



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 October 21, 2008**.

AGENDA ITEMS:

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

- a. Pledge
- b. Swearing In of New Youth City Councilmember's
- c. Remarks by State Senate District 13 Candidate – Kenneth Peay
- d. Remarks by State Senate District 27 Candidate – Brad King
- e. Presentation to Outgoing Fiesta Days Chairman
- f. Committee Appointments
 - i. Brad and Tina Gonzales – Vice Chairman of Fiesta Days Committee

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. PUBLIC HEARINGS: 6:00 p.m.

- a. *[Huntington/Leifson Annexation](#)

5. 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 – October 7, 2008](#)

6. NEW BUSINESS:

- a. *[Connell Easement Agreement](#)

7. OTHER BUSINESS:

- a. Private Street Dedications to Spanish Fork City – Fairway Meadows & East Fairway Meadows

8. EXECUTIVE SESSION:

- a. Property Purchase
- b. Security Issues
- c. Personnel

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.



REPORT TO THE CITY COUNCIL HUNTINGTON - LEIFSON ANNEXATION

Agenda Date: October 21, 2008

Staff Contacts: Dave Anderson, Planning Director

Reviewed By: Development Review Committee and Planning Commission

Request: The proposal is to annex parcels that comprise some 10.25 acres which are adjacent to River Bottoms Road.

Zoning: R-1-15 or A-E proposed

General Plan: Residential 1.5 to 2.5 Units Per Acre

Project Size: 10.25 acres

Number of lots: Not Applicable

Location: 7825 South River Bottoms Road

Background Discussion

The proposed annexation includes approximately 10 acres located between River Bottoms Road and the current City boundary. The subject properties are in the City's Annexation Policy but are not located within the Growth Boundary.

Staff has had numerous discussions in recent months about the potential of annexing properties in this area. At this point, staff is not prepared to support annexations in the River Bottoms Area.

With that said, Staff understands the applicants have a very different opinion about whether this annexation should be reviewed in the same context as other annexation petitions that have been presented for the River Bottoms area. The petitioners believe their annexation is of such a limited scale and is situated such that it should be considered in a stand-alone fashion.

Staff's reluctance to take the petitioners perspective is essentially due to the absence of infrastructure or relevant plans for services in the area. Accompanying this report is a Public Works Department Report that describes the infrastructure that would be required before the use of the subject properties could change. In certain cases, this report also identifies master plans that must be performed in order to define what improvements need to be made and where those improvements would be located.

The Development Review Committee has recommended that the petition be denied. The Planning Commission, however, recommended that the petition be approved. One important aspect of the Planning Commission's recommendation is the zoning that they recommended be assigned.

The applicant has expressed a desire to have the property annexed into the City with no immediate expectation of having a development approved. In light of that desire, the Planning Commission recommended that Exclusive Agriculture zoning be assigned to the property. Staff understands that the Planning Commission's intent in assigning A-E zoning is to essentially prevent the property from developing until a Zone Change is approved at



some future date. Staff agrees that if the property is to be annexed, some zoning, like A-E, that would prevent the properties development is essential to assign.

However, with A-E zoning, the subject properties would be non-conforming, which would have some ramifications for the property owners. More importantly from Staff's perspective is the fact that the property owners would have no more rights relative to the use of their property in the City's A-E zone than what they currently enjoy in Utah County RA-5 zone.

Staff has expressed its position that annexing the property at this time is not beneficial to the City. Staff adds that, in Staff's opinion, annexing the property and assigning A-E zoning essentially offers no benefit to the property owners.

Development Review Committee

The Development Review Committee reviewed this request and recommended that it be denied. Minutes from the DRC's March 19, 2008 meeting read as follows:

Huntington Leifson

Applicant: Ted Huntington and Lynn Leifson
General Plan: Residential 1.5 to 2.5 Units Per Acre
Zoning: R-1-12 Requested
Location: 7825 South River Bottoms Road

Mr. Anderson gave background on the existing City boundary and the property proposed to be annexed. The property will be R-1-15 not R-1-12 to be current with the General Plan. He explained the annexation petition process and that Richard Nielson had prepared a report regarding the utilities that would need to be addressed.

