



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 March 4, 2008**.

AGENDA ITEMS:

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

- a. Pledge
- b. Employee of the Quarter

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. COUNCIL COMMENTS:

4. 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. [*Animal Pick Up Fee Resolution](#)
- b. [*Amended Interlocal Agreement – Salem, Payson, Spanish Fork](#)
- c. [*Resolution Authorizing IS Director to Enter Into Program Contracts](#)
- d. [*UVCCC Funding Matrix Resolution](#)

5. NEW BUSINESS:

- a. Arts Council Presentation
- b. [*Main Street Plaza Parking Proposal](#)
- c. NEPA Compliance on the River Study – Richard Heap
- d. Transportation Master Plan Consultant Selection
- e. [*Annual Contribution Agreement Between SUVMWA & Spanish Fork City](#)

6. OLD BUSINESS:

- a. Kite Festival Follow Up
- b. [*Appeal Authority - Staff Denial of Billboard Building Permit – Jamie Evans](#)

7. EXECUTIVE SESSION:

- a. Jamie Evans Deliberation
- b. Land Purchase

ADJOURN:

* Supporting documentation is available on the City's website 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.

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.

MEMO

To: Mayor and Council
From: S. Junior Baker
Date: 22 Feb 2008
Re: Animal Pickup Resolution

On the Council agenda for March 4th is a resolution establishing a charge of \$25.00 for the animal control officer to pick up and take an animal from a resident. This comes into play when a resident requests that an animal be picked up by the city. Sometimes the animal just can't be cared for and can be placed for adoption. Sometimes the animal is old and needs to be euthanized and the owner just doesn't want to do that to their pet. Sometimes the animal is already deceased and just needs to be disposed of. This was discussed at the retreat and this is the amount recommended.

RESOLUTION 08-03

ROLL CALL

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

I MOVE this resolution be adopted: _____
City Councilperson

I SECOND the foregoing motion: _____
City Councilperson

RESOLUTION 08-03

A RESOLUTION ESTABLISHING A CHARGE WHEN AN ANIMAL CONTROL OFFICER PICKS UP AN ANIMAL AT THE REQUEST OF A CITIZEN

WHEREAS, Spanish Fork City has an animal control officer to enforce ordinances relating to animals; and

WHEREAS, the animal control officer receives calls, from time to time, requesting that he/she pick up an animal from a resident for adoption, disposal, or euthanization; and

WHEREAS, the City is willing to provide that type of a service to its residents, but desires

to establish a fee for such service so that all of the residents are not subsidizing that service;

NOW THEREFORE, be it resolved by the Spanish Fork City Council as follows:

1. The animal control officer is hereby authorized to pick up an animal from a resident, at the request of a resident.
2. An animal picked up by the animal control officer from a resident, at the request of a resident, shall be taken to the Utah County Animal Shelter for adoption, disposal, or euthanization, in accordance with the requirements of the Shelter.
3. When the animal control officer picks up an animal pursuant to this resolution, there shall be a charge of twenty-five dollars (\$25.00) imposed on the resident making the request. The animal control officer shall see that the fee imposed is paid prior to taking the animal.
4. This resolution is effective as of the 1st day of May, 2008.

DATED this 4th of March, 2008.

JOE L THOMAS, Mayor

Attest:

KIM ROBINSON, City Recorder

MEMO

To: Mayor and Council
From: S. Junior Baker
Date: 25 Feb 2008
Re: Amended Interlocal Agreement

On the Council agenda for March 4th is a consent item to approve an amended interlocal with Salem and Payson to establish future boundaries. This does not affect us, other than it amends an earlier agreement. It takes approximately 320 acres, which has been de-annexed from Payson and allows it to go to Salem. Payson annexed this property about 5 years ago when they were courting a Walmart warehouse. It eventually went to Grantsville. Payson had no good way to service the area, and it was historically a Salem area, so was recently disconnected from Payson, at the property owner's request.

The amended agreement also removes the requirement for Payson or Salem to sewer the area. We are working on another agreement with just Salem for the sewer. It is all but done and should be coming to you for approval in the next month.

