

**Adopted Minutes
Spanish Fork City Planning Commission
December 3, 2003**

Agenda review at 6:30 p.m. by Mr. Pierson.

The meeting was called to order at 7:15 p.m. by Chair Lewis.

Chair Lewis stated that the meeting will be broadcast live on SFCN.

Commission members present: Chairman David E. Lewis, Commissioners Roy L. Johns, Thora L. Shaw, Paul Bradford, Thad S. Jensen and Ted Scott.

Staff Members Present: Emil Pierson, City Planner; Richard J. Heap, City Engineer/Public Works Director and Chris Cope, Secretary.

Citizens Present:

Preliminary Activities

Pledge of Allegiance

The Pledge of Allegiance was led by Chair Lewis.

Minutes

Commissioner Shaw made a **motion** to approve the minutes of the November 5, 2003 meeting of the Spanish Fork Planning Commission with noted changes. Commissioner Jensen **seconded**, and the motion **passed** with a unanimous vote.

Commissioner Jensen made a **motion** to enter into Public Hearing. Commissioner Scott **seconded** and the motion and the motion **passed** with a unanimous vote.

2. 1. Public Hearing: Zoning Ordinance Amendments-Title 17 Windmill (turbine) Ordinance City Wide

Applicant(s): Robert J. Pittelli

This item was tabled from the November 5, 2003 meeting of the Planning Commission. Mr. Pierson discussed the details of the research in the agenda.

Mr. Leon Pexton, Chief Operating Officer of Utah Municipal Power Association made a presentation to the Planning Commission. Copies of the presentation were distributed to the Planning Commission and the public.

Chair Lewis asked what resources are used by UMPA. Mr. Pexton responded that the resources include the Colorado River system, geothermal, hydro, wind, coal and contracts with other entities. In the early 1980's UMPA worked at the mouth of Spanish Fork Canyon to develop a wind turbine. It was determined that the turbine was not feasible since it produced power at the wrong times of the day. UMPA has since entered into contracts with other entities that develop turbines to further develop technology. Mr. Pexton's purpose tonight is to provide information and bring to the Planning Commission's attention the commercial issues with wind power.

UMPA offers an 18 mill credit to commercial producers. The best areas for a wind resource are in the remote wilderness and therefore unusable for commercial purposes.

UMPA formed in 1985 to supply power to cities. At the time the bond was posted a provision for paying the bond was put in the contract. The city is required to pay for the power even if another power source is used before the meter. Basically, Spanish Fork City would have to pay for the power from UMPA even if a wind turbine provides the power and UMPA power is not used. The contract states that Spanish Fork has to purchase power from UMPA and if another source is used, UMPA must still be paid. At the time the contract came about in 1985, the contract did not address variances in ordinances. The Zoning Ordinance Amendment is a matter of public policy issue due to the bond provisions in the contract and therefore must be addressed.

Chair Lewis asked if any discussion had taken place with UMPA as to how the zoning amendment would be handled. Mr. Pexton stated that wind power usage has been so small that it has not been addressed.

Commissioner Shaw asked if the bond has been paid. Mr. Pexton replied that it is a 30-year bond and will be paid off in 2018. Mr. Heap asked if the excess power can be banked before the meter and if an individual used a wind turbine would UMPA still have to be paid. Mr. Pexton stated the issue at hand is the contract and paying of the bond and that yes, Spanish Fork City would still have to pay UMPA for power that was not used.

Chair Lewis asked if Spanish Fork City would recoup the cost from having to pay UMPA for power not used. UMPA will bill Spanish Fork City for the power no matter what. Chair Lewis asked how the wind power would be metered and regulated. There are metering capabilities that the Electric Department can address.

Commissioner Jensen asked if UMPA ran the turbine at Camp Williams. Mr. Pexton replied that they did not.

The applicant, Robert Pittelli, addressed the Commission and asked if Strawberry Power was involved in the contract. Strawberry left the UMPA and when the bond was passed and the area was not within the city limits and therefore not considered under the contract. If Spanish Fork expanded its boundaries, the bond covenant still remains.

Mr. Pittelli stated that last month noise and location were the issues. He is in favor of the Utah Dept of Energy ordinance, however, staff's is too restrictive. Chair Lewis asked Mr. Pittelli if he has any additional information for the Commission. Mr. Pittelli stated that he does not and that the issue seems moot in light of the UMPA information. He reiterated his comments from last month that the only place that will allow wind turbines is at the Fingerhut facility. If the ordinance is adopted he feels that there will be no wind turbines allowed in Spanish Fork. Mr. Pierson stated that the ordinance could be changed so that more people could use the resource.