Mr. Heap explained Mr. Nielson's report. The report indicated that master plans for water, sewer and transportation for the entire river bottoms area would need to be looked at, River Bottoms Road would need to be relocated and would be a major collector road, water lines/pressurized irrigation (due to the low pressure zone) would need to be looped, there is not a storm drain master plan in the area and one is needed. Mr. Heap explained the City Council would be meeting in the next few months to talk about these issues but feels all the zoning in the river bottoms needs to be addressed along with

this proposal and this annexation petition is a premature.

Discussion was held regarding the need to widen River Bottoms Road to accommodate a major collector road.

Mr. Anderson explained that the subject property is within the current City annexation declaration boundary. He feels timing is a factor and the application is premature but that the City is not far off from answering the questions, within a year or two, in this area. He explained what he foresees the density will be and where in the river bottoms it would be located but that the growth boundary would need to be amended before growth would be allowed in the area.

Discussion was held regarding the Growth Boundary and the process to have it amended and the annexation proposal being premature.

Lynn Leifson

Mr. Leifson explained that the City approached him a few years back to annex his property but that he wouldn't. He explained what property he owned versus Ted Huntington. He and Mr. Huntington are looking at what they can do along River Bottoms Road and explained where an easement was for a high pressure gas line. He feels they are only looking at six homes and feels that everything can be done within reason. He feels that all of the utilities are already available. They would like to be looked at separate from the River Bottoms Annexation.

Discussion was held regarding utilities and the City's utility plans, where the water would need to loop, flood plain study, electric master study, traffic study, and River Bottoms Road not being a City street.

Mr. Anderson moved to recommend the City Council deny the Huntington Leifson Annexation petition based on the following findings:

Findings

1. That the City's General Plan Elements for transportation, power and storm drain are not complete; therefore, the annexation is premature.
2. That the City's review of the land-use plan for adjacent properties is not complete.
3. That the subject properties are not within the Growth Boundary.

Mr. Bagley **seconded** and the motion **passed** all in favor.

Discussion was held regarding the process of taking the proposal to the Planning Commission, City Council and the costs that would be incurred.

Mr. Leifson
Feels they are being held hostage by the larger annexation and would like to be considered on his own parcel.

Planning Commission

Huntington Leifson Annexation

Applicant: Ted Huntington and Lynn Leifson
General Plan: Residential 1.5 to 2.5 Units Per Acre
Zoning: R-1-15 proposed
Location: 7825 South River Bottoms Road
**Commissioner Christianson recused himself from the discussion on this item.*

Mr. Anderson explained this item was continued from a previous meeting. The applicant asked for the proposal to be placed back on the Planning Commission's agenda and would like action to be taken. The annexation contains approximately 10 acres on the north side of River Bottoms Road. Staff discussed this proposal and feels that due to the absence of infrastructure and planning for the area the annexation is premature and recommends that it be denied.

Ted Huntington
Mr. Huntington explained that he did not have any intention to develop right now. They would just like to be annexed into the City. He feels that since they have gone through the process of paying the fees and surveys they would like to be annexed so they would not have to pay again at a later date.

Lynn Leifson
Mr. Leifson explained that City staff brought to their attention the required improvements and infrastructure and explained that they cannot afford to develop but would like to annex into the City on their terms and not be part of a bigger annexation.

Commissioner Huff asked, assuming the proposal was granted, who would become responsible for street and snow removal on River Bottom's Road?

Mr. Nielson said the annexation would not include River Bottoms Road. It would stay a County road and the maintenance would remain with the county.

Commissioner Marshall explained that he felt there was a whole host of transportation and infrastructure regarding this annexation and asked what would happen if the property was annexed into the City.

Mr. Anderson said there would not be a big cost or a net loss to the City but feels it's problematic to create a situation where River Bottoms Road fronts both County and City lands.

Mr. Nielson explained that right-of-way would be needed along River Bottoms Road in order to allow any development to occur. The annexation currently goes to the fence line.

Discussion was held regarding annexation fees, whether or not their surveying work would be valid for a number of years or need to be re-surveyed, different mechanisms to define the property owner's intent to develop or not develop with regard to agreements and zoning being assigned at annexation.

Commissioner Robins feels that due to the 100 year flood plain, nothing should be built and can understand the applicants not wanting to be part of a bigger annexation.

