



## **ADDENDUM CITY COUNCIL AGENDA**

PUBLIC NOTICE is hereby given that the City Council of Spanish Fork, Utah, will hold a regular public meeting in the Council Chambers in the City Office Building, **40 South Main Street**, Spanish Fork, Utah, commencing at **6:00 p.m. on January 8, 2008**.

### AGENDA ITEMS:

#### **1. CALL TO ORDER, PLEDGE, OPENING CEREMONY, RECOGNITIONS:**

- a. Pledge
- b. Oath of Office New City Council

#### **2. PUBLIC COMMENTS:**

Please note: In order to be considerate of everyone attending the meeting and to more closely follow the published agenda times, public comment will be limited to three minutes per person. A spokesperson who has been asked by a group to summarize their concerns will be allowed five minutes to speak. Comments which cannot be made within these limits should be submitted in writing. The Mayor or Council may restrict the comments beyond these guidelines.

#### **3. CONSENT ITEMS:**

These items are considered by the City Council to be routine and will be enacted by a single motion. If discussion is desired on any particular consent item, that item may be removed from the consent agenda and considered separately.

- a. \*Minutes of Spanish Fork City Council Meeting – December 18, 2007

#### **4. NEW BUSINESS:**

- a. \*Adoption of Ordinance Splitting the Finance Director and Recorder Duties
- b. - Appointment of City Recorder; City Treasurer; Mayor Pro Tem  
- Elected Official Assignments  
- Appointment of Boards and Commissions
- c. \*Resolution Authorizing Legal Settlement – Kevin Payne
- d. \*Financial Advisor Appointment

#### **5. OTHER BUSINESS:**

- a. Executive Session If Needed – To be Announced in the Motion

### ADJOURN:

\* Supporting documentation is available on the City's website [www.spanishfork.org](http://www.spanishfork.org)

Notice is hereby given that:

- In the event of an absence of a quorum, agenda items will be continued to the next regularly scheduled meeting.
- By motion of the Spanish Fork City Council, pursuant to Title 52, Chapter 4 of the Utah Code, the City Council may vote to hold a closed executive meeting for any of the purposes identified in that Chapter.
- This agenda is also available on the City's webpage at [www.spanishfork.org](http://www.spanishfork.org)

SPANISH FORK CITY does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in the employment or the provision of services. The public is invited to participate in all Spanish Fork City Council Meetings located at 40 South Main St. If you need special accommodation to participate in the meeting, please contact the City Manager's Office at 798-5000.

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**Tentative Minutes**  
**Spanish Fork City Council Meeting**  
**December 18, 2007**

Elected Officials Present: Mayor Joe L Thomas, Councilmember's Matthew D. Barber, Steven M. Leifson, Seth V. Sorensen, G. Wayne Andersen, Chris C. Wadsworth

Staff Present: Dee Rosenbaum, Public Safety Director; Dave Oyler, City Manager; Junior Baker, City Attorney; Dave Anderson, City Planner; Seth Perrins, Assistant City Manager; Kelly Peterson, Electric Superintendent; Kent Clark, Finance Director; Justin Gordon, Patrol Officer; Jason Harward, Patrol Officer; Kimberly Robinson, Deputy Recorder

Citizens Present: Richard M. Davis, Rod Dart, Jens Nielson, Lana Creer Harris, Cheryl Leifson, Melody Andersen

**CALL TO ORDER, PLEDGE:**

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

Councilman Wadsworth led in the pledge of allegiance.

**Police Officer Recognition**

Dee Rosenbaum recognized Justin Gordon and Jason Harward with a life saving award. He explained this is a special award given by a nomination of their peers. The officers were presented with the awards.

Mayor Thomas recognized the Councilman whose terms are ending.

Councilman Seth V. Sorensen  
Councilman Chris C. Wadsworth  
Councilman Matthew D. Barber

The Council was presented their gifts and appreciation was given.

**PUBLIC COMMENTS:**

There was no public comment given at this time.

**COUNCIL COMMENTS:**

Councilman Wadsworth reported the finance committee reviewed the financial advisor bids. He has been impressed with the Festival of Lights and all they have done this year, and encourages everyone to go.

Councilman Sorensen reported they have elected new Chamber of Commerce board members. He also stated if you have not been to the Festival of Lights please go.