Chair Lewis asked if there were any other questions or comments from the Commission. There were none. Chair Lewis reviewed the information from last month's meeting and asked for further public comment.

Tracy Livingston-4320 East Lake Creek Farms, Heber-owns Windtower Deposits. The US Department of Energy is providing one million dollars to fund an \$1.8 million experimental project at the mouth of Spanish Fork Canyon. The turbine will have three blades, 250 feet in diameter, and a 250-foot tower and could power 3,000 homes. He is obtaining the remainder of the funding from private sources. The excess power may go back to UMPA and Spanish Fork City, according to Mr. Livingston. He is in favor of the ordinance and said that it will provide power and increase the tax base.

Chair Lewis asked Mr. Livingston to clarify the benefits. Mr. Livingston stated that the cost of the power generated will be competitive and will provide a safeguard against inflation of power costs for the city. His company is contracting with Winward engineering and BYU and SUU are assisting in the project. Mr. Livingston provided the Commission with a handout regarding the statistics.

Dr. Steve Aldana-resides in Hobbie Creek Canyon and is a Professor at BYU. He has a small generator in his back yard that provides power for his normal household usage. He believes that the contractual issues will resolve themselves. Spanish Fork has Class 6-7 wind, which is very high. There are few sources in the US with this resource. One or two large turbines at the mouth of the canyon will provide needed energy.

Diana Butler-1073 South 2230 East, Spanish Fork-wants the City to allow residential usage and write the ordinance to address concerns such as noise. She agrees with looking at alternative power sources and does not want to be forced to use one source.

Chair Lewis asked if there was any other comment. There was none. He stated that since the issue was originally brought before the Planning Commission it has become more complex.

More discussion took place regarding the contract. Mr. Pexton said that he can only restate what is in the contract and that the question addresses a legal matter to be addressed by Spanish Fork City.

Commissioner Bradford stated that when at the time the UMPA bond was issued the power needs were different than they are now. Chair Lewis stated that theoretically, the ordinance could be amended on a small scale to accommodate homeowners and a contract to homeowners. Mr. Pexton stated that the Spanish Fork is not the first community to address this issue and there are ways for the city to address it. He just wants to give the city a warning so that they do not violate the UMPA contract.

Commissioner Johns stated that UMPA is looking at the long-range impact on the city. Chair Lewis asked Mr. Pexton if UMPA would be willing to assist the city. Mr. Pexton stated that UMPA has assisted others in finding new resources and will take it into consideration. On a small scale, a resident may do as he or she wants. The issue lies in whether or not the resident connects to the grid and is metered.

Chair Lewis asked if the utility company was required by law to buy back resources at competitive rates like most utilities. Mr. Pexton replied that if the Public Service Commission regulates the utility then yes, they are required to buy it back. If the utility is a municipal entity, then city is the regulator and the utility is not required by law to buy it back. If the wind does not blow and the user must use power from the grid, UMPA still provide power to that user.

Chair Lewis stated that the issue needs more research and appreciates Mr. Pittelli bringing the issue to the Commission. Commissioner Shaw stated that Mr. Baker needs to provide legal counsel on the matter and she would like him to have the ability to utilize the wind resource.

Richard Evans-1705 East 1310 South-asked if the city has a position on the utilization of wind power. Mr. Heap stated that hypothetically, an amendment could be drafted allowing residential usage. Commissioner Shaw stated that Mr. Pexton made valid point in that there is no problem if a small usage resident is not connected to the grid and not relying on UMPA power to back up his system.

Chair Lewis stated that the issue at hand is Mr. Pittelli and his usage.

Commissioner Johns stated that he wants to know the cost to Dr. Aldana. Dr. Aldana stated that he is reimbursed %25 in the form of a tax deduction and the cost of his system was \$1,200.00 and is basically a hobby for him. He and Carl Nielsen received a state grant to put a turbine at an elementary in Springville to teach the students about resources. This too will be a small project and will be tied to the grid.

Mr. Pierson reminded the Commissioners that the ordinance is to provide limitations on the number, height and placement of residential turbines. There may also be CC&R's in place in areas.

Chair Lewis asked for any other questions. There were none. He stated that more information is needed from the attorney as well as UMPA. Construction standards, inspection requirements and building permits need to also be considered.