**AMENDED INTERLOCAL COOPERATION
AGREEMENT ESTABLISHING THE
SALEM/SPANISH FORK/PAYSON ANNEXATION BOUNDARY**

WHEREAS, Spanish Fork City, Salem City, and Payson City entered into an Interlocal Cooperation Agreement dated November, 2002 attached as exhibit A, wherein the three municipalities agreed to establish annexation boundaries that did not overlap, as contemplated in Utah Code Annotated §10-2-401.5(6); and

WHEREAS, Spanish Fork City, Salem City, and Payson City each amended their Annexation Policy Plan to coincide with the agreed upon annexation boundaries; and

WHEREAS, Payson City's proposed industrial user did not locate in Payson and the property owners petitioned to have their property disconnected from Payson City; and

WHEREAS, the Payson City Council, on December 5, 2007, adopted an ordinance disconnecting property from the municipal limits of Payson City as described in exhibit "B"; and

WHEREAS, there has been a petition to annex the deannexed property into the municipal limits of Salem City; and

WHEREAS, in order to accommodate Salem, Payson and Spanish Fork are willing to adjust the future annexation policy plan consistent with this agreement as set forth in exhibit "C"; and

WHEREAS, Spanish Fork, Salem and Payson shall each provide own utility services to its own residents and businesses unless otherwise agreed in writing; and

WHEREAS, in order to better provide for orderly development of each municipality, it is appropriate to enter into an Interlocal Cooperation Agreement to

establish the future boundaries between the three cities;

NOW THEREFORE, Spanish Fork City, Salem City, and Payson City hereby contract, covenant and agree as follows:

1. The parties hereby agree to establish the future boundaries of each city in the area _____ as described in Exhibit C.
2. Each resident or business customer shall be billed for its utility services by the city _____ in whose boundaries the customer lies, unless otherwise agreed to in writing by _____ the parties.
3. The duration of this agreement shall be for thirty years and for such additional _____ terms or extensions as may be authorized by law and the parties hereto. Early _____ termination may only be pursuant to the procedures set forth in paragraph 4.
4. This agreement may be modified, altered, or amended only by a written document _____ executed by each of the parties hereto.
5. This agreement shall be governed and construed under the laws of the State of _____ Utah.
6. Should any part, term, or other provision of this agreement be held by the courts _____ as void, illegal, in conflict with any law of the State of Utah, or otherwise _____ rendered unenforceable, the validity of the remaining portions shall not be _____ affected.

DATED this ____ day of March, 2008.

SPANISH FORK CITY by:

—

JOE L THOMAS, Mayor

ATTEST:

KENT R. CLARK, Recorder

APPROVED AS TO FORM:

S. JUNIOR BAKER,
Spanish Fork City, Attorney

SALEM CITY by:

—

J. LANE HENDERSON, Mayor

ATTEST:

JEFFREY D. NIELSON, Recorder

APPROVED AS TO FORM

S. JUNIOR BAKER
Salem City Attorney

PAYSON CITY by:

—

BURTIS BILLS, Mayor

ATTEST:

JEANETTE CURTIS, Recorder

APPROVED AS TO FORM

DAVID C. TUCKETT
Payson City Attorney

EXHIBIT A

EXHIBIT B

EXHIBIT C

SPANISH FORK CITY
Staff Report to City Council



Agenda Date:	March 4, 2008
Staff Contacts:	John Bowcut, IS Director/SFCN Director; Bryce Walker, Cable Channel Coordinator
Reviewed By:	Seth Perrins, Assistant City Manager
Subject:	Resolution authorizing SFCN to enter into advertising contracts

Background Discussion:

SFCN is a multi-faceted and complete broadband network that offers cable television and high speed internet services to all residents. One element of the systems allows SFCN to insert advertisements on 5 channels: Spanish Fork 17, ESPN, CNN, Discovery Channel and Animal Planet. This component of the system requires someone to sell the advertising space and coordinate with the various customers that wish to advertise. SFCN also sells many sponsorships, such as replays, as you will see from time to time. We have tried many different avenues in the past and they had varying levels of success. Various contractors have sold advertising spots and have entered into contracts for SFCN and at this time, we feel it necessary to give SFCN the ability to sign these contracts. This will allow our staff to go out and make a sale and sign the contract on the spot, providing a better service to the customer because there is no wait time involved. We have hired a Part-time person whose sole responsibility will be to go out sell advertising. We will use the standard contract that is included with the resolution and simply fill in the blanks.

