

**MINUTES OF A COUNCIL MEETING  
HELD IN THE COUNCIL CHAMBERS  
SEPTEMBER 3, 2003**

At 7:00 P.M. Mayor A. LaDue Scovill called the meeting to order. Council Members attending: Marilyn Clayson, Walter Callaway, Wesley Morgan, and Allen Reed.

Council Member Excused: Shayne Durrant

Others attending: City Manager Roger Carter, City Engineer Shon Fullmer, City Planner Jim Bolser, Dennis Brandon, Kathy Brandon, Idonna Crook, Donna Bott, Andrew Goudy, Keela Goudy, Dennis Haskell, Ernie Thornton, and other unidentified individuals.

**PLEDGE OF ALLEGIANCE**

Mayor Scovill led the Pledge of Allegiance.

**PRAYER**

Kathy Brandon offered a word of Prayer.

**CONSENT AGENDA**

***Approval of the minutes***

Approval of the minutes of a Regular Meeting held on August 20, 2003

Approval of the minutes of a Special Meeting held on August 28, 2003

***Bills - \$44,033.91***

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

Council Member Morgan asked for information about 3 bills: Enterprise Paving, Office Depot and Sunrise Engineering.

After his questions were answered, the motion made and seconded was approved with a unanimous vote.

**PUBLIC FORUM, BID OPENINGS, AWARDS, AND APPOINTMENTS**

***Appointment of a new Seniors Director***

Council Member Clayson moved to appoint Jane Tanner as the New Seniors Director. Council Member Callaway seconded the motion. Council Member Morgan asked for an explanation regarding the meaning of the term 'appointment'. Mayor Scovill indicated that Ms. Tanner was being hired as a temporary employee of the City.

Without further discussion and the motion made and seconded, the Council Members approved the appointment with a unanimous vote.

**FORMAL PUBLIC HEARINGS**

Nothing

**UNFINISHED BUSINESS**

***Discussion and possible action with regard to the IMGAs Natural Gas Contract***

Mayor Scovill indicated that the changes to the proposed IMGAs Natural Gas contract were basically in the paragraph numbering system. The contract has been reviewed by Legal Counsel and Mayor Scovill indicated that he was comfortable in signing the document.

Council Member Reed asked for specifics on what changes had been made. Legal Counsel Rich responded that a few minor things had been changed and he had no problem with the Mayor signing the contract because the changes did not affect the legality of the agreement.

Council Member Callaway asked for clarification regarding the City's option to get out of the gas business. Legal Counsel Rich responded in the affirmative.

Council Member Morgan inquired about section 4.2 regarding the assignment of any excess gas and asked if the City had any to assign. Mayor Scovill responded in the negative.

Council Member Morgan questioned the wording used in section 7.1.1 regarding gas provided being "paid by member." He felt a more appropriate wording would be "delivered to member." Mayor Scovill responded that the City would pay for gas scheduled and not for gas used.

Council Member Morgan referred to section 7.2 and asked for clarification regarding the price set for the product. Mayor Scovill responded that the price is set by the market, the quantity ordered, etc. Legal Counsel Rich commented that the administrative fees are added into the cost. Mayor Scovill added that the cost changes from month to month.

Without further discussion, Council Member Callaway moved to authorize Mayor Scovill to execute the IMGAs Natural Gas Contract. Council Member Reed seconded the motion with a unanimous vote.

**NEW BUSINESS**

***Presentation of the 21<sup>st</sup> Century Communities Designation Award***

Mr. Bolser approached the Mayor and City Council as a representative of Mountainland Association of Government. He explained that the purpose of the program administered throughout the State of Utah was to provide structure to design and undertake a self-evaluation project in the areas of planning, environmental, etc. Mr. Bolser informed the Council that the vote was unanimous to present the 21<sup>st</sup> Century Community Award to Santaquin City.

Mr. Bolser presented a press release to Mayor Scovill, as well as a banner which can be displayed at the City's choosing. He indicated that a plaque is included in the award, but the plaque has not been prepared as yet.

