

**MINUTES OF A REGULAR COUNCIL MEETING
HELD IN THE COUNCIL CHAMBERS
NOVEMBER 19, 2003**

Mayor A. LaDue Scovill called the meeting to order at 7:03 P.M. Council Members attending: Walter Callaway, Allen Reed, Wesley Morgan, Shayne Durrant, and Marilyn Clayson. All council members present.

City Recorder Susan Farnsworth was excused this evening.

Others attending: City Manager Roger Carter, City Planner Jim Bolser, Legal Counsel Brett Rich, Deputy Recorder Darlene Gray, Dennis Brandon, Tracy Roberts, Planning Commission Representative Doug Rohbock, Chelsea Jensen, Todd Starley, Judge Timothy Haveron, Debbie Haveron, Kirk Greenhalgh and other unidentified individuals.

PLEDGE OF ALLEGIANCE

Council Member Morgan led the Pledge Of Allegiance.

PRAYER

Mr. Rohbock offered a word of Prayer.

CONSENT AGENDA

Approval of the minutes

Approval of the minutes of a Regular Meeting held on November 5, 2003

Approval of minutes of a Special Meeting held on November 10, 2003

Bills - \$70,645.23

Council Member Durrant moved to approve the items on the Consent Agenda. Council Member Clayson seconded the motion.

Council Member Morgan submitted changes to the November 5, 2003 minutes. He indicated that at the Formal Public Hearing conversation regarding animal rights had not been clarified with regards to the rights being attached to the land or the property owner. He requested that at the bottom of the first page under the Formal Public Hearing heading, the following be added: "These legally non-conforming rights continue with the land and do not cease with ownership change."

Council Member Callaway asked if the clarification should be added to the Covenants, Conditions and Restrictions. Council Member Morgan responded in the negative and added that the meeting minutes reflect a particular point made that was not mentioned in the Ordinance. All the Council members were in agreement.

Council Member Morgan indicated that on the bottom of Page 2, Ordinance 11-02-2003, it is not stated that the proposal included enlarging the geographic area.

Council Member Callaway commented that the \$560.00 bill from Sunrise Engineering was for water rights. He indicated this payment would bring the account up to date. Council Member Morgan asked if the City would be cutting all association with Sunrise Engineering. Council Member Callaway responded that if a developer comes into the City with water, the developer would be responsible to pay Tony Fuller to do any study needed.

Mayor Scovill pointed out that the center section on the Invoice Register Summary normally specifies the department the bill is charged to. He reported that this deletion was because of a Caselle upgrade and that it would be corrected. City Manager Carter explained that when the upgrade was done and Susan Farnsworth found the error, she contacted Caselle who would correct the upgrade error.

Council Member Clayson asked who the water assessment fee charged by Sunrise was for. Council Member Callaway stated that it was not for a certain individual or developer, but rather a final balance due.

Without further discussion, the vote was unanimous to approve the items on the Consent Agenda.

PUBLIC FORUM, BID OPENINGS, AWARDS, AND APPOINTMENTS

Mr. Starley asked for clarification for the \$18,000 expenses paid to Spanish Fork City. Mayor Scovill commented that this was for sprinkler system pipe purchased at a reduced price for the winter storage pond hay fields.

Mr. Starley asked for clarification for the RimRock Tech payment. Mayor Scovill indicated that this is for the work performed on the phone system in the City building. City Manager Carter added that the City has a lease arrangement with RimRock that the Council will see on regular basis.

Mr. Starley asked for clarification for the additional \$7,300 payable to RimRock. Mayor Scovill responded that the amount is for the Utah Power & Light invoice.

FORMAL PUBLIC HEARINGS

Nothing

UNFINISHED BUSINESS

Nothing

NEW BUSINESS

Discussion and possible action with regard to the re-appointment of the Santaquin Justice Court Judge.

Mayor Scovill recognized Judge and Mrs. Haveron. He indicated that according to State Code, it was his responsibility as Mayor of a municipality to reappoint a judge. He reported that following conversations with Judge Haveron, he had determined that he would not request the reappointment of Judge Haveron for Santaquin City. He indicated that Judge Haveron will fulfill the remainder of his term, which ends January 2004. Mayor Scovill reported that a new judge would be sworn in at the first part of February 2004.