Commissioner Marshall expressed his concern, should the annexation be approved, with what the proposal would look like three or more years down the road and how it would flow with the area.

Discussion was held regarding zoning, and what was allowed in rural residential versus the agricultural zone.

Commissioner Huff said that he does not have a problem with the annexation as much as the zoning. He feels that the River Bottoms area should not be built upon.

Commissioner Stroud asked about the impact on the Growth Boundary and if it will need to be changed.

Mr. Anderson said that the Growth Boundary would have to be amended before development could occur.

Discussion was held regarding what is allowed in the Exclusive Agricultural zone.

Commissioner Robins **moved** to recommend to the City Council that the proposed Huntington Leifson Annexation be **approved** and assigned A-E zoning.

Commissioner Marshall **seconded** and the motion **passed** all in favor by a roll call vote.

Commissioner Marshall **moved to open** into public hearing. Commissioner Huff **seconded** and the motion **passed** all in favor at 7:25 p.m.

Budgetary Impact

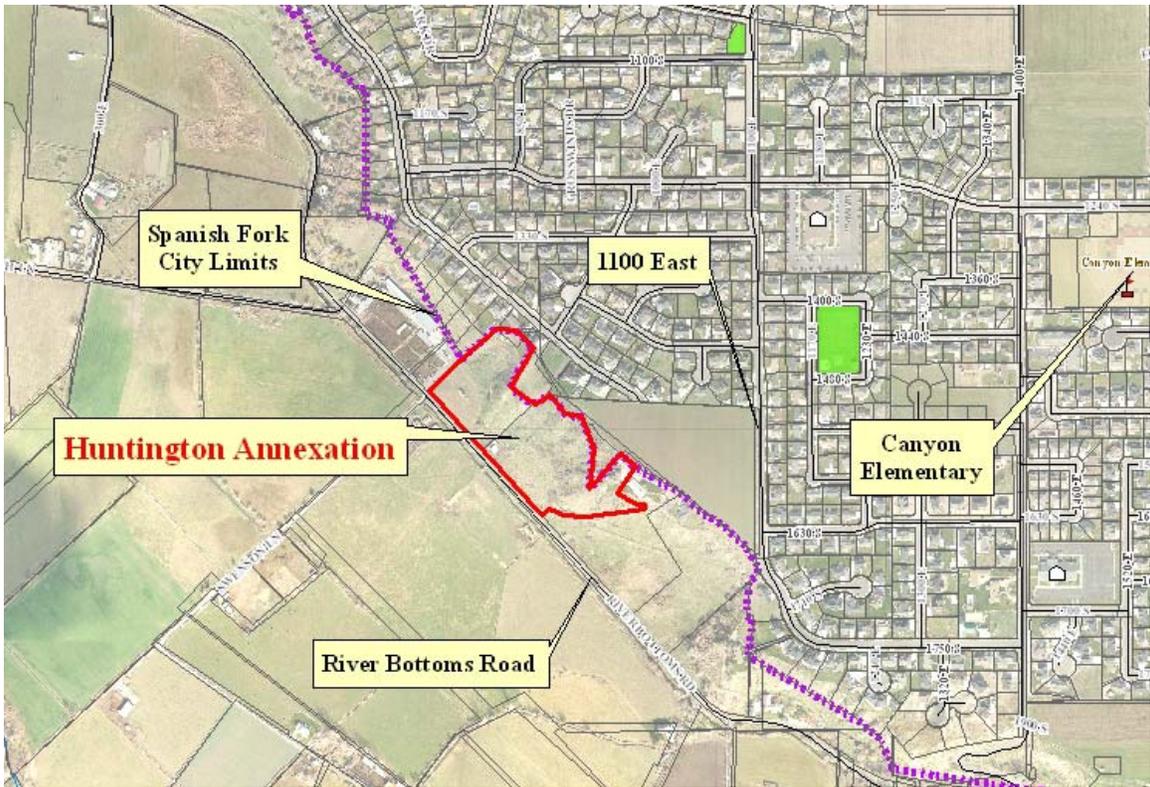
No significant budgetary impact is anticipated with the approval or denial of the proposed annexation.