Mr. Pierson stated that it would be a good idea to form a committee to research the issue. The committee ideally would include members of the community, staff, private sector and a member of the Planning Commission.

Mr. Livingston stated that Christine Watson, Utah Energy Office, endorses the use of wind energy and has contacted the legislature and may be interested in the issue. He has spoken with her and she could not be present tonight. Commissioner Shaw stated that the Commission has some letters from Mrs. Watson and that Mr. Pittelli would likely be interested in participating on the committee as well.

Chair Lewis asked if there are any other concerns or questions. There were none.

Commissioner Jensen made a **motion** to form an Ad Hoc committee to study the issue as it is very important and must be taken under advisement.

Chair Lewis asked if Commissioner Jensen has any guidelines to add to his motion at this time. Commissioner Jensen replied that at this time he does not and that it should be made up of a Planning Commissioner, two or three residents, Spanish Fork City staff and the UMPA. Commissioner Bradford suggested also including the City Attorney. Mr. Pierson stated that in December an attorney would be assigned to counsel the Planning Commission.

The motion was **seconded** by Commissioner Bradford and **passed** with the objection of Chair Lewis.

Commissioner Shaw made a **motion** to Table the amendments to the Zoning Ordinance until an Ad Hoc committee can provide a recommendation. Commissioner Johns **seconded** and the motion **passed** with a unanimous vote.

Commissioner Jensen is willing to serve on the Committee. Commissioner Shaw will not be available.

2. 2. Sorensen General Plan Amendment Location: 400 to 500 North Main Street (Westside)

Applicant(s): Bret Sorensen

2.3. Sorensen Rezone (R-O to C-O) Location: 497 North Main Street

Applicant(s): Bret Sorensen

Mr. Pierson discussed the details included in the agenda. The Amendment and rezone will be discussed together and voted on separately.

Chair Lewis asked for a clarification of the current zoning. Mr. Pierson stated that it is zoned Residential or Residential Office. A dentist office is not currently allowed and as commercial buildings surround the area, it makes sense to change the zoning

Bret Sorensen, the applicant, is a pediatric dentist. Currently, the only pediatric dentists are in Provo and St George, so there is a demand. The present home will not accommodate his practice.

Chair Lewis asked for public comment.

Frank Smith-53 West 500 North-lives to the west of the applicant's property and stated that zoning has been a problem for a long time. He has a business and the zoning needs to be changed. The lot to the west of Mr. Smith also needs to be included. Commissioner Johns asked if the home belonging to Mr. Smith's father would be included. Mr. Smith replied that yes, it needs to be. Commissioner Johns asked if the exact address of the properties must be included in the motion. Commissioner Bradford asked if input was needed from the neighbor. The neighbor is present and not opposed to the zone change. Chair Lewis asked Mr. Pierson if notification was appropriately made. Mr. Pierson stated that the requirement is satisfied and the motion may include Mr. Smith's property.

Commissioner Johns made a **motion** to give the Sorensen General Plan Amendment at 487 North Main Street from Residential 5-12 u/a /Residential Office to Residential Office/Commercial Office from 400 North Main to 500 North Main a positive recommendation to the City Council and to also include the residence at 53 W 500 N known as Frank Smith Heating and Cooling. Commissioner Bradford **seconded** and the motion **passed** with a unanimous vote.

Commissioner Shaw asked if the amendment must state whether the business is home-based or not. Mr. Pierson reviewed the details included in the agenda.

Commissioner Bradford made a **motion** to approve rezoning the .45 acres located at 497 Main Street from Residential Office (R-O) to Commercial Office (C-O) with the following findings and conditions(s):

1. That the zone change is consistent with the policies of the General Plan, including any policies of the Capital Improvements Plan; and
2. That consideration has been given to include any conditions necessary to mitigate the adverse impacts on adjoining or nearby properties.
3. The Smith Property to the West at 53 West 500 North to be included in the rezone.

Commissioner Jensen **seconded** and the motion **passed** with a unanimous vote.

2.D. Wilson General Plan Amendment Location: 1100 East Expressway Lane
Applicant(s): Mark Wilson

2.E. Wilson Rezone (S-C to C-2) Location: 1100 East Expressway Lane

Applicant(s): Mark Wilson

Mr. Pierson discussed the details included in the agenda. The issues will be discussed together and voted on separately.

