paper so we are presenting it again. Sewer and electric easements are being abandoned to allow for the construction of a hospital and retail establishments. Temporary easements will be granted to the City until the utilities can be permanently relocated.

Councilman Gordon made a **Motion** to move into Public Hearing.  
Councilman Davis **Seconded** and the motion **Passed** all in favor at 6:59p.m.

Mayor Andersen welcomed public comment.

There was none.

Councilman Davis made a **Motion** to move out of Public Hearing.  
Councilman Leifson **Seconded** and the motion **Passed** all in favor at 6:59p.m.

Councilman Davis made a **Motion** to **approve** Ordinance #16-13 Abandoning Sewer and Electric Easements in the Canyon Creek Development.  
Councilman Scoubes **Seconded** and the motion **Passed** all in favor with a roll call vote.

**Park View Zone Change –This proposal involves changing the zoning for approximately 16 acres located north of Volunteer Drive, east of Main Street to Commercial 2 and R-3.**

Dave Anderson said this proposal is 16 acres across from the City Sports Complex. The property currently has three different zoning designations. The proposal tonight is for a zone change to Commercial 2 on the east side and R-3 for the remaining of the property. In the proposed R-3 area there would be 132 townhome units. The Development Review Committee & Planning Commission recommended denying the Park View Zone Change.

Councilman Dart made a **Motion** to move into Public Hearing.  
Councilman Davis **Seconded** and the motion **Passed** all in favor at 7:10 p.m.

Krisel Travis with DR Horton, the proposed developer, reviewed a few changes on the layout related to the garages and the front of the homes addressing the street. Ms. Travis said this property has numerous easements throughout. DR Horton found some more utility lines that were not in easements and proposes to move those to the right location. Ms. Travis said that 1.6 acres is set aside for the commercial development in the future. Ms. Travis reviewed the amenities that were added as requested by DRC & Planning Commission. Ms. Travis said they are hoping for approval of a rezone with a contingency on final plat approval so the property owner is not stuck with the zone change if the development does not happen.

Mr. Dahl owner of the proposed property expressed that DR Horton is a great company to work with to get this development to work.

Councilman Leifson made a **Motion** to move out of Public Hearing.  
Councilman Davis **Seconded** and the motion **Passed** all in favor at 7:22 p.m.

Councilman Davis said he would like to look at creating a development agreement. Councilman Davis is concerned about the high density and would like to continue this item so staff & council can meet with the developer.

Krisel Travis said they are happy to do a development agreement and they are in compliance with city standards. They are under contract and a time restraint so the sooner they can meet the better.

Councilman Davis made a motion to continue the Park View Zone Change for 60 days.

The motion died for lack of second.

Councilman Leifson said we can probably do it faster than the 60 days.

Ms. Travis asked with the application if it could be prepared for the rezone and the preliminary plat.

Councilman Leifson replied yes.

Councilman Gordon asked about the 14 spots for on street parking on Volunteer Drive for the homes that front to Volunteer Drive.

Ms. Travis said the parking spots are on Volunteer Drive because of the front of the homes face that street. The other homes in the development do not have the same parking.

Dave Anderson said that the City requires 2.5 parking spaces per unit as off street parking from the developer.

Councilman Scoubes asked what happens to the on street parking when there are events at the sports park.

Dave Anderson said that it is public parking anyone could park there.

Councilman Davis asked if this item is tabled for 30 days, what happens if a decision has not been made.

Junior Baker said the City Council could continue it again, deny or approve it.

Mayor Andersen said they will have a couple councilmembers will meet with DR Horton to start working on the items that need to be addressed.

Councilman Davis made a **Motion to continue** the Park View Zone Change for approximately 60 days.

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

### **Cerna Zone Change –This proposal involves changing the zoning for a parcel located west of 689 North Lynnbrook Drive**

Dave Andersen said this is a small parcel that is land locked behind a twin home and would like to change the zoning from R-1-6 to Commercial 2. The adjacent property to the east is already

zoned Commercial 2. The Development Review Committee & Planning Commission recommends approval.

Councilman Gordon made a **Motion** to move into Public Hearing.  
Councilman Scoubes **Seconded** and the motion **Passed** all in favor at 7:39 p.m.

Jamie Evans said that he has been working on this project and this billboard since 1998 and has been told several times that he cannot do it. Mr. Evans is assuming that Reagan will be moving their two billboards from State Road 51 to this one location. Mr. Evans asked if this is approved that he would like the same opportunity in the future.

Councilman Davis made a **Motion** to move out of Public Hearing.  
Councilman Gordon **Seconded** and the motion **Passed** all in favor at 7:43 p.m.

Councilman Scoubes asked if it was determined that Cerna owns the land.

Junior Baker said that it is in the county records as a separate parcel.

Councilman Davis made a **Motion** to **Continue** the decision on the Cerna Zone Change to the next city council meeting.  
Councilman Scoubes **Seconded** and the motion **Passed** all in favor with a roll call vote.

#### **NEW BUSINESS:**

##### **Springville Spanish Fork Water Connection Agreement**

Chris Thompson said on the north border where Spanish Fork's water line ends, it was decided to connect to Springville's water line. A meter was installed and it will be used for emergency uses only. The State Division of Drinking Water has approved the connection and the valves would only be opened with the permission of both cities.

Councilman Dart made a **Motion** to **approve** the Springville Spanish Fork Water Connection Agreement.  
Councilman Leifson **Seconded** and the motion **Passed** all in favor.