Councilman Andersen expressed his appreciation for the opportunity to work with those three men who have dedicated so much time on behalf of the community. He thanked their families

51 because they also sacrifice their time. Two weeks ago he was not at the Council meeting he was  
52 in Las Vegas with the rodeo committee securing acts, bullfighters, and clowns for the upcoming  
53 rodeo. They have a great rodeo planned for this year. He wished everyone a very Merry  
54 Christmas and a Happy New Year. He hopes blessings are upon all the families and citizens of  
55 our community.

56  
57 Councilman Leifson feels the same as Councilman Andersen and thanked the Councilmember's  
58 for their service and sacrifice, which has a lot to do with the families support. He appreciates the  
59 things he has learned from each of them and all they have done for him. He noted we had a  
60 citizen this last week have a devastating house fire, and thanked all the citizens that rallied  
61 around, also the fire department and emergency staff that responded so quickly. He hopes  
62 everyone has a very Merry Christmas and a Happy Holidays; he appreciates this great  
63 community and the fine spirit that is with the citizens here.

64  
65 Councilman Barber said after you give so much time and energy it is hard to step away, his kids  
66 sacrificed a lot for him serving and he thanked them for giving him up and supporting him for  
67 four years. He thanked his wife for her support, so many times he was gone for hours and he  
68 appreciates her letting him serve the community it has been an honor and a privilege. He thanked  
69 Staff, Council, and the community. He appreciates the time and effort everyone puts into this  
70 community. He feels everything has been about making the citizens life better and hopes they  
71 have accomplished that.

72  
73 Mayor Thomas gave some updates on the North Park delay; it was caused by the Army Core of  
74 Engineers regarding a wetlands issue. Construction should be moving forward as of today. There  
75 have been a number of smaller businesses interested in locating to that development; some will  
76 be opening by fall of next year. The windmills are moving forward and being built, the Festival  
77 of Lights has been doing great and he too wants to wish everyone a Happy Holidays. He would  
78 like to thank those that have served and appreciates working with them. He thanked the entire  
79 outgoing Councilman for their service.

80  
81 **PUBLIC HEARING:**

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83 Councilman Sorensen made a **Motion** to move to public hearing at 6:30 p.m. Councilman  
84 Leifson **Seconded** and the motion **Passed** all in favor.

85  
86 **Kelly Annexation and Growth Boundary Amendment**

87  
88 Mr. Anderson explained the item has two parts the annexation and the growth boundary  
89 amendment. The proposed annexation includes 6.71 acres the applicant has requested the zoning  
90 be industrial one (I-1). Discussion was made regarding the vacation of a road and the process  
91 involved.

92  
93 This item was opened for public comment.

94  
95 Richard Davis

96 Mr. Davis stated there is an irrigation ditch that goes through the property and wants to make  
97 sure the ditch will be taken care of.

98  
99 The Council addressed the fact that the irrigation company and engineering will deal with it.

100

101 Councilman Sorensen made a **Motion** to close the public hearing and approve the proposed  
102 Kelly Annexation and accompanying Growth Boundary Amendment subject to the following  
103 condition:

104 **Condition:**

105 1. That the applicant enters into an Annexation Agreement to address any issues relative to  
106 getting City services to the property.

107 2. That the property be assigned an I-1 zoning designation

108 Councilman Andersen **Seconded** and the motion **Passed** all in favor at 6:42 p.m.

109

110 **CONSENT ITEMS:**

111

112 **Minutes of Spanish Fork City Council Meeting – December 4, 2007**

113

114 Councilman Barber made a **Motion** to approve the consent items. Councilman Wadsworth  
115 **Seconded** and the motion **Passed** all in favor.

116

117 **NEW BUSINESS:**

118

119 **Independent Audit Report FY 07**

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121 Russell Olsen

122 Mr. Olsen represents Larson and Company. He presented the audit, and stated the financial  
123 statements are materially substantial. They conclude that there are no findings that need to be  
124 reported in their report. He did note the finding that the treasurer bond was under funded, and  
125 stated that matter has already been addressed. The prior year finding that the general fund  
126 balance was in excess of 18% was stated; he noted it was not a problem for this year.

127

128 Mr. Clark explained his summary, and the statement of activity.

129

130 Councilman Andersen made a **Motion** to accept the Independent Audit Report FY 07.

131 Councilman Sorensen **Seconded** and the motion **Passed** all in favor.

132

133 **Electric Impact Fee Study Proposal**

134

135 Kelly Peterson

136 Mr. Peterson explained the proposal. He stated Comlink did the research on upgrading the  
137 system. They propose Comlink do the project for them since they already have the information  
138 and that would give them a lower price if it were to go out to bid. Staff recommends Comlink to  
139 do the study for them.