Mayor Scovill indicated that it had been an emotional and difficult decision for him to make. He reported that he and Judge Haveron had visited on several occasions and that Judge Haveron indicated that he would not protest the Mayor's decision. Mayor Scovill indicated that the search will begin for a replacement judge.

Mayor Scovill commented that the last telephone visit with Judge Haveron was tender and it gave them the opportunity to reminisce about their number of years of association. Mayor Scovill commented that he recognized brilliance in Judge Haveron. He indicated that the Judge could take a problem, dissect it, analyze it, scrutinize it, and then solve it. Mayor Scovill commented that Judge Haveron not only works well with his hands and tools, but that he also works well with people; recognizing the needs and challenges that individuals have faced. He indicated that he has a unique capacity for analyzing. Mayor Scovill indicated that Judge Haveron has served for almost 20 years as a judge. He commented that Judge Haveron had been recognized by previous City Council Members and Mayors, as well as by colleagues throughout the state. Mayor Scovill explained that due to circumstances that exist, it was his determination to not reappoint Judge Haveron. He explained that the Judge felt comfortable with the decision and that he did not wish to protest.

Mayor Scovill indicated that he applauded the service rendered the City. The Mayor, Council Members, Staff and those in attendance applauded Judge Haveron. Mayor Scovill indicated that he would set up a time that the past, current and newly elected Council Members, and colleagues could gather to extend their best wishes to Judge Haveron.

Mayor Scovill expressed his appreciation for the Haveron's coming so far to attend the meeting.

INTRODUCTIONS AND ADOPTION OF ORDINANCES AND RESOLUTIONS

Ordinance 11-02-2003 "AN ORDINANCE AMENDING THE SANTAQUIN CITY CODE PROVIDING FOR ANIMAL RIGHTS."

Council Member Callaway moved to approve **Ordinance 11-02-2003, An Ordinance Amending the Santaquin City Code Providing for Animal Rights.** Council Member Reed seconded the motion.

Council Member Morgan indicated that he is in agreement with the principle of the Ordinance, but would like to discuss some details regarding kennels. He commented that with the Ordinance change, kennels become a Conditional Use in the Commercial (C-1 and C-2) zones only. He indicated that he accepts that change, but questioned why kennels are only allowed in the Commercial zones and not in Residential-12, Residential-15, or Residential-20 zones. He commented that horses are allowed in the latter, which lacks logic with kennels not being allowed. He indicated that a kennel constitutes 3 or more dogs, but a person can have 3 or more horses in the Residential 12 through 20 zones. He asked if the Council was being consistent in their decision. Council Member Morgan suggested kennels be a conditional use in the Residential-12, Residential-15 and Residential-20 zones.

Council Member Callaway explained that the main purpose for the kennels being restricted to the Commercial zones was because of the barking. Council Member Morgan explained that barking was not an issue. He felt the Ordinance made it too restrictive for a person to breed dogs on a ½-acre lot, but there were no restriction for breeding horses, etc. Mayor Scovill commented that the animal rights were applicable with non-household pets. Council Member Morgan indicated that this was not stated in the Ordinance. Mr. Brandon commented that kennel licenses are required in many cities as a permitted use if there are 3 or more dogs. Mayor Scovill posed the question if a kennel is opened for 3 or 4 dogs, what would happen if a kennel opens with 12 dogs. He asked if there would be delineation of the size and type of kennel in the Residential Zone.

City Planner Bolser explained that the intent was to require a kennel license for 3 or more dogs over 4 months old. He commented that the amended Ordinance was intended to change the required Conditional Use Permit into a business environment. He stated, however, that an individual who have 3 or more dogs that are pets, would not be applicable. He stated that a kennel is a business environment and not a household environment.

Council Member Morgan agreed that it made more sense to confine a kennel business to the commercial zoning only. Mayor Scovill commented that his recommendation would be to not open a door for kennels to be located in a residential area, but to maintain them in a commercial setting.

Mr. Brandon commented that he thought the animal rights discussion involved horses and cows and not dogs. He asked why the Council Members were dwelling into an Ordinance if it was not a problem. Council Member Morgan responded that if the item is on the platform for revision, it should be a clean revision. Council Member Reed indicated that dogs are part of animal ordinance.