Mr. Bolser took a picture of the Mayor and the Council Members displaying the banner. Mayor Scovill thanked Mr. Bolser for the presentation.

***Discussion and possible Final approval of the Santaquin Meadows Plat "C"***

***Discussion and possible Final approval of the Santaquin Meadows Plat "D"***

***Discussion and possible Final approval of the Santaquin Meadows Plat "E"***

Mayor Scovill indicated that the Santaquin Meadows Plats, "C", "D", and "E" would be discussed collectively.

Mayor Scovill explained that the plats would be in the southeast portion of the City by the new elementary school site and park. He indicated that Plats "A" & "B" have already been approved.

City Manager Carter reported that a land exchange has occurred between the City, Nebo School District and Santaquin Meadows LLC. and he indicated that it has been recorded with the County. He reported that no new gain or loss was connected to the exchange. He commented that the City has the property for a park, the school has enough ground for an elementary school, and the developer has land to develop.

Mr. Brandon asked if Nebo School District had committed to building a school there. City Manager Carter responded that there is a strong indication that the district is moving forward to developing the ground. He explained that such a project had not been funded for or voted on. Mr. Thornton commented that the school district had paid for the installation of a chain link fence along the south side of the property, as well as an upgrade to the sewer system in the area.

Ms. Bott asked if there was a Council Member who attends the School Board Meetings. Mayor Scovill responded in the affirmative, but added that the School Board meets on the same night as the City Council. City Manager Carter added that the Mayor and staff meet quarterly on a one-to-one basis with the school board. He indicated that the next scheduled meeting would be in October.

Mr. Brandon asked if the developer would be responsible for putting in the ball park. Council Callaway responded in the negative and explained that the developer gave the City \$40,000 towards the development of the park. He added that the City would develop the park.

City Manager Carter commented that the developer, LEI, did not require the funds to be dedicated to the park, but added that the use of funds would be at the City's discretion. City Manager Carter added that the funds had been set aside for the development of the East Bench park. He explained that details would be discussed with the school district regarding the maintenance of the park, i.e.; the school district would maintain the park during the school year and the City would maintain the park during the summer months.

Mayor Scovill asked Legal Counsel Rich if the motion to accept the final approval of Santaquin Meadows, Plats "C", "D", and "E" would have to be done individually or could they be done all at once. Legal Counsel responded that doing them all at once would be acceptable.

Without further discussion, Council Member Callaway moved to accept the final approval of the Santaquin Meadows, Plats, "C", "D", and "E". Council Member Clayson seconded the motion.

Council Member Morgan commented that he intended to vote against the final approval. He cited traffic issues at 400 East. He commented that the bottleneck area was not part of the subdivision and that he felt the traffic study was inadequate.

Council Member Morgan presented 12 photographs he had taken of the area showing the width of the road, as well as the blind corner located at approximately 450 South. He commented that it was difficult for children to walk along the road without there being a safety problem. He felt that a development should not be approved without resolving the improvement to the roads.

City Manager Carter indicated that the traffic issues were discussed during the annexation process. He reminded the Council Members that Farrin Pierce did not conduct a traffic study, but observed traffic in the area. He added that the traffic situation had been a point of lengthy discussion amongst the Council. City Manager Carter added that there is a property ownership issue.

Council Member Morgan commented that the subdivision developments should not be approved without a cooperative agreement regarding ingress and egress from the development.

Council Member Callaway commented that the developer has cooperated with the City. He added that the City and the School Board should be responsible for the traffic and/or road conditions, rather than putting the developer on hold.

Council Member Reed indicated that he agrees with Council Member Morgan regarding the road being inadequate to handle additional traffic.

Council Member Clayson commented that the problem with the roads needed to be resolved. She indicated that she would also oppose the final approval.

Without further discussion, the motion made and seconded to accept the final approval of the Santaquin Meadows, Plats “C”, “D”, and “E”, the Council Members voted as follows:

Council Member Callaway – Aye.  
Council Member Clayson – Nay.  
Council Member Morgan – Nay.  
Council Member Reed – Nay.