Recommendation

Staff recommends that the Planning Commission recommend that the proposed Huntington Leifson Annexation be denied based on the following findings:

Findings

1. That the City's General Plan Elements for transportation, power and storm drain are not complete; therefore, the annexation is premature.
2. That the City's review of the land-use plan for adjacent properties is not complete.
3. That the subject properties are not within the Growth Boundary.



Spanish Fork City
Public Works Department
Huntington - Leifson Annexation Report
February 26, 2008

Streets

The streets in the Huntington - Leifson Annexation area that need to be addressed during the annexation process are; Riverbottoms Road and South Lane/ 7650 South (County). These streets will be needed to provide adequate traffic capacity in the area.

Riverbottoms Road

Riverbottoms Road is planned as minor collector (68' right-of-way w/40' of asphalt). The overall plan for the Riverbottoms area is to relocate Riverbottoms Road to the south away from the Mill Race Canal and the hill side.

South Lane/7650 South (County)

The street master plan shows a re-alignment of the access onto Main Street, which is currently provided by South Lane, to a 4-way intersection at Volunteer Drive. This re-alignment cannot take place until the property adjacent to Main Street develops. Due to the fact that we do not know when that property will develop and the street will be re-aligned, South Lane and 7650 South (county) will need to be planned and constructed as a minor collector (68' right-of-way w/ 40' of asphalt).

Culinary Water

The culinary water system will need to be extended into and through the proposed annexation along Riverbottoms Road. The annexation area is primarily lower than the bench area and the existing City limits. This will require the installation of Pressure Reducing Valves (PRV's) on the water system. The minimum size of any culinary line is to be 8". There are larger lines that are needed in the following streets:

Riverbottoms Road – South Lane to 2300 East – 16"
South Lane/7650 South (County) – Main Street to Riverbottoms Road – 16"
1400 East – Existing to Riverbottoms Road – 12"

This annexation would need to have a water loop installed from 1400 East along Riverbottoms Road and connecting to Scenic Drive at 980 East along or adjacent to the Questar Gas pipeline easement. As the area develops and final densities are established, the Engineering Department will evaluate the need for any additional 12" lines in the area. The City has adopted the policy that the City will cover the additional cost of water lines in excess of 12". This cost is funded through impact fees.

Sewer

This annexation will be served by the existing Riverbottoms trunk line to the southwest of the area. This line is located on the southwest side of Riverbottoms Road and the Mill Race canal. The appropriate easements to connect to the existing sewer line will need to be provided by the applicant. There is adequate capacity in this line for the proposed annexation.

Pressurized Irrigation

The pressurized irrigation system will need to be extended into and through the proposed annexation along Riverbottoms Road. The annexation area is primarily lower than the bench area and the existing City limits. This will require the installation of Pressure Reducing Valves (PRV's) on the pressurized irrigation system. The minimum size of any pressurized irrigation line is to be 6". There are larger lines that are needed in the following streets:

Riverbottoms Road – South Lane to 2300 East – 18"
South Lane/7650 South (County) – Main Street to Riverbottoms Road – 18"
1400 East – Existing to Riverbottoms Road – 10"

This annexation would need to have a pressurized irrigation loop installed from 1400 East along Riverbottoms Road and connecting to Scenic Drive at 980 East along or adjacent to the Questar Gas pipeline easement. As the area develops and final densities are established, the Engineering Department will evaluate the need for any additional 12" lines in the area. The City has adopted the policy that the City will cover the additional cost of water lines in excess of 12". This cost is funded through impact fees.

Storm Drain

The storm drain system in the proposed annexation will need to drain to the Spanish Fork River. This area has not been master planned at this time.

Surface Irrigation

The Spanish Fork Southeast Irrigation Company serves the Riverbottoms area, but there are no existing ditches within this annexation.

Existing Homes

There is one existing home within this annexation that should be connected to City utilities as the area develops.

There is an existing Questar Gas Company easement and high pressure gas line that crosses this annexation. This corridor should also be used to loop utilities to Scenic Drive.