Budgetary Impact:

This is a money maker for SFCN. With the insertion capacity we have on the 5 channels and current sponsors, SFCN can generate up to \$7,000 a month. If more commercials are requested by increased sales, then capacity can be increased by adding new channels for insertion.

Alternatives:

We have contracted with outside companies to provide this service and have seen varied results. We continue to try new ways and hopefully improved ways as we strive to maximize the advertising potential of the SFCN cable system.

Recommendation:

Approve the resolution, giving SFCN the authorization to sign the advertising contracts.

Attachments:

Resolution 08-04; SFCN Advertising Contract.

RESOLUTION 08-04

ROLL CALL

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

I MOVE this resolution be adopted: _____
City Councilperson

I SECOND the foregoing motion: _____
City Councilperson

RESOLUTION 08-04

**A RESOLUTION AUTHORIZING THE DIRECTOR OF SFCN, OR THEIR
DESIGNEE TO ENTER INTO ADVERTISING CONTRACTS**

WHEREAS, Spanish Fork City owns and operates a municipal telecommunications system known as Spanish Fork Community Network or SFCN; and

WHEREAS, part of SFCN includes a cable television system; and

WHEREAS, SFCN has the opportunity to generate additional revenues by selling advertising spots to be shown on its cable television system; and

WHEREAS, SFCN has the opportunity to enter into contracts with potential clients who desire to advertise or sponsor events on SFCN; and

WHEREAS, the contracts are form contracts prepared by the City and agreed to by the potential client; and

WHEREAS, time is of the essence in executing the contracts in order for the client to advertise in specific time periods or sponsor certain events; and

WHEREAS, taking the time to obtain Mayor and City Council approval for the form advertising contracts causes the City to lose revenue opportunities;

NOW THEREFORE, be it resolved by the Spanish Fork City Council as follows:

1. The SFCN Director or his/her designee is hereby authorized to sign advertising contracts with clients to advertise or sponsor events on SFCN.
2. The SFCN Director or his/her designee are authorized to fill in the blanks on the form contract.
3. This resolution is effective immediately upon passage.

DATED this 4th of March, 2008.

JOE L THOMAS, Mayor

Attest:

KIM ROBINSON, City Recorder

Resolution No. _____

A RESOLUTION AUTHORIZING THE USE OF _____ CITY _____ CITY'S 2008 ALLOCATION OF HOME FUNDS AND COMMUNITY HOUSING DEVELOPMENT ORGANIZATION TO ASSIST IN THE DEVELOPMENT OF AFFORDABLE HOUSING PROJECTS LOCATED IN UTAH COUNTY.

WHEREAS, The Utah Valley Consortium of Cities and County ("UVCCC") receives an annual formula allocation of HOME funds from the Department of Housing and Urban Development for the purpose of addressing homelessness and expanding the supply of affordable housing; and

WHEREAS, UVCCC receives an annual allocation of Community Housing Development Organization (CHDO) funds for the purpose of addressing homelessness and expanding the supply of affordable housing; and

WHEREAS, _____ CITY _____ City is a member of the UVCCC and is eligible to receive as its share of 2008 HOME funds the sum of \$ _____ , and as it's share of CHDO funds the of \$ _____ ; and,

WHEREAS, HOME funds from each member of UVCCC will be needed to cover the costs of all proposed projects.

NOW, THEREFORE, be it resolved that the City Council of _____ City _____ City authorizes the City's share of the 2008 HOME Funding Matrix in the amount of \$ _____ and its share of CHDO funds in he sum of \$ _____ to be used in the development of any of the following project(s):

- Rural Housing Development Corporation \$470,819
- Housing Authority of Utah County - Rehabs \$150,000
- Housing Authority of Utah County - REAP \$175,000
- Housing Services of Utah Valley \$116,200
- Habitat for Humanity \$185,877

Passed by the City Council of _____ CITY _____ City this _____ day of _____ 2008. This resolution becomes effective on the day following the date of adoption.