Mayor Scovill indicated that the Santaquin Meadows, Plats “C”, “D”, and “E” would need to go back through the Development Review Committee and the City Engineer to resolve the road situation.

City Manager Carter commented that one option could be to shift the \$40,000 dedicated to the park to the road situation. Mr. Brandon commented that he would be opposed to using the park funds for the roads. Council Member Clayson asked if the school district would help with the cost to resolve the road situation. City Manager Carter indicated that they may eventually, but not right now. He added that it would be 2 to 3+ years before the school would be functioning in the area.

***Discussion and possible action with regard to purchase of real property***

Mayor Scovill commented that there had been several executive meetings regarding the Andrew and Keela Goudy property. He indicated that the home and property would add to the sewer lagoon property and would be used as a buffer. The home would be used for additional City offices or service facilities. He commented that the item on the agenda would be the action to authorize the City to proceed with an offer of \$175,000.

Council Member Clayson moved to approve the purchase of the real property. Council Member Reed seconded the motion.

Council Member Morgan asked if the motion meant that the City had made a formal offer to purchase the property. Mayor Scovill responded that an offer had been made and accepted. The motion was regarding the acceptance of the offer. City Manager Carter said that the offer had been discussed with the Goudy’s and the agenda item would authorize the approval of a formal offer. Council Member Morgan commented that a formal acceptance had not been obtained and would prefer the motion to say that the City would offer \$175,000 to purchase the property.

Without further discussion, Council Member Clayson moved to authorize an offer \$175,000 for the purchase of the Andrew and Keela Goudy real property. Council Member Reed seconded the motion with a unanimous vote.

City Manager Carter indicated that he would contact Mr. and Mrs. Goudy.

***Discussion and possible action with regard to the retroactive pay for the past Seniors Director***

Mayor Scovill explained that the retroactive pay, from January 2003 to August 2003, payable to the past Senior Center Director Idonna Crook, would be for \$50.00 per month, or a total of \$400.00. He reported that Ms. Crook approached him regarding her additional expenses for travel to pick up supplies for the Senior Center and felt the increase was justified.

Council Member Clayson moved to approve the retroactive pay for the past Seniors Director at a total of \$400.00. Council Member Callaway seconded the motion with a unanimous vote.

**INTRODUCTIONS AND ADOPTION OF ORDINANCES AND RESOLUTIONS**

Nothing

**PETITIONS AND COMMUNICATIONS**

Nothing

**REPORTS OF OFFICERS, STAFF, BOARDS, AND COMMITTEES**

***City Manager***

City Manager Carter reported that City employees were being reviewed and asked the Council members if they had any questions. He commented on the new payroll structure program that the City has in place. He reported that typically the anniversary date for all reviews was in September and added that the review process is on-going. He added that currently, the department heads and employees are being trained on the review process. Council Member Callaway asked if the salary adjustments would be retroactive to September 1, 2003. City Manager Carter responded in the affirmative.

Council Member Morgan commented that when the new salaries were established, the City Manager would make the adjustments and not the City Council. City Manager Carter indicated that the City Council approved a set amount of money for payroll. Salary increases would be based on an employee's evaluation. He added that the City Council approves salary increases for appointed officials only, i.e. the Police Chief, Treasurer, Recorder, Manager, and Senior Director.

Council Member Morgan asked if there were any high increases. City Manager Carter responded in the affirmative and explained that there are 7 City employees who are not at the minimum range of salary compared to the market set. He explained that these individuals would be funded first to bring their salary close to the minimum level. He added that a small amount of the allotted funds would be set aside for an employee incentive program.

City Manager Carter responded to a community member who asked who decided and evaluated the public utility employees working out in the City. He reported that criteria is set for each employee and added that the evaluation program chosen by the City had the most objective instrument tools. Each employee would be evaluated on 18 to 20 objectives that their supervisor would review with each employee in his/her department. Mayor Scovill commented that each employee will do a self-evaluation, which would be reviewed with the evaluation done by their supervisor.

City Manager Carter indicated that the payroll structure was not new and the evaluation process is a true 'pay for performance' tool. He explained that the matrixes used were of cities with the same budget, same population, and competing cities were used for comparison. He added an employee's payroll adjustment, if any, would be based upon the matrix and the evaluation.