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Tentative Minutes
Spanish Fork City Council Meeting
October 7, 2008

Elected Officials Present: Mayor Pro Tem G. Wayne Andersen, Councilmember's Rod Dart, Richard M. Davis, Steven M. Leifson, Jens P. Nielson

Staff Present: Dave Oyler, City Manager; Junior Baker, City Attorney; Chris Thompson, Assistant City Engineer; Dave Anderson, Cit Planner; Seth Perrins, Assistant City Manager; Kent Clark, Finance Director; Dale Robinson, Parks & Recreation Director; Steven Money, Special Events; Dee Rosenbaum, Public Safety; Kimberly Robinson, City Recorder

Citizens Present: Brent Runyan, Joshua Runyan, Paul R. Olsen, M. Troy Richardson, RH Boane, Tyler Cope, Roberto Alvina, Adam Wakelad, Jen Allen

CALL TO ORDER, PLEDGE:

Mayor Pro Tem Andersen called the meeting to order at 6:00 p.m.

Councilman Davis led in the pledge of allegiance.

PUBLIC COMMENTS:

There was no public comment at this time.

COUNCIL COMMENTS:

Councilman Davis reported the Youth Council will be sworn in at the next City Council meeting. He thanked the advisor Michelle Barber for all she does. He met with the Airport Board and they will be having a social this week to discuss the new rules and regulations. He reported the Fiesta Days Committee picked the new Vice Chairman's and they will be brought to the next City Council meeting.

Councilman Leifson said at the SUVPS meeting they had someone talk about safety. He noted the city has implemented a safety program and it helps to keep everyone more safety conscious, they have not had problems the last couple years. The Windmill dedication was yesterday and Governor Huntsman spoke.

Councilman Dart reported the Chamber of Commerce has the scarecrows out on Main street. He personally thanked the businesses that participated. He also mentioned Saturday October 25 from 1-3 p.m. is the trick or treat on Main street. He congratulated Christine Johnson who was recently named by Governor Huntsman as a District Court Judge in Orem.

Mayor Pro Tem Andersen took a moment with the citizens of the community in light of the events taking place the last few weeks. Things seem to be in turmoil, he suggests that we all sit, breathe, and see what happens. He reassured the residents that the City of Spanish Fork is very strong, the programs are still in tact and they have very good people managing the affairs of the city and advising the Council on things that might

51 take place. The revenues are monitored close so the expenditures are matched up.
52 Unlike some of the other cities in our area we have not had to raise property taxes or
53 rates. We have not based our financial soundness on growth so now that growth has
54 slowed down we are not trying to live on something we do not have. We have been very
55 frugal. He indicated no programs have been cut, they are still providing recreational
56 activities that do not include Fiesta Days, the Kite Festival etc. We have the best and
57 most active senior program, the Fine Arts are growing, the gun club is world known, our
58 library is second to none. The City continues to support special activities that give
59 positive support to our community. Another area to find comfort is the fact we as a City
60 have entered into Interlocal Agreements and through those we have strengthened our
61 position in a number of areas, water, power, sewer, solid waste, transportation and joint
62 use of facilities. We have a lot to be grateful for living in Spanish Fork and we as
63 citizens on a local level can feel very comfortable things are progressing as far as
64 Spanish Fork is concerned. He appreciates all the citizens.

65

66 **PUBLIC HEARINGS:**

67

68 Councilman Davis made a **Motion** to open the public hearing on the TJ Business Park
69 Preliminary Plat. Councilman Leifson **Seconded** and the motion **Passed** all in favor at
70 6:10 p.m.

71

72 **T.J. Business Park Preliminary Plat**

73

74 Mr. Anderson explained the request and stated the DRC and Planning Commission
75 recommend approval with the conditions.

76

77 This item was opened for public comment.

78

79 Doug Ford

80 Mr. Ford is a business owner near this development. He has no issues with the use of
81 the land, but he is concerned about the additional traffic it will cause. His business is
82 along 1600 North, and it is becoming difficult to get onto main street. He does not know
83 if a traffic signal would help. He said even when it is not the busy times it is still hard to
84 get onto main street. His concern is his employees that need to get onto the street and
85 he hopes there is at least some consideration made about the traffic issues in that area.
86 He stated if the answer to the traffic would be to add a light he would pay his share
87 since he is part of the traffic problem.

88

89 Councilman Dart made a **Motion** to move out of the public hearing. Councilman Davis
90 **Seconded** and the motion **Passed** all in favor at 6:17 p.m.