Mayor

ATTEST:

City Recorder

February 29, 2008

Honorable Mayor and City Council Members,

I appreciate your willingness to communicate and work with me on our mutual parking problem in the downtown area. At our last meeting you allowed me to follow up with you and make a formal proposal for a solution to the parking problem and issues regarding the parking behind the public safety building and Main Street Plaza. It is in both our interests to see more business down town and to add as many parking stalls as possible in your parking lot project scheduled for this spring. This proposal also gives the Chamber of Commerce a new modern location that should give it an additional opportunity for them to continue their tradition of providing services for the citizens and businesses. It has been brought to my attention that the Daughters of the Utah Pioneers has recently had to rent a storage unit due to the fact that they have too many items to display in their currently tight quarters of the Memorial Building and my thought is that the Chamber of Commerce and the DUP could share the space in Main Street Plaza and thus create more of a Spanish Fork Visitors Center\Chamber of Commerce setting that would be more conducive to both organizations and allow Spanish Fork to have what so many other cities have in terms of a nice visitors center. It would appear to me that everyone who has a vested interest in this project comes out a winner by working together on this solution.

It is my understanding that you currently budget \$16,500 in hard money for your contract with the Chamber of Commerce and then using the local market pricing for commercial property which is 1.25 a sq foot plus another.20 a sq ft for utilities you are adding an additional contribution of \$17,400 for a total contribution of \$33,900 to the Chamber of Commerce and that doesn't account for the in-kind donation to the DUP for their spot at the Memorial Building. My purpose in listing the in-kind and actual budgeted dollars for the Chamber was just to give you an idea of the investment Spanish Fork is already making in the Chamber of Commerce. In my opinion the actual return on your investment in this arrangement would be hard to quantify but very much worth the investment. My proposal is the following:

I am willing to sign a long term lease with Spanish Fork City, the Chamber of Commerce and the Daughters of the Utah Pioneers on a space located on the 300 North side of the street in Main Street Plaza that is 1618 sq ft for \$1.40 a sq ft per month which would include utilities. I will in also pay the demolition cost of the current Chamber building for which I have a bid from Blake Barney for \$6,700. The City will in turn add the area, where the Chamber office currently sits, to your parking lot project and amend the cross parking agreement with Main Street Plaza to add an additional 30 parking stalls bringing the total in that agreement to 84.

Again, I appreciate your willingness to have a dialog and work together to help all the parties involved come to a reasonable solution.

Respectfully,

Kevin Pritchett

Spanish Fork, Utah

March 4, 2008

The City Council of Spanish Fork City, Utah (the "Council"), met in regular session on March 4, 2008, at its regular meeting place in Spanish Fork City, Utah, at 6:00 p.m. with the following members of the Council present:

Joe Thomas	Mayor
G. Wayne Anderson	Councilmember
Rod Dart	Councilmember
Richard Davis	Councilmember
Steve Leifson	Councilmember
Jens Nielson	Councilmember

Also present:

Kim Robison	City Recorder
-------------	---------------

Absent:

After the meeting had been duly called to order and after other matters not pertinent to this resolution had been discussed, the City Recorder presented to the Council a Certificate of Compliance with Open Meeting Law with respect to this March 4, 2008, meeting, a copy of which is attached hereto as Exhibit A.

Thereupon, the following resolution was introduced in written form, discussed in full, and pursuant to motion made by Councilmember _____ and seconded by Councilmember _____, adopted by the following vote:

AYE:

NAY:

The resolution is as follows:

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF SPANISH FORK CITY, UTAH (THE "CITY") AUTHORIZING AND APPROVING THE EXECUTION BY THE CITY OF AN ANNUALLY RENEWABLE MASTER LEASE AGREEMENT BY AND BETWEEN SOUTH UTAH VALLEY MUNICIPAL WATER ASSOCIATION, UTAH ("SUVMWA") AS LESSOR AND THE CITY, ELK RIDGE CITY, MAPLETON CITY, PAYSON CITY, SALEM CITY, SPRINGVILLE CITY, AND THE CITY OF WOODLAND HILLS, AS LESSEES; APPROVING THE ISSUANCE AND SALE BY SUVMWA OF ITS LEASE REVENUE BONDS, SERIES 2008 IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$6,000,000 (THE "BONDS"), TO FINANCE THE COST OF ACQUIRING LAND AS THE SITE OF A FUTURE REGIONAL WASTEWATER FACILITY; AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THE RESOLUTION; AND RELATED MATTERS.