140

141 Councilman Barber made a **Motion** to approve the electrical impact fee study with Comlink.

142 Councilman Sorensen **Seconded** and the motion **Passed** all in favor

143

144 **ADJOURN TO RDA MEETING**

145

146 Councilman Sorensen made a **Motion** to adjourn to the Redevelopment Agency Meeting.

147 Councilman Leifson **Seconded** and the motion **Passed** all in favor at 7:01 p.m.

148

149 Councilman Leifson made a **Motion** to move out of the RDA meeting back to the regular City  
150 Council meeting. Councilman Sorensen **Seconded** and the motion **Passed** all in favor at 7:08  
151 p.m.

152  
153 **OTHER BUSINESS:**

154  
155 Councilman Wadsworth said the last four years have been a great opportunity to learn, grow and  
156 serve. He feels blessed for the trust the citizens have placed in him and allowing him to serve. He  
157 is grateful for the issues they have had to deliberate, every problem poses an opportunity and he  
158 has tried to apply the principles of the oath of office they take to all decisions they make. It also  
159 taught him character virtues, and courage. He stated you have to have policy based framework  
160 by honoring the oath of office for things to work. He appreciates the conversations he's had with  
161 staff members where they talked about correct principles of government. He feels staff has been  
162 very open to holding discussions and that it has been a good process. He thanked the staff and  
163 other city employees for the discussions and opportunities he has had. He thanked his fellow  
164 councilmember's for the debates they have had. He feels they have come to a place they feel  
165 comfortable and can discuss most everything. He greatly appreciates the citizens who have taken  
166 an interest in their local government. He said thanks to all that have supported and fought him, it  
167 has been a great ride and he wished everyone a Merry Christmas, Happy New Year, Happy  
168 Hanukah, and that God Bless the USA and Spanish Fork City.

169  
170 **ADJOURN:**

171  
172 Councilman Leifson made a **Motion** to adjourn to executive session for Personnel. Councilman  
173 Sorensen **Seconded** and the motion **Passed** all in favor at 7:16 p.m.

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175  
176 ADOPTED:

\_\_\_\_\_  
Kimberly Robinson, Deputy Recorder

# ORDINANCE NO. 01-08

## ROLL CALL

VOTING	YES	NO
MAYOR JOE L THOMAS <i>(votes only in case of tie)</i>		
G. WAYNE ANDERSEN <i>Councilmember</i>		
ROD DART <i>Councilmember</i>		
RICHARD M. DAVIS <i>Councilmember</i>		
STEVE LEIFSON <i>Councilmember</i>		
JENS P. NIELSON <i>Councilmember</i>		

I MOVE this ordinance be adopted: \_\_\_\_\_

I SECOND the foregoing motion: \_\_\_\_\_

## ORDINANCE 01-08

### AN ORDINANCE SPLITTING THE OFFICES OF DIRECTOR OF FINANCE AND RECORDER

WHEREAS, Spanish Fork City has combined offices of Recorder and Director of Finance;  
and

WHEREAS, the City has reached the size that it is difficult for one person to perform all of  
the clerical and financial responsibilities delegated to the recorder; and

WHEREAS, Utah Code Ann §10-6-157 allows for fourth class cities, the class to which  
Spanish Fork City belongs, the option to separate the functions of the Director of Finance from those  
of Recorder, so long as the Director of Finance does not assume the duties of the Treasurer; and

WHEREAS, it is in the best interest of the City to separate the functions of Director of

Finance and Recorder so that both positions can more adequately be performed;

NOW THEREFORE, be it ordained and enacted by the Spanish Fork City Council as follows:

**I.**

Spanish Fork City Municipal Code Title 2, Chapter 20 is hereby amended by repealing sections 2.20.050, 060, 070, 080, 090, and 100.

Section 2.20.120 is renumbered to section 2.20.050.

Sections 2.20.010, 020, 030, 040, and 050 are hereby amended to read as follows:

**2.20.010 Appointment.**

On or before the first Monday in February following a municipal election there shall be appointed by the mayor, with the advice and consent of at least three (3) members of the city council, a City Recorder who shall perform the duties required of him or her by law, the ordinances of the City and State of Utah, and such other duties as the City Council may require. The City Recorder shall serve until his/her successor is appointed, qualified, and sworn in.

**2.20.020 Supervision.**

The City Recorder shall be under the direction and supervision of the City Manager.