Mr. Brandon asked who determined the amount of money set for the payroll budget. Mayor Scovill responded that the payroll fund had been determined by the projected 2003-04 City incomes. He further indicated that the budget was approved by the City Council.

***Planning Commission***

Nothing

***City Engineer***

**Update on the 900 South/100 West Sewer Project**

City Engineer Fullmer reported that after a more detailed design of the project, there are several key items that have become apparent. The existing roadway is a chipped seal road over road base, preventing the road from being cut and patched. A whole new road would have to be installed as a road project in addition to the sewer project.

Council Member Reed asked for verification of the early estimate of \$75,000. Engineer Fullmer responded in the affirmative and added that there was an approximate contingency of \$20,000. He explained that the actual cost of the road and sewer projects would be nearer to \$189,000, plus the construction staking and design. He indicated that the project has become significantly more than conceptualized.

Engineer Fullmer reported that, with contingencies, the total cost of the sewer project would be \$212,000. He is prepared to put the project out to bid, but has not done at yet because he wanted to bring this to the City Council's attention. Engineer Fullmer commented that he felt the building of a pump station had a higher priority than this sewer project.

City Manager Carter distributed a draft to the Council Members which was addressed to the residents affected by the sewer connection project. He explained that the objective is to present

the connection to the sewer service as a way to assist and not penalize residents. He indicated that according to State Code, if a residence is within 300' of a main line, the City could force the resident to connect, even if the resident is in the County. City Manager Carter commented that he had spoken with Legal Counsel Rich, who indicated that the City would be within its rights to make the hook up a requirement. However, Legal Counsel Rich indicated that it was not compulsory to enforce the State Code. City Manager Carter explained that the City Council would have to determine the sewer connection rate. He added that the document was presented as a discussion point for the Council Members to consider.

Engineer Fullmer asked permission to send the sewer project out for bid. Mayor Scovill responded in the negative and explained that the funds necessary to support the project would have to be available first. Mayor Scovill added that the agenda item did not indicate that the project was to be approved at this meeting. Engineer Fullmer responded that his intent was to bring the problem to the Council Member's attention.

#### **Discussion and possible action with regard to flood mitigation contract procedure**

Engineer Fullmer reported that there are several projects under the flood mitigation general category. He indicated that he would like to contact the contractor to begin some of the work as soon as possible.

Engineer Fullmer explained that one of the projects was the installation of the water bars to stop and create a spreading effect of any water runoff. He explained that another project was the #4 diversion structure on the east side. He explained that the City had received the permit from the Forest Service. He proposed the City enter into a contract with Greenhalgh Construction to finish the trench dug by Mike Carter. He emphasized the urgency to complete the project because of a time limit imposed by the Natural Resources Conservation Service (NRCS). Mayor Scovill commented that there is a finite time that the funds are available and if the City extends past that time frame, the funds would be withdrawn.

City Manager Carter commented that the City is concerned with the protection of the community. He mentioned that the channel that has been cut on the east side has been sufficient thus far. The NRCS anticipated that the channel would cost \$1.1 million. However, Mr. Carter and Greenhalgh Construction kept the cost at approximately \$6,000.00 for the work done so far.

Engineer Fullmer indicated that he would like to contract for time and materials to obtain the best price for finishing the trench project.

Council Member Morgan asked if because of expediency, the City would be in violation by contracting for the project without opening it for bid. Engineer Fullmer commented that he did not believe the City would be in violation because the City's portion of the project would be



under \$20,000. City Manager Carter added that under the Santaquin City Code, the City Council could deem this an emergency situation and act accordingly.

Mayor Scovill asked for clarification regarding the “flood mitigation contract procedure”. He asked if Engineer Fullmer was asking the Council to fund the projects on an individual basis or collectively. Engineer Fullmer responded that he would like to fund each project individually. He explained that the estimated cost for Tributary #4 would be \$45,000. He indicated that the NRCS would cover 75% of that cost. Mayor Scovill asked if the City’s portion of the cost would exceed \$20,000. Engineer Fullmer responded in the negative.