WHEREAS, the Utah Interlocal Cooperation Act, Title 11, Chapter 13, Utah Code Annotated 1953, as amended (the "Act"), permits local governmental units including cities, counties, and political subdivisions of the State of Utah to make the most efficient use of their powers by enabling them to cooperate with other localities on the basis of mutual advantage and to create a separate legal entity to more efficiently provide governmental facilities and services to the general public; and

WHEREAS, pursuant to the Act, the South Utah Valley Municipal Water Association, Utah ("SUVMWA") was created by Elk Ridge City, Town of Genola, Town of Goshen, Mapleton City, Payson City, Salem City, Santaquin City, Springville City, Spanish Fork City (the "City") and the City of Woodland Hills, Utah (collectively, the "Members"); and

WHEREAS, certain of the Members (collectively, the "Participating Members," which includes all Members except the Town of Genola, the Town of Goshen and Santaquin City) have requested that SUVMWA finance the acquisition of land as the site of a future regional wastewater facility (the "Project"); and

WHEREAS, pursuant to the provisions of the Act, the Board of Directors of SUVMWA has authority to issue its Lease Revenue Bonds, Series 2008 for the purpose of paying all or a portion of the costs of the Project; and

WHEREAS, such bonds may be secured by a pledge and assignment of the revenues received by SUVMWA from the leasing of the Project financed with the proceeds of the sale of such bonds and may be secured by (a) a mortgage covering all or any part of such Project, (b) a pledge and assignment of the leasing contract for the Project, (c) amounts held in reserve funds or (d) such other security devices with respect to the Project as may be deemed most advantageous by the SUVMWA; and

WHEREAS, SUVMWA desires to issue its Lease Revenue Bonds, Series 2008 in the aggregate principal amount of not to exceed \$6,000,000 (the “Bonds”) to: (i) finance the costs of acquisition of the Project to be leased to the Participating Members (collectively, the “Lessees”) and (ii) pay issuance expenses to be incurred in connection with the issuance and sale of the Bonds; and

WHEREAS, pursuant to a Master Lease Agreement dated as of March 1, 2008 (the “Master Lease”) between the SUVMWA, as lessor, and the Lessees, as lessee, SUVMWA will agree to acquire the Project and to lease the same to the Lessees, as lessee, with an annually appropriated lease payment of not to exceed \$225,000 upon the terms and conditions set forth in the Master Lease; and

WHEREAS, SUVMWA has estimated that the amount necessary to finance a portion of the costs of the acquisition of the Project, including necessary expenses incidental thereto, and to pay costs of issuance will require the issuance, sale and delivery of the Bonds in the principal amount of not to exceed \$6,000,000; and

WHEREAS, the Bonds will be issued pursuant to an Indenture of Trust and Pledge by and between SUVMWA and Zions First National Bank, as trustee (the “Trustee”), and SUVMWA proposes to further secure its payment obligations under the Bonds by executing a Deed of Trust, Assignment of Rents and Security Agreement dated as of March 1, 2008 and related security documents (collectively, the “Security Documents”) for the benefit of the holders of the Bonds; and

WHEREAS, in connection with the issuance of the Bonds the City desires to fund with legally available funds of the City a portion of the debt service reserve fund related to the Bonds in an amount not to exceed \$300,000 (the “Reserve Fund Contribution”); and

WHEREAS, the Bonds shall be payable solely from the rents, revenues and other income derived by SUVMWA from the leasing of the Project to the Lessees on an annually renewable basis, and shall not constitute or give rise to a general obligation or liability of SUVMWA or the Lessees or constitute a charge against their general credit or taxing powers; and

WHEREAS, SUVMWA has negotiated the purchase of the Bonds with the State of Utah, Department of Environmental Quality, Water Quality Board (the “Purchaser”):

NOW THEREFORE, IT IS HEREBY RESOLVED by the City Council of Spanish Fork City, Utah, as follows:

Section 1. The terms defined or described in the recitals hereto shall have the same meanings when used in the body of this Resolution.

Section 2. All action heretofore taken (not inconsistent with the provisions of this Resolution) by the City Council and by the officers of the City directed toward the issuance of the Bonds and the financing of the acquisition of the Project are hereby

ratified, approved and confirmed. Terms defined in the above recitals shall have the same meaning when used herein.

Section 3. The City Council hereby authorizes, approves and directs the funding of the Reserve Fund Contribution, the financing of the acquisition of the Project by SUVMWA with all or substantially all of the proceeds of the Bonds within the parameters described in this Resolution and in accordance with the provisions of the Indenture, and the leasing of the Project to the Lessees by SUVMWA within the parameters described in this Resolution and in the manner provided in the Master Lease.