Council Member Morgan commented that if the other Council Members were agreeable to the ordinance changes, he would concur.

Council Member Morgan turned his attention to the proposed section 10-18-8, paragraph B: Lots greater than 12,500 ft². He commented that the definitions for animals and domesticated had been deleted. He asked for a definition of a domesticated animal. He added that farm animals would include pigs. Mayor Scovill commented that animals kept on lots over 12,500 ft², would be delineated as farm animals. He also indicated that the Ordinance indicated that farm-type animals except hogs or other closely related animals are allowed. Council Member Morgan asked if he could keep a 3,000 pound bull on a lot greater than 12,500 ft². Mayor Scovill responded in the affirmative. Council Member Morgan suggested the following: "Lots containing 12,500 ft² or more shall maintain animal rights in all zones, to include the keeping of farm-type animals, except hogs and closely related animals".

Mr. Brandon commented that domesticated animals are those accustomed to people. City Manager Carter explained that from a staffing standpoint, there maybe a concern that terms used are too tightly defined. He further explained that staff would approach any changes with how the Council wants it addressed. Council Member Morgan agreed that everything couldn't be made bullet proof. City Manager Carter indicated that the City had legal representation present and referred the question to Legal Counsel Rich.

Legal Counsel Rich commented that the word 'domestic' gave the connotation of animals traditionally kept, and not in the wild. He suggested having a general definition, i.e., horses, goats, sheep, cows, etc. and commented that there is a point of difference between domestic and domesticated animals.

Council Member Morgan discussed Section 10-18-4, Leash Law. He indicated that the text did not say anything about leashes and questioned by it was referred to as a "Leash Law." Mayor Scovill commented that it had been included in the nuisance definition. Council Member Morgan commented that the section did not indicate that an animal had to be on a leash. Council Member Callaway responded commenting that the dog law says that the animal had to be on a leash. Council Member Morgan commented that the dog law only addresses the leash issue if the animal destroys something. He asked if there could be a better title used. City Planner Bolser responded in the affirmative and explained that the title had been carried over from the previous City Code.

Council Member Morgan addressed Section 10-18-14, Restraints. He commented that he remembered Legal Counsel Rich suggested that all animals should be under the control of its owner. Council Member Morgan indicated that this would not necessarily mean that the animal would have to be tied or fenced. He commented that he thought the Council had been in agreement with Legal Counsel Rich's suggestion that a dog did not have to be on a leash every moment. City Manager Carter commented that the Council writes the Code, which is interpreted by the City's law enforcement agency and the Court system. He also commented that a problem is that the Codes are not tailor-made. He explained that typically, the law is enforced, but if a man is riding a horse and his dog is running behind him, it has not been a problem. The dog cannot be on a leash and officers have not cited the owner for violation of restraint or leash law. However, the majority of dog bites occur in front of the owner's home. Council Member Morgan agrees with using some enforcement leniency.

Without further discussion, the vote was taken.

ROLL CALL

Council Members Clayson – Aye
Council Member Durrant – Aye
Council Member Morgan – Aye
Council Member Reed – Aye
Council Member Callaway - Aye

Ordinance 11-03-2003 “AN ORDINANCE AMENDING THE SANTAQUIN CITY CODE PROVIDING FOR NOTIFICATION OF ADJACENT PROPERTY OWNERS PERTAINING TO CERTAIN LAND DEVELOPMENT ISSUES.”

Council Member Durrant moved to approve **Ordinance 11-03-2003, “An Ordinance Amending the Santaquin City Code Providing for Notification of Adjacent Property Owners Pertaining to Certain Land Development Issues.”** Council Member Reed seconded the motion.

Council Member Morgan suggested that under Section 10-6-35, paragraph A, moving item #7 to the second position after item #1.

Council Member Callaway commented that Section 10-6-37, paragraph B, item #2 should be change to 500’. City Planner Bolser indicated that the correction had already been made.

Council Member Morgan suggested deleting item #5, required notification, in Section 10-6-35, paragraph A. He commented that he did not see any reason to notice the neighbors. He explained that it should be obvious from the information in the letter why they are being notified.