Engineer Fullmer explained that another project would be culvert placement under the freeway. Mayor Scovill suggested that he proceed with the 3 projects already identified. He indicated that more information would be needed before proceeding with the culvert project. Engineer Fullmer indicated that \$9,000 had been received from the Forest Service for the reseeding project. He proposes that after an easement agreement has been made with Lyle Smart, those funds be used finish the Tributary #5 structural reinforcement.

Council Member Morgan moved to authorize, on the consent of these projects being emergencies, initiating 3 of the projects using the local contractor, entering into a contract for time and materials. Council Member Clayson seconded the motion with a unanimous vote.

**Discussion and possible action with regard to acceptance of water rights belonging to Evan Johnson**

Mayor Scovill reported that Mr. Johnson has between 33 and 99 shares (over 5 acre per foot each or 158 acre feet) of Utah Lake Distributing Company water that he would like to bank in the name of Santaquin City. He indicated that as development occurs in the area and a developer needs to provide water to the City, that developer could come to the City. The City, in turn, would give the developer Mr. Johnson’s name and phone number. The negotiations would take place between the developer and Mr. Johnson. Mr. Johnson would receive the funds and the water share(s) would be moved out of the bank and into City ownership.

Legal Counsel Rich indicated that the Change Application has been completed and approved by the State Engineer. He added that the Change Application has been done in one group. He reported that Mr. Johnson needs to transfer the shares before he is forced into forfeiture. Mr. Johnson would like to bank the shares with the City and the City would file for ‘non-use’ until the water is needed. Engineer Fullmer indicated that part of the water would be brought in with the Summit Ridge Development.

Mayor Scovill asked if the water would be transferred into the City’s name without a transfer of funds. City Manager Carter commented that he would confirm that with a conference call with the auditor.

Mayor Scovill recommended approval of the acceptance of the water rights belonging to Evan Johnson pending the phone conversation with auditors and legal counsel with issues of language and transfer of documents.

Legal Counsel Rich explained that the Council Members should be sure they understand what all the risks may be with regards to the acceptance of the water rights. He indicated that Mr. Johnson must have title to the water shares, that there were no encumbrances, and that there should be an agreement with Utah Lake Distributing Company. He added that if Utah Lake Distributing Company needed more water, they could take up to 20% of the water back. He commented that all the risks associated with the transfer should be identified. Legal Counsel Rich recommended that indemnities should not be given to Mr. Johnson. He recommended that if the City approved to accept the water shares, a water specialist should be review and assess the title of said water shares. He indicated that Tony Fuller was the City's water expert and that he should look at the cumulative value of the shares, as well as the 'wet' water and specifically whether or not the water is subject to forfeiture.

Mayor Scovill recommended that the City Council approve the acceptance of the water rights belonging to Evan Johnson, contingent upon resolution of all issues and concerns discussed. Council Member Clayson commented that the acceptance of the water rights should not be recommended for approval until all the issues and concerns have been resolved.

Council Member Callaway commented that Mr. Johnson should be responsible for paying the attorney and engineer wages involved in transferring the water shares.

Legal Counsel Rich indicated that the 'wet' water shares would be a benefit to the City, rather than a developer's payment in lieu of. Council Member Callaway added that the water would be needed for the irrigation system.

Mayor Scovill recommended approval of the acceptance of the water rights contingent upon approval by legal counsel. Council Member Reed moved to approve the acceptance of the water rights belonging to Evan Johnson, contingent upon approval by legal counsel. Council Member Morgan seconded the motion.

Legal Council Rich asked if the payment for attorney and engineer fees were to be made by Mr. Johnson was included in the motion. He added that payment would include legal counsel's letter to Mr. Johnson requesting the paying legal fees.

Engineer Fullmer indicated that he would have Tony Fuller verify the 'wet' water to be sure there were no forfeiture issues. He further indicated that Mr. Johnson would have to obtain a warranty deed for the water shares. Legal Counsel Rich commented that he has identified other firms that could do the water title work, as well as obtaining necessary affidavits from Utah Lake Distributing Company.