Section 4. The Master Lease in substantially the form presented to this meeting, with an annually appropriated lease payment of not to exceed \$225,000, and attached hereto as Exhibit B, is in all respects approved, authorized and confirmed and the Mayor is authorized to approve the final terms thereof and to execute and deliver the Master Lease for and on behalf of the City in the form and with substantially the same content as set forth in Exhibit B.

Section 5. For the purpose of providing funds to finance the acquisition, construction and equipping of the Project and providing for the payment of certain costs of issuance and for such other purposes as may be authorized under the Indenture, the City hereby approves the issuance by SUVMWA of the Bonds which shall be designated the "South Utah Valley Municipal Water Association, Utah Lease Revenue Bonds, Series 2008." The Bonds shall bear interest at rates not to exceed three percent (3.0%) and shall mature within 11 years of their date of issuance as described in the Indenture, a form of which is attached hereto as Exhibit C.

Section 6. The appropriate officers of the City are authorized to take all action necessary or reasonably required to carry out, give effect to and consummate the transactions as contemplated thereby and are authorized to take all action necessary in conformity with the Act to fund the Reserve Fund Contribution and to lease the Project (along with the other Lessees) from SUVMWA within the parameters described in this Resolution and pursuant to the Master Lease and the Indenture, including, without limitation, the execution and delivery of any closing and other documents required to be delivered in connection with the sale and delivery of the Bonds.

Section 7. Upon their issuance, the Bonds will constitute special limited obligations of SUVMWA payable solely from and to the extent of the sources set forth in the Bonds and the Indenture. No provision of this resolution nor of the Indenture, Master Lease nor any other instrument, shall be construed as creating a general obligation of the City, nor as incurring or creating a charge upon the general credit of the City or its taxing powers.

Section 8. The appropriate officials of the City are authorized to make any alterations, changes or additions in the Master Lease herein authorized and approved which may be necessary to correct errors or omissions therein, to remove ambiguities therefrom, to conform the same to other provisions of said instruments, to the provisions

of this Resolution or any resolution adopted by the City, or the provisions of the laws of the State of Utah or the United States.

Section 9. The City Recorder of the City is hereby authorized to attest to all signatures and acts of any proper official of the City, and to place the seal of the City on the Master Lease and any other documents authorized, necessary or proper pursuant to this Resolution or any resolution of the City. The appropriate officials of the City, and each of them, are hereby authorized to execute and deliver for and on behalf of the City any and all additional certificates, documents and other papers to perform all other acts they may deem necessary or appropriate in order to implement and carry out the matters authorized in this Resolution and any resolution of the City.

Section 10. It is hereby declared that all parts of this Resolution are severable, and if any section, clause, or provision of this Resolution shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of any such section, clause, or provision shall not affect the remaining sections, clauses, or provisions of this Resolution.

Section 11. All resolutions, orders, and regulations or parts thereof heretofore adopted or passed which are in conflict herewith are, to the extent of such conflict, hereby repealed. This repealer shall not be construed so as to revive any resolution, order, regulation or part thereof heretofore repealed.

Section 12. This Resolution shall take effect immediately upon its approval and adoption.

PASSED, APPROVED, AND ADOPTED this March 4, 2008.

(SEAL)

By: _____
Mayor

ATTEST:

By: _____
City Recorder

(Here follows business not pertinent to the above.)

Pursuant to motion duly made and seconded, the regular meeting adjourned.

(SEAL)

By: _____
Mayor

ATTEST:

By: _____
City Recorder

STATE OF UTAH)
 : ss.
COUNTY OF UTAH)

I, Kim Robison, the duly qualified and acting City Recorder of Spanish Fork City, Utah (the “City”), do hereby certify according to the records of the City’s Council (the “Council”) in my possession that the foregoing constitutes a true, correct, and complete copy of the proceedings of the regular meeting of the Council held on March 4, 2008, as it pertains to a bond resolution (the “Resolution”) adopted by the Council at said meeting, including the Resolution, as said minutes and Resolution are officially of record in my possession.

IN WITNESS WHEREOF, I have hereunto subscribed my signature and impressed hereon the official seal of the City this March 4, 2008.