The applicant is bringing this before the Commission in order to get permission to have an auto repair business and wider range of commercial uses in the area.

Chair Lewis asked for the public to be quiet due to the live SFCN feed.

Chair Lewis asked if there were any questions of staff. There were none.

Mark Wilson, applicant, stated that the property will be better used as commercial and there is room for commercial development. He wants to build a Tunex, which will be clean and attractive. The current zoning will not accommodate many businesses and a change will increase the tax base.

Chair Lewis asked if there are any questions for the applicant.

Commissioner Shaw stated that diversity would be nice. Mr. Wilson replied that bringing in businesses would help Skates as well. Commissioner Bradford asked if there is a water table problem. Mr. Wilson stated that the earth has a lot of clay and the water does not saturate into the land. Jeff Foster also lives in the area and is aware of the water table issue. Chair Lewis asked if an engineering study had been done. Mr. Wilson replied that they have not and diagramed on the map the area with water table problems. He stated that this is a good buffer zone for an industrial area. Mr. Heap stated that there have been no problems with the water table at Skates and agrees that the area needs help as far as developing.

Chair Lewis asked if there are any further questions. There were none. He asked if there is any public comment. There was none.

Commissioner Jensen made a **motion** to give the Wilson General Plan Map amendment from Shopping Center Commercial to General Plan Commercial at 1100 East Expressway Lane a positive recommendation to the City Council. Commissioner Scott **seconded** and the motion **passed** with a unanimous vote.

Commissioner Jensen made a **motion** to approve the Wilson rezone of 9.81 acres located at 1100 East Expressway Lane from Shopping Center Commercial (S-C) to General Commercial (C-2) with the following finding and conditions:

1. That the zone change is consistent with the policies of the General Plan, including any policies of the Capital Improvements Plan; and
2. That consideration has been given to include any conditions necessary to mitigate adverse impacts on adjoining or nearby properties.

Commissioner Bradford **seconded** and the motion **passed** with a unanimous vote.

Chair Lewis stated for the public's information the issue is scheduled to go before the City Council on December 16 at 6:00 p.m.

2.F. Zoning Ordinance Amendments (I-1 & I-2 zones) Location: Citywide

Applicant(s): Staff

Mr. Pierson discussed the details included in the agenda.

Wording is being changed to clarify the ordinance.

The change will eliminate agricultural in the I-2 zone, and there is no agricultural use in the area now.

Chair Lewis asked Mr. Pierson to give an example of primary metals. Mr. Pierson stated that many companies manufacture primary metals from raw ones, such as Kennecott.

Commissioner Bradford asked if the sugar factory, if in the future it was running, would be prohibited. Mr. Pierson stated that assembling a finished product is permissible, but manufacturing a product is not.

Chair Lewis asked if there are any other questions or public comment. There were none.

Commissioner Shaw made a **motion** to approve the amendments to the Zoning Ordinance Chapter 17.20.110 and 17.20 as presented by staff. Commissioner Johns seconded and the motion **passed** unanimously.

3. Other Business

Mr. Pierson stated that Chair Lewis has served the Planning Commission for five years and thanked Mr. Lewis for his service to the community and the to the Planning Commission. Commissioner Jensen agrees and also thanked Chair Lewis. Chair Lewis replied that he has felt it his duty to serve and help his community and to be a part of making decisions for the good of the community. He appreciates the opportunity to serve with the other Commissioners and staff that have helped him to learn and fulfill responsibilities. As a Point of Order, Mr. Pierson explained that Chair Lewis will serve until Mayor Barney appoints another Chair to be approved by the Planning Commission in January.

Commissioner Johns made a **motion** to go out of Public Hearing. Commissioner Shaw **seconded** and the motion **passed** with a unanimous vote.

Chair Lewis thanked Commissioner Johns for serving in his capacity as a member of the City Council. Commissioner Johns replied that it has been a good opportunity for him to learn and it has been rewarding to make difficult decisions on behalf of the community. He has lived here all of his life and loves the community and the residents. Commissioner Jensen stated that he has known Commissioner Johns his entire life and even

though they have disagreed, Commissioner Johns has done an excellent job and he respects him. Commissioner Bradford stated that he is sad to see Commissioner Johns leave and that he has been a good asset.

Commissioner Jensen made a **motion** to adjourn. Commissioner Shaw **seconded** and the motion **passed** with a unanimous vote.

The meeting adjourned at 9:20 p.m.

Approved: Wednesday, January 7, 2004