Engineer Fullmer reported that Mr. Johnson had proposed to lease the water shares to Riverton City who would pay for assessments for next year's use. This action would alleviate forfeiture concerns. Legal Counsel Rich reiterated the need for the required affidavits from the water company.

Mayor Scovill commented that if all the issues and concerns could be resolved and when staff, legal counsel and the water engineers feel comfortable that all issues have been resolved, than approval would be given to proceed.

Council Member Morgan moved to amend the motion for acceptance of the water rights belonging to Evan Johnson to *request* that Mr. Johnson pay all legal, City engineer, and water engineer fees associated with the transfer of said water shares. Council Member Callaway seconded the motion.

Council Member Clayson asked if the motion to accept made it mandatory for Mr. Johnson to pay all fees. Mayor Scovill responded in the negative and commented that it was merely a "request to pay."

With the motion made and seconded, the vote was as follows:

Council Member Clayson – Nay.  
Council Member Callaway – Aye.  
Council Member Morgan – Aye.  
Council Member Reed – Aye.

At 9:35 p.m., Council Member Callaway motioned to take a 5 minute recess. Council Member Reed seconded the motion with a unanimous vote.

Mayor Scovill called the meeting to order at 9:40 p.m.

## **REPORTS BY MAYOR AND COUNCIL MEMBERS**

Council Member Clayson commented that she would like the City Council to pick a moderator for the "Meet the Candidate Night." She suggested Mark Robbins and commented that she felt he would be an unbiased moderator. Mayor Scovill agreed and asked Council Member Clayson to contact Mr. Robbins.

Council Member Clayson indicated that she felt she had been criticized with regard to her concerns with the City budget. She reported that she had been given the budget for the previous year and that this year's additional benefits were neither included nor defined. Council Member Clayson began to direct a review of the benefit items to City Manager Carter. City Manager Carter indicated that he was not to review the items at this meeting. However, he commented

that he would be happy to meet with Council Member Clayson to review every aspect of the budget.

Council Member Clayson commented that she felt it her duty to call the State auditor and report that the wrong budget information had been sent. She questioned the City Manager and why he had not caught the error. City Manager Carter responded that the same Caselle printout that had been given to the Council Members had been sent to the State auditor, who caught the error 1 week prior to the State deadline. He reported that the error had been corrected and that the corrected budget had been sent back to the State. Council Member Clayson insisted that the City had been placed on the State delinquent list. City Manager Carter again invited Council Member Clayson to meet with him one-on-one.

Council Member Clayson commented that the Council Members and the public should have 10 days to review the budget and claimed that Council Members only had 3 days. City Manager Carter disagreed with the information Council Member Clayson reported and commented that all State standards had been met.

Council Member Clayson recommended that when the Council goes into the quarterly budget that \$25,000 be set aside to beautify the block west of the cemetery. She indicated that she had a committee in charge of the Veteran's Memorial Monument.

Council Member Callaway reported that he has driven to all the City parks and cemetery and commented that he had never seem the grass look so good. He wanted to extend his appreciation to the City crew and to Andrew Goudy for how well he has been caring for the school.

Council Member Callaway reported that there are approximately 300 children registered in the soccer program.

## **BUSINESS LICENSES**

Council Member Clayson presented 3 Business License applicants to the Council Members:

- Archie and Andy Alexander Storage and Impound Lot.
- Charles Inge Sub-contractor laborer.
- Boyd Wolz Web Development and Design.

Council Member Clayson recommended approval of these Business License applications. Council Member Reed seconded the motion with a unanimous.

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

Nothing

**EXECUTIVE SESSION** (May be called to discuss the pending or reasonably imminent litigation, and/or purchase, exchange, or lease of real property)  
Nothing

**ADJOURNMENT**

At 10:15 P.M., Council Member Clayson moved to adjourn. Council Member Reed seconded the motion with a unanimous vote.

Approved on September 17, 2003.

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A. LaDue Scovill, Mayor

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Darlene Gray, Community Development Secretary