(SEAL)

By: _____
 City Recorder

EXHIBIT A

CERTIFICATE OF COMPLIANCE WITH OPEN MEETING LAW

I, Kim Robison, the duly qualified and acting City Recorder of Spanish Fork City, Utah (the "City"), do hereby certify, according to the records of the City in my official possession, and upon my own knowledge and belief, that in accordance with the requirements of Section 52-4-202, Utah Code Annotated 1953, as amended, I gave not less than twenty-four (24) hours public notice of the agenda, date, time, and place of the March 4, 2008, public meeting held by the City as follows:

(a) By causing a Notice, in the form attached hereto as Schedule I, to be posted at the City's principal offices on _____, 2008, at least twenty-four (24) hours prior to the convening of the meeting, said Notice having continuously remained so posted and available for public inspection until the completion of the meeting; and

(b) By causing a copy of such Notice, in the form attached hereto as Schedule I, to be delivered to the [Spanish Fork Press] on _____, 2008, at least twenty-four (24) hours prior to the convening of the meeting.

IN WITNESS WHEREOF, I have hereunto subscribed my signature this March 4, 2008.

(SEAL)

By: _____
City Recorder

SCHEDULE I
NOTICE OF MEETING

EXHIBIT B

MASTER LEASE

(See Transcript Document No. ____)

EXHIBIT C

INDENTURE

(See Transcript Document No. ____)

MEMO

To: Mayor and Council
From: S. Junior Baker
Date: 29 Feb 2008
Re: Jamie Evans Billboard Appeal

On the Council agenda for March 4th is the continued billboard appeal by Jamie Evans. Mr. Evans gave his presentation last meeting. He raised some questions which were asked to be investigated and brought back to the March 4th meeting.

This issue involves the denial of a building permit applied for by Jamie Evans for a billboard on property near the Price/Manti exit from I-15 currently owned by Blaine Evans. That application was denied by Dave Anderson for two reasons. The first reason was that the location is within 500 feet of an existing billboard. This billboard is owned by Simmons Outdoor Media (SOM). The second reason was that no UDOT approval was provided.

Mr. Evans' argument can be summed up as follows:

- SOM lost its non-conforming use on October 2, 2007

- There was more than a 25% expansion of the non-conforming use when the sign was rebuilt by SOM

- The site plan did not go to the DRC or Planning Commission in order to expand the non-conforming use

- SOM did not submit correct engineering and site plans

- That the Evans application meets the set back requirements

- That there is no legal sign within 500 feet of the Evans location

- That UDOT has approved the Evans location

- That Evans followed all procedures to obtain a permit.

Mr. Evans argues that the SOM sign is nonconforming and has been abandoned.

We agree that the sign is nonconforming, but disagree that it has been abandoned.

Setbacks for structures in the I-2 zone require a fifty (50) foot setback. The size and shape of the parcel on which the SOM sign sits makes it impossible to meet the setback requirements. It is a legal, non-conforming sign, having been in place at that location for several decades.

The question about abandonment comes about by virtue of the fact that SOM had to remove the guy wires from the existing sign because they were crossing the property line onto property currently owned by Staker-Parsons. Staker-Parsons needed the guy wires removed in order to construct the cement plant now under construction. Without the guy wires, this sign would blow over with the wind velocities in that area. Mr. Evans acknowledged that fact when he told the council he has been waiting since 2001 for this sign to blow down. SOM claims the sign was damaged by the wind and needed to be taken down before it blew down. Mr. Evans disputes that the sign was damaged before it was taken down. In either event, SOM took down the sign before it blew over.

The question then becomes whether or not it has been abandoned. Abandonment generally requires intent. There is no question SOM has no intent to abandon the billboard. Indeed, they submitted an application to rebuild the sign, which application has been granted. Mr. Evans claims the abandonment came about, not by intent, but by application of Spanish Fork Municipal Code §15.3.04.030(1), which reads that an abandonment may be presumed to have

occurred when “A majority of the primary structure associated with the nonconforming use has been voluntarily demolished without prior written agreement with the city regarding an extension of the nonconforming use;” This brings into play what is meant by “voluntarily damaged.” SOM claims that the sign was damaged and needed to come down for safety reasons before it blew over. In any event, SOM claims that it does not need to wait for a disaster to happen, if everyone knows it will happen, in order to take measures to prevent the disaster. The city agrees. Everyone seems to agree that without the guy wires it was just a matter of time before the sign blew over. Even Mr. Evans indicated as much when he told the council that he has been waiting since 2001 for this sign to blow over.