**2.20.030. Record Keeping.**

The City Recorder shall keep a record of the proceedings of the City Council, whose meetings it shall be his or her duty to attend. He or she shall accurately record all ordinances and resolutions passed by the city council in a book kept for the purpose. He or she shall certify to the publication of all ordinances and retain the affidavits of publication. He or she shall attest all papers signed by the mayor officially. He or she shall also keep, in a book provided for that purpose, the names of persons elected or appointed to any office, commission, board or committee within the city, together with the dates on which they entered upon the duties of their respective offices or positions and the date of their resignation or removal therefrom.

**2.20.040. Countersigning Contract.**

The City Recorder shall countersign all contracts made on behalf of the city. Every contract made on behalf of the City or to which the City is a party shall be void unless signed by the Recorder. He or she shall maintain a record of all contracts, properly indexed, which record shall be open to the inspection of all interested persons.

**2.20.050. General Duties.**

The City Recorder shall perform such other duties as may be required by city ordinance or

state law.

**II.**

Spanish Fork City, pursuant to the authority granted by Utah Code Ann. §10-6-157, hereby separates the offices of City Recorder and Director of Finance and hereby creates a position of Director of Finance. The position shall be filled by appointment by the City Manager, with the advice and consent of the governing body. The Director of Finance shall follow the procedures prescribed in the Uniform Accounting Manual for Utah Cities. The Director of Finance shall not perform any duties of the City Treasurer.

**III.**

This Ordinance shall be effective 20 days after passage and publication.

PASSED AND ORDERED PUBLISHED BY THE CITY COUNCIL OF SPANISH FORK,  
UTAH, this 8th day of January, 2008.

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JOE L THOMAS, Mayor

ATTEST:

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KENT R. CLARK, City Recorder

F:\ORDBOOK\ORD----

**SETTLEMENT AGREEMENT  
AND GENERAL RELEASE OF ALL CLAIMS**

Kevin Payne ("Payne"), and Spanish Fork City, a municipality and political subdivision of the State of Utah ("City"), hereby enter into this Settlement Agreement and General Release of All Claims (the "Agreement") as of this 19 day of Dec, 2007, for the purpose of settling and resolving certain claims, controversies, disputes, and legal actions between them on the terms and conditions and for the considerations set forth below.

1. Intent of the Parties. Payne commenced a legal action in the Fourth Judicial District Court for Utah County, State of Utah, American Fork Department against the City, Civil No. 070101702, asserting various claims and theories with respect to the approval of a commercial development by the City and the alleged impacts on Payne and his property arising out of anticipated improvements to public streets adjoining Payne's property (the "Litigation"). Without waiving or conceding their respective positions in the Litigation, it is the intent and purpose of the parties to this Agreement to fully settle, compromise and resolve all claims, controversies and disputes between them arising out of or in any way related to the Litigation, resulting in the dismissal of the Litigation as set forth below.

2. Dismissal of the Litigation. The parties hereby agree that a stipulation, motion and order of dismissal will be executed by counsel for Payne and the City and filed with the Fourth Judicial District Court for Utah County, State of Utah, in Case No. 070101702, dismissing all of the claims asserted by Payne in the Litigation with prejudice and upon the merits, and dismissing the counterclaim asserted by the City in the Litigation without prejudice.

3. Provisions Regarding 700 East Improvements. The parties agree to the following provisions with respect to anticipated public infrastructure and related improvements to be constructed along 700 East adjacent to the Payne property:

a. All public infrastructure and related improvements, including sidewalks, along 700 East adjacent to the Payne property shall be located at least two (2) feet outside or to the west of the existing fence line on the west side of the Payne property.

b. Payne will be allowed to have two (2) curb cuts at locations to be designated at the back or rear portion of the Payne property off of the improved 700 East Street. The location of such curb cuts shall be timely designated and shall meet

the minimum distance requirements from the intersection of 700 East Street with 800 North Street as set forth in the City's Construction Standards, Section 39.20.030, a copy of which is attached hereto and incorporated herein by this reference.

c. Payne shall not be responsible for any additional costs incurred for engineering to modify the design plans for the 700 East Street improvements to accommodate the two (2) curb cuts and the additional costs, if any, to install the two (2) curb cuts during construction of the 700 East Street improvements.

4. Attorney's Fees and Costs. This Agreement shall be enforceable by any party hereto, by legal proceedings or otherwise, in the same manner as in any other contract. The prevailing party shall have the right to recover reasonable attorney's fees and costs in any proceeding to enforce this Agreement.