91

92 Councilman Davis asked what the transportation report said in that area.

93

94 Mr. Thompson stated the report has not been looked at in detail for that area. They will
95 be presenting at City Council next month and they can make sure the study is done.

96

97 Councilman Leifson feels a study is a great idea and we should go ahead before traffic
98 gets any worse.

99

100 Councilman Davis asked if it all has curb gutter and sidewalks.

101
102 Mr. Anderson stated it will be up to city standards, he added that it is also part of the
103 trails master plan.
104
105 Councilman Nielson added a traffic study as deemed necessary by the Engineering
106 department.
107
108 Mr. Thompson stated they could be part of it, but they need to look at the area as a
109 whole.
110
111 Mayor Pro Tem Andersen agreed that it should be the area as a whole.
112
113 Councilman Leifson does not feel the study should be tied to that development, but that
114 it should be done.
115
116 Councilman Leifson made a **Motion** to approve the T.J. Business Park Preliminary Plat
117 based on the following findings and subject to the following conditions:
118 **Findings**
119 1. That the proposed subdivision meets zoning requirements.
120 **Conditions**
121 1. That all improvements be constructed in accordance with City standards.
122 2. That the applicant addresses any concerns raised by the Power Department prior to
123 submitting for Final Plat approval.
124 3. Provide wetland delineation or other documentation defining the presence of
125 wetlands or not.
126
127 Councilman Nielson **Seconded** and the motion **Passed** all in favor.
128
129 Councilman Davis made a **Motion** to open the public hearing for the Title 15
130 Amendment. Councilman Leifson **Seconded** and the motion **Passed** all in favor at 6:26
131 p.m.
132
133 **Title 15 Amendment**
134
135 Mr. Anderson stated staff requested the hearing be continued to the November 18,
136 2008 meeting.
137
138 Councilman Davis made a **Motion** to continue this public hearing to the November 18,
139 2008 meeting. Councilman Dart **Seconded** and the motion **Passed** all in favor at 6:27
140 p.m.
141
142 **CONSENT ITEMS:**
143
144 **Minutes of Spanish Fork City Council Meeting – September 16, 2008**
145 **Contract for Spook Alley Supplies**
146 **PRCA Bullfighter and Barrel Man Rodeo Contracts**
147
148 Councilman Dart made a **Motion** to approve the consent items. Councilman Nielson
149 **Seconded** and the motion **Passed** all in favor.
150

151 **NEW BUSINESS:**

152

153 **Springville Boundary Line Adjustment**

154

155 Mr. Baker explained this item has already come before the Council on August 5, 2008.
156 He stated they were waiting for Springville City to approve the Ordinance before we
157 could adopt it.

158

159 Councilman Nielson made a **Motion** to approve Ordinance 11-08 adjusting a common
160 boundary with Springville City and zoning the property. Councilman Leifson **Seconded**
161 and the motion **Passed** by a roll call vote.

162 Roll Call vote:

163 Mayor Pro Tem Andersen

164 Councilman Dart - Yes

165 Councilman Leifson - Yes

166 Councilman Davis - Yes

167 Councilman Nielson - Yes

168

169 **Private Street Dedications to Spanish Fork City**

170

171 Mr. Thompson explained they are waiting for another letter from the Home Owners
172 Associations. He asked that this item be continued.

173

174 Councilman Davis made a **Motion** to continue the private street dedications to Spanish
175 Fork City until the October 21, 2008 meeting. Councilman Nielson **Seconded** and the
176 motion **Passed** all in favor.

177

178 **ADJOURN:**

179

180 Councilman Leifson made a **Motion** to adjourn at 6:34 p.m. Councilman Dart
181 **Seconded** and the motion **Passed** all in favor.

182

183 ADOPTED:

184

185

Kimberly Robinson, City Recorder

MEMO

To: Mayor and Council
From: S. Junior Baker
Date: 16 October 2008
Re: Joe Connell (CF Companies, Inc.)Easement Agreement

On the City Council agenda, for November 4, is an item to approve an easement agreement with CF Companies, Inc. The city previously granted this easement to Joe Connell (Western Distribution building). When Joe had his attorney look at it, it had his name, rather than Joe's company name, which actually owns the property. This agreement cancels the earlier easement and grants it to the proper party. As we have reviewed this previously, I have placed this on the consent agenda.