Given the fact that this sign was either damaged, or would be in a short time frame, the city believes that the provisions of Utah Code Annotated §10-9a-513 come into play. Section 513(a)(a)(i) and (iii) reads as follows:

(1)(a) A municipality is considered to have initiated the acquisition of a billboard structure by eminent domain if the municipality prevents a billboard owner from:

(i) rebuilding, maintaining, repairing, or restoring a billboard structure that is damaged by casualty, an act of God, or vandalism;

(iii) structurally modifying or upgrading a billboard

This state law provision takes precedence over the city ordinance dealing with setbacks or nonconforming uses. The city construes the state law as being applicable, requiring the city to allow SOM to rebuild the sign or pay SOM the value of the sign as though it had been condemned.

Mr. Evans claims that the SOM rebuild was more than a 25% expansion of a nonconforming use. He bases his assertion on the fact that the faces of the back to back sign were sixteen (16) inches apart and now they are five feet apart.

However, the city looks at an expansion of the size of a billboard, as its copy area, or area where a display is placed. The billboard which was removed had a copy area of 675 square feet. The new billboard has a copy area of 672 square feet, so it actually got smaller. Secondly, the city requires all new billboards to be constructed on a monopole (see Spanish Fork Municipal Code §5.36.060(8)). A sixteen inch separation cannot be maintained with a monopole. Indeed, Spanish Fork Municipal Code §15.3.24.020(5) allows billboards to be double faced or back to back if the separation of panels does not exceed five feet, the exact distance on the new billboard. Thirdly, the current building code would not allow the identical sign to be rebuilt. Since UCA §10-9a-513(1)(a)(iii) allows a billboard to be structurally modified or upgraded, the state law will also mandate the sign meet current standards, despite a wider distance between the panels.

Mr. Evans claims that the expansion of the nonconforming use did not receive a public hearing before the Planning Commission. However, as just discussed, the city does not consider nor believe this billboard had an expansion of a nonconforming use. The copy area actually decreased in size just slightly.

Mr. Evans claims that SOM did not submit correct engineering and site plans.

Spanish Fork Municipal Code §15.4.08,020 spells out what type of development requires a site plan. They are spelled out very specifically as all proposed new commercial or industrial developments, all additions to commercial or industrial buildings or structures, all multi-family developments with more than 3 units, and all conditional use permits or uses subject to conditions. A billboard is not considered to be in any of these classes.

Spanish Fork Municipal Code §5.36.060(7) requires that footing and structure details be

furnished to the building official prior to issuance of a building permit. These were submitted with the plans for the billboard under the 2006 building code. The initial plans showed the 2002 building code. When that was caught, before construction, the correct, 2006 building code plans were required. Consistent with city practice, a new application was not required, but 2006 plans were required prior to allowing construction. Construction was allowed to proceed when the correct plans were received, which included the footing and structure details.

Mr. Evans claims that the billboard at his proposed site, currently owned by Blaine Evans, meets required setbacks. He is correct. They do meet setbacks.

Mr. Evans claims that there is no legal sign within 500 feet. This claim would require a finding that the SOM billboard is not a legal sign.

The city believes the SOM sign is legal, based on the analysis of nonconforming uses and the application of UCA §10-9a-513 as set forth above. In addition, SOM has produced to the city a copy of a sign permit for that location issued by UDOT. The sign being a legal, nonconforming use, it meets all other requirements. The city cannot determine the legality or illegality of a UDOT action. Only UDOT or the courts can do that. We must presume that a UDOT issued permit is valid and honor it until either UDOT or the courts tell us otherwise.

Mr. Evans claims that UDOT has approved the Blaine Evans location. We don't know whether or not that is the case. Mr. Evans has not produced anything from UDOT indicating it has approved the location. UDOT approval is required prior to our issuance of a permit. See Spanish Fork Municipal Code §5.36.060(9). Since no UDOT approval has been provided, we must assume there is none. At the very least, a permit could not be granted until that approval is provided.

Lastly, Mr. Evans claims he has followed all procedures to obtain a permit. Mr. Evans has followed all procedures, but fails in establishing there is not another sign within 500 feet or that UDOT has approved this location.

Accordingly, it is felt that Dave Anderson was correct in denying a building permit. It is thus recommended that Mr. Evans' appeal be denied.