Council Member Morgan suggested deleting “any and all” from item #4 in Section 10-6-35. City Planner Bolser commented that the phrase was left because typically when notices are sent, a single map would accompany the notice. He indicated that he would reword the item to specify all ‘submitted maps’ or ‘current maps.’ Mayor Scovill commented that item #4 is partly understood as written and he is concerned that the item is being legislated to death. He asked if the Council Members would like to delete “any and all”. Council Members Reed, Durrant, and Clayson responded in the affirmative.

Mayor Scovill asked if there were any other comments. Without any further comments, the Council Members voted on the motion.

ROLL CALL

Council Member Clayson – Aye
Council Member Durrant – Aye
Council Member Morgan – Aye
Council Member Reed – Aye
Council Member Callaway Aye

Mayor Scovill approved the Ordinance with the recommended changes.

Ordinance 11-04-2003 “AN ORDINANCE PERTAINING TO UTILITY SERVICE REGULATIONS AND AUTHORIZING THE UTILITIES CLERK TO COLLECT, ADMINISTRATE AND REGULATE THE COLLECITON OF UTILITY ACCOUNT AND PROVIDE AN EFECTIVE DATE.”

Mayor Scovill recommended **Ordinance 11-04-2003, An Ordinance Pertaining to Utility Service Regulations and Authorizing the Utilities Clerk to Collect, Administrate and Regulate the Collection Utility Account and provide an Effective Date**” be tabled for further review. Mayor Scovill reported that he reviewed and re-wrote the document. He commented that he would like the Council Members to review the re-written document and would like their input. Council Member Morgan reported that he had also submitted changes and corrections. City Manager Carter commented that all concerns should be brought together and another draft presented for another review.

Council Member Callaway voiced his concern for the 51-day period. He indicated that the change from 90-days to 51-days would cost landlords quite a bit of money. City Manager Carter commented that the issue of “reasonableness” is very important. He commented that the Council Members will get calls saying the Ordinance is not fair and that the City staff is shutting off their utilities. And added that staff will receive calls asking why the City is shutting off the utilities. He suggested the Council Members take the opportunity to listen to the community during disconnect days.

Council Member Clayson commented that the Ordinance didn’t discuss utility deposits. She added that she didn’t think the owner should be responsible for delinquent utility bills. Mayor Scovill explained that this was part of the reason the Ordinance was being tabled.

Mr. Roberts commented that whoever enters into a contract would be the binding party. He explained that if he was the owner of a property that he rented, and the renter made a contract to be responsible for the utilities, the delinquent or balance amount due could not legally be put onto the owner. Mayor Scovill commented that as the new Council Members take their seat in January 2004, they will understand the need for such an Ordinance. He explained that the City is losing monies because that sort of thinking.

Mr. Brandon asked if the City requires a deposit when someone enters into a contract for utilities. Mayor Scovill indicated that the new Ordinance states that a deposit would be required. Mayor Scovill reiterated the need to table this item for more discussion.

Mr. Brandon proposed that the responsibility be put back on the land owner and that the land owner should be notified of all utility billing so a balance due does not become unmanageable.

With Council Member Clayson’s motion on the table, Council Member Callaway seconded the motion.

ROLL CALL

Council Member Clayson – Aye
Council Member Durrant – Aye
Council Member Morgan – Aye
Council Member Reed – Aye
Council Member Callaway Aye

Resolution 11-02-2003 “A RESOLUTION ESTABLISHING THE REQUIREMENTS OF AN AGREEMENT FOR CONTINUED SERVICE.”

Mayor Scovill indicated that he entertain a motion to table **Resolution 11-02-2003, “A Resolution Establishing the Requirements of an Agreement for Continued Service.”**

Council Member Callaway moved to table **Resolution 11-02-2003, “A Resolution Establishing the Requirements of an Agreement for Continued Service.”** Council Member Durrant seconded the motion.

ROLL CALL

Council Member Clayson – Aye
Council Member Durrant – Aye
Council Member Morgan – Aye
Council Member Reed – Aye
Council Member Callaway Aye

Resolution 11-03-2003 “A RESOLUTION ESTABLISHING THE REQUIREMENTS OF A UTILITY DEPOSIT.”

Mayor Scovill indicated that he entertain a motion to table **Resolution 11-03-2003, “A Resolution Establishing the Requirements of a Utility Deposit.”**

Council Member Durrant moved to table **Resolution 11-03-2003, “A Resolution Establishing the Requirements of a Utility Deposit.”** Council Member Clayson seconded the motion.