This agreement spells out, in more detail, the obligations of the parties, as well. In reading it, they have been very fair to the City. I recommend we approve this easement agreement.

After Recording Return to:

Thomas M. Hale, Esq.
Kramer Rayson LP
P. O. Box 629
Knoxville, TN 37901

Space Above This Line for Recorder's Use

ACCESS EASEMENT

THIS ACCESS EASEMENT (the "**Agreement**") is made and entered into this _____ day of _____, 2008 (the "**Effective Date**"), by and between CF Companies, Inc., a Minnesota corporation ("**Grantee**"), and Spanish Fork City, a Utah municipal corporation ("**Owner**"). Owner and Grantee are sometimes referred to hereinafter individually as a "**Party**" and collectively as the "**Parties.**"

RECITALS

- A. Grantee is the sole owner of certain real property legally described as Moark Junction Subdivision, Spanish Fork City, Utah County, Utah, as shown on the plat of Moark Junction Subdivision dated February 22, 2006 and recorded in the records of the Utah County Recorder as ENT 60748:2006 Map #11655 on May 17, 2006 (collectively, the "**Benefited Property**").
- B. Owner is the sole owner of certain real property that lies between that portion of the Benefited Property designated as Lot 2 of the above-referenced plat and that public right-of-way known as "Powerhouse Road," which property was acquired by owner pursuant to that certain deed of record in the Records at Deed No. 17896-1964, BLA No. 36272-1994 (the "**Property**").
- C. Grantee desires to obtain an easement on, over, under and across a portion of the Property for the purposes of obtaining access to and egress from the Benefited Property for purposes of further developing the Benefited Property by way of a new roadway to be constructed by Grantee, and at the sole cost of the Grantee, on a portion of the Property, as more particularly set forth below. Owner, in the interest of stimulating economic development and to facilitate the further development of the Benefited Property, is willing to grant Grantee such an easement on the terms and conditions set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the promises, covenants and agreements of the Parties in this Agreement, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner and Grantee hereby agree as follows:

1. Recitals. The Recitals above are hereby incorporated into this Agreement as if fully set forth herein.
2. Grant of Easement. Owner grants to Grantee, its contractors, agents, employees, successors and assigns, a perpetual, non-exclusive easement (the “**Easement**”), which shall run with the land, on, over, across and under that portion of the Property encompassed within the area described on **Exhibit A** and depicted on **Exhibit B** (the “**Easement Area**”) for access to and from the Benefited Property, and no other property, and for the installation, use, maintenance and repair of a roadway, within the Easement Area (the “**Roadway**”), and the construction, operation, repair and maintenance of utility lines and other facilities necessary or desirable in connection with the further development of the Benefited Property. The Easement is granted by Owner subject to all liens, encumbrances and easements of record or of which Owner has provided Grantee written notice, which were granted prior to the Effective Date with respect to the Property.
 - 2.1. Construction by Grantee. Prior to the contemplated construction of the Roadway, Grantee, its successors or assigns, as applicable, shall submit the plans and specifications for such work to Owner and shall have obtained the written consent to such plans and specifications which consent shall not be unreasonably withheld, conditioned or delayed. All such work shall be performed by Grantee, or at Grantee’s direction, in a workmanlike manner and in accordance with Spanish Fork City Construction and Design Guidelines. Grantee shall also indemnify, defend and hold harmless Owner from and against all statutory liens or claims or liens of any contractor, subcontractor, materialman, laborer, or any other party which may arise in connection with any alteration, additional improvement or construction to or upon the Easement Area by Grantee or at Grantee’s direction.
 - 2.2. Maintenance and Indemnification. Grantee shall pay the cost of and shall be responsible for maintaining and repairing the Roadway once installed or constructed by Grantee. Throughout the duration of this Easement, Grantee shall indemnify, defend and hold Owner, its successors and assigns, harmless from any and all claims of harm or damage to person or property, sounding in tort or contract made or asserted by third parties which claims resulted from, or been caused by the activities of Grantee, its contractors, agents, licensees, invitees or employees upon the Easement Area.