5. Mutual General Release of All Claims. As part of this Agreement and except for the provisions regarding the City's counterclaim set forth in section 2 above, Payne and the City, for and on behalf of themselves and their respective owners, employees, agents, indemnitors, insurers, successors, and assigns, hereby release and forever discharge each other, together with their owners, employees, agents, indemnitors, insurers, successors, and assigns, from any and all claims, demands, liabilities, damages, causes of action, costs and expenses, including attorney's fees, arising out of or in any way connected with the Litigation.

6. Integration. This Agreement contains the entire agreement and understanding of the parties with respect to the subject matter herein, and integrates all prior conversations, discussions or undertakings of whatever kind or nature and may only be modified by a subsequent writing duly executed by the parties hereto.

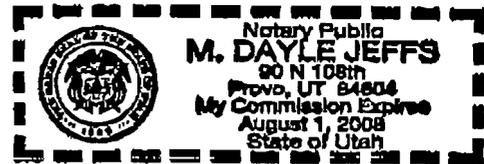
7. Counterparts. This document may be executed in one or more counterparts, which together shall constitute one and the same document.

WHEREFORE, the parties have executed the foregoing to be effective the date first appearing above.

*Kevin Payne*  
\_\_\_\_\_  
KEVIN PAYNE

SUBSCRIBED AND SWORN TO before me this 19 day of Dec., 2007.

*M. Dayle Jeffs*  
\_\_\_\_\_  
Notary Public



SPANISH FORK CITY

Attest:

By \_\_\_\_\_  
Its \_\_\_\_\_

\_\_\_\_\_  
Spanish Fork City Recorder

138836.1

# MEMO:-

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To: City Council and Mayor  
From: Finance Committee  
Date: January 8, 2008  
Subject: Financial Advisory (FA) Services Contract Recommendation.

The Finance Committee met on December 10, 2007 at 7:30 AM.

Committee members are the following: G. Wayne Anderson, Chris Wadsworth, Dave Oyler, Kent Clark, Leonard Ellis, Russell Olsen and Eric Heaton.

Invited Guests: Rod Dart, Richard Davis, Jens Nielson

The committee heard presentations for 4 different firms who provide Financial Advisory Services (FA). The four(4) firms were as follows:

- 1) George K. Baum & Company;
- 2) Lewis, Young, Burningham & Robertson;
- 3) Wells Fargo; and
- 4) Zions Bank Public Finance.

The Finance Committee has reviewed this item for the past 5 months. The December 10<sup>th</sup> meeting was to actually have presentations from the firms.

A Financial Advisor is use by the City when issuing bonds or securing financing to fund different City projects. Their services include helping the city present its financial position to the bonding market and issue bonds. They help the city work with Bond Counsel, Rating Agencies and Bond Insurance companies. We have issued bonds in the following years: 2000, 2002, and 2007.

After reviewing the presentations and RFP documents, the Finance Committee recommends the city contract with Zions Bank Public Finance for its Financial Advisor Services. The City has used Zions Bank Public Finance for the past 20+ years. The Finance Committee is looking forward to the continued working relationship with Zions Bank Public Finance.

Thank you.

**RESOLUTION NO. 08-01**

ROLL CALL

VOTING	YES	NO
MAYOR JOE L THOMAS <i>(votes only in case of tie)</i>		
G. WAYNE ANDERSEN <i>Councilmember</i>		
ROD DART <i>Councilmember</i>		
RICHARD M. DAVIS <i>Councilmember</i>		
STEVE LEIFSON <i>Councilmember</i>		
JENS P. NIELSON <i>Councilmember</i>		

I MOVE this resolution be adopted: \_\_\_\_\_  
I SECOND the foregoing motion: \_\_\_\_\_

**RESOLUTION NO. 08-01**

**RESOLUTION OF THE CITY COUNCIL AUTHORIZING  
THE SETTLEMENT AGREEMENT WITH KEVIN PAYNE**

WHEREAS, Spanish Fork City has approved a commercial project known as the North Park CDA; and

WHEREAS, the City has received a legal challenge to the approval of the North Park CDA by Kevin Payne; and

WHEREAS, the parties have resolved their differences and a settlement agreement prepared;

NOW, THEREFORE, BE IT RESOLVED BY THE SPANISH FORK CITY COUNCIL as follows:

1. The attached settlement agreement between Kevin Payne and Spanish Fork City is

hereby approved and the mayor is authorized to execute the same.

Dated this 8th day of January, 2008.

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JOE L THOMAS, Mayor

ATTEST:

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KENT R. CLARK, City Recorder