ROLL CALL

Council Member Clayson – Aye
Council Member Durrant – Aye
Council Member Morgan – Aye
Council Member Reed – Aye
Council Member Callaway Aye

PETITIONS AND COMMUNICATIONS

Acceptance or denial of the Greenhalgh Annexation

Mayor Scovill clarified that this item was for the acceptance or denial of the Greenhalgh Annexation petition and not the Annexation of the property.

Council Member Callaway asked Mr. Greenhalgh if the annexation would include the gravel pit. Mr. Greenhalgh responded in the affirmative and explained that the annexation would make a lot of property available for commercial and light industrial properties. Mr. Greenhalgh commented that the land is ready for development. City Manager Carter indicated that this area has been a targeted area for the Economic Development Committee.

Council Member Reed commented that Rex and Richard Greenhalgh had signed the petition, but Gene Greenhalgh and others had not and commented that they would be forced into the annexation. Mayor Scovill asked if the Wall property west of the gravel pit was included in the annexation. City Planner Bolser responded in the negative.

Council Member Morgan asked why the Greenhalgh properties to the west were not included in the annexation petition. City Manger Carter commented that if this property were included, it would create a peninsula.

Council Member Morgan asked if the proposed zoning of the property would be commercial. City Planner Bolser commented that, upon presentation and review, the Planning Commission would recommend zoning to the City Council.

Council Member Morgan asked if the non-petitioners have been notified and mentioned that there have been complaints in the past regarding non-petitioners not being informed when they were forced into the annexation. City Manager Carter reported that the communications had been left to Mr. Greenhalgh and Council Member Clayson and added that they have done a great job.

Without any further discussion, Council Member Durrant moved to accept the Greenhalgh petition. Council Member Clayson seconded the motion. Council Member Callaway questioned if Council Member Clayson could vote because she owned property that would be included in the annexation. Mayor Scovill indicated that the motion was for the acceptance of the petition and not for the annexation. With the motion made and seconded, the motion was accepted with a unanimous vote.

REPORTS OF OFFICERS, STAFF, BOARDS, AND COMMITTEES

City Manager

City Manager Carter reported that the Ad Hoc Committee had met for the Main Street Enhancement Design. Chairperson Valerie Butler would like to meet with the City Council on December 3rd in a 6:30 P.M. Work Session to discuss the recommendation the committee would like to make to the City Council.

City Manager Carter reported that he had received a letter of intent from Questar to purchase the Santaquin City natural gas system. He indicated that he received a due diligence checklist of 30 to 40 items. He reported that the offer is not as yet ready to be brought to the City Council. Council Member Reed asked what amount had been offered. City Manager Carter indicated that, as yet, no counter offer had been submitted by Questar.

Mayor Scovill commented that the City still has a commitment with Summit Energy through March 2004 that may be negotiated.

With nothing further to report, City Manager Carter asked if the Council Members had any question for him.

Council Member Morgan asked for a report on the Mallard Cable Chapter 11. City Manager Carter reported that because Mallard Cable has been in Chapter 11 for a number of months, their franchise fees, approximately \$3000 to \$4000 is delinquent. He explained that all the necessary paperwork has been filed with the Bankruptcy court. He indicated that the City had been contacted by another cable company who is interested in serving this area. He commented that the company has a good reputation and has plans for upgrading the system. He explained that a 5-year franchise agreement had recently been finalized with Mallard Cable. He informed the Council Members that Legal Counsel Rich had met the deadline and filed a proof of claim in bankruptcy court. Council Member Clayson asked if the new company would upgrade Channel 10. Mayor Scovill responded in the negative.

City Manager Carter explained that the cable system on the Mallard Cable side was antiquated. He explained that information input on the City system could be updated from the City office. He indicated, however, that the system may revert back from time to time. Council Member Clayson commented that Senior Citizen menu, etc. could be posted on Channel 10. City Manager Carter commented that Channel 10 could also be used as a public safety avenue in event of an emergency. He explained that the channel information could be updated on an hourly basis.

Council Member Morgan commented that he noticed excavation underway behind the Crazy Daisy and asked if construction on the new project will begin soon. City Manager Carter reported that he had visited with Blain Oberg who explained that his attentions had been drawn away by other projects.