##### **Cold Springs Front Collection System Bid**

Chris Thompson said he has been working for about 3 ½ years on this project and the City almost has a permit from the Army Corp of Engineers. The City will be eliminating the Cold Springs pond located up Spanish Fork Canyon and will construct a larger pond on the south end of Main Street. Staff recommends awarding this bid to Sunroc Corporation in the amount of \$2,064,850 with the following conditions:

1. City receives a permit from the Army Corp of Engineers
2. City acquires easements needed
3. Any deadlines in the bid be extended from when the contract is signed.

Councilman Davis asked what if costs go up and the City still does not have the permit.

Mr. Thompson said that Sunroc will have to commit to the pricing before we sign the agreement.

Councilman Davis made a **Motion** to **approve** the Cold Springs Front Collection System Bid to Sunroc Corporation in the amount of \$2,064,850 with the following conditions:

1. City receives a permit from the Army Corp of Engineers

2. City acquires easements needed
3. Any deadlines in the bid be extended if needed

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

### **Approval of Election Poll Workers**

Kent Clark presented the list of election poll workers that need to be approved to work the November General Election and is still looking for one more counter.

Councilman Dart made a **Motion** to **approve** the Election Poll Workers for the 2013 General Election.

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

### **Rock Cove Plat B Preliminary Plat –The proposal would create two lots located at 2401 East 1170 South.**

Dave Anderson said this proposal is to divide the property into two lots. The Development Review Committee and Planning Commission recommends approval.

Councilman Gordon made a **Motion** to **approve** the Rock Cove plat B Preliminary Plat.

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

### **Larsen Preliminary Plat –This proposal would allow for the construction of a three unit structure at 880 East 600 North.**

Dave Anderson said City Council has approved the zone change for this property. This proposal is for a preliminary plat to construct a three unit structure. The Development Review Committee & Planning Commission recommends approval with the following conditions:

1. That the applicant meets the zoning conditions imposed by the City Council.
2. That the applicant meet the City's Construction Standards.
3. That a four-foot brick wainscot be added so as to match some of the characteristics of the existing structures on the neighboring properties.

Councilman Scoubes would like to see the left & middle units have the entrance doors next to each other instead of the garages.

Dave Andersen said that could be required.

Councilman Leifson made a **Motion** to **approve** the Larsen Preliminary Plat with the following conditions:

1. That the applicant meets the zoning conditions imposed by the City Council.
2. That the applicant meet the City's Construction Standards.
3. That a four-foot brick wainscot be added so as to match some of the characteristics of the existing structures on the neighboring properties.

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

### **Canyon Creek Phase 3 Preliminary Plat –This proposal would create commercial lots located at 500 East Kirby Lane.**

Dave Andersen said this proposal is to create 3 lots at approximately 500 East Kirby Lane. It meets the requirements and if needed the zoning will be addressed at a later time. The Development Review Committee & Planning Commission recommends approval.

Councilman Davis made a **Motion** to **approve** the Canyon Creek Phase 3 Preliminary Plat.

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

**North Park Amended Preliminary Plat –This proposal would create commercial lots located at 500 East 1000 North.**

Dave Andersen said this lot was owned by Home Depot and Woodbury Corporation has bought the property back. The Planning Commission mentioned a potential need for a traffic study done at 500 East 1000 North. The Development Review Committee & Planning Commission recommends approval.

Councilman Scoubes made a **Motion to approve** the North Park Amended Preliminary Plat with the following condition:

1. That a traffic study is conducted at 500 East 1000 North and if warranted, a traffic light be constructed at the developer's expense.

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

**Resolution #13-10 Authorizing the Mayor to Request an Audit of the SWUA**

Junior Baker said there is an issue that has drug on for a number of years regarding property taxes on the 46kv electric line and who should pay those. Spanish Fork City feels we do not owe it. SWUA is sending bills and we are not paying them. We have spoken with Payson & Salem City and they have the same issues plus some other issues. We have tried to resolve this issue and have been unsuccessful. Having this audit done may save us some litigation costs and expenses.

Councilman Dart asked what this is regarding.

Junior Baker said SWUA claims to own some of the easements for rights of way. The Bureau of Reclamation claims they own all of the easements.

Mayor Brailsford of Salem and a Central Utah Water Board Member Representative explained that the Interior Department of the United States Government does not do an audit unless requested by other entities, so this letter will come from the three cities.

Councilman Scoubes made a **Motion to approve** the Resolution #13-10 Authorizing the Mayor to Request an Audit of the SWUA.

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

**ADJOURN TO REDEVELOPMENT AGENCY:**

Councilman Davis made a **Motion** to adjourn out of City Council Meeting and into Redevelopment Agency Meeting.

Councilman Leifson **Seconded** and the motion **Passed** all in favor at 8:22p.m.

**ADJOURN BACK TO CITY COUNCIL**

Councilman Davis made a **Motion** to adjourn Redevelopment Agency meeting and reconvene back to City Council meeting.

Councilman Gordon **Seconded** and the motion **Passed** all in favor at 8:25p.m.

**ADJOURN:**

Councilman Dart made a **Motion to adjourn** to Closed Session to discuss Land Acquisitions & Transactions.

Councilman Davis **Seconded** and the motion **Passed** all in favor at 8:25 p.m.

ADOPTED: November 5, 2013

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Angie Warner, Deputy Recorder