Planning Commission

Planning Commissioner Rohbock reported that the Planning Commission had reviewed the preliminary plan for the Openshaw Annexation. He reported that 2 more accesses had been added and some of the water run-off issues had been addressed. He explained that Doug Openshaw is the property owner with George Smith as Mr. Openshaw's representative.

City Planner Bolser commented that the City Council may not see the Annexation immediately because the State legislature changed the law regarding when an annexation becomes official. He explained that the annexation is now certified through the Lt. Governor's office. He further explained that Section 10-6-30 of Santaquin City Code allows for the review of preliminary plans, but does not allow an approval.

Mayor Scovill informed the Council Members that the Openshaw Annexation Mylar was on the table in the office and asked the Council Members to please sign it before leaving the meeting.

Council Member Callaway asked if the City didn't acquire the water until the time of the development if the water shares would be given back to Mr. Openshaw. City Manager Carter responded in the affirmative. Mayor Scovill commented that the water shares are in the City's possession. Council Member Callaway mentioned that the City would want possession of the water shares on or by January 7, 2004.

REPORTS BY MAYOR AND COUNCIL MEMBERS
BUSINESS LICENSES

Council Member Morgan commented that in the previous Council Meeting conditional requirements were placed on Jana Hathaway's Business License application and he asked if they have been met. Council Member Clayson responded that she visited the location and saw that no fence had been installed. City Planner Bolser indicated that as per State Code, Ms. Hathaway was allowed up to 6 months to construct the fence. Council Member Morgan commented that there were several inoperative cars that had been rearranged. Council Member Clayson added that she felt that there were too many inoperative cars at the location. Mayor Scovill commented that there are some citizens in the community who thought Santaquin was "Junky City". He mentioned that none of the City Council candidates addressed this issue.

Council Member Morgan reported that he and City Engineer Shon Fullmer had met with the engineering firm who is doing the long-term sewer study. He indicated that the study is essentially complete, but no commitment was given for a completion date.

Council Member Morgan indicated that he had received a report from Civil Science on the roundabout study and suggested a review in an upcoming City Council meeting.

Mayor Scovill indicated that not everyone has received a copy of the study. City Manager Carter reported that 1 copy would go to UDOT, who funded the study. He indicated that once they received the report, they would do whatever they need to, then come back and give their feedback to the City. City Manager Carter commented that all of the options have been discussed with UDOT. He added that safety mitigation funds may be available and reported that Region Three Director, Tracy Condi, would have a study done on the realignment. He indicated that Mr. Condi indicated that the price would still be approximately \$1.2 mil, which would be outside

of UDOT's scope. There are no enhancement project funds available, but there are safety funds available. This project could be viewed as a safety hazard, which UDOT may be able to fund part or all.

Council Member Morgan informed the Council Members that he would be out of town Friday, November 21st, for a week and a half. He commented that he would also be absent from the Light Parade. He suggested that the 4 Council Members Elect pass out candy during the Light Parade. Council Member Clayson indicated that the Chamber of Commerce members would also help with the parade.

Mayor Scovill reported that the Light Parade would be on Saturday, December 6 and invited the Council Members Elect to consider being a part of the Light Parade. He asked if they had received an invitation to the City Christmas party. Mr. Brandon responded in the affirmative, but added that no time was specified.

Council Member Clayson presented Business License Applications for Sharlene Wilde, RSM Consulting and John Brerton, Cinergy Services, a collection service.

Council Member Clayson moved to approve the Business License for Sharlene Wilde, RSM Consulting and John Brerton, Cinergy Services, a collection service. Council Member Durrant seconded the motion with a unanimous vote.

EXECUTIVE SESSION (May be called to discuss the character, professional competence, or physical or mental health of a individual)

EXECUTIVE SESSION (May be called to discuss the pending or reasonably imminent litigation, and/or purchase, exchange, or lease of real property)

ADJOURNMENT

At approximately 9:00 P.M., Council Member Reed moved to adjourn the meeting. Council Member Callaway seconded the motion with a unanimous vote.

Minutes approved on December 3, 2003.

Original minutes signed by A. LaDue Scovill, Mayor and attested to by Darlene Gray, Deputy City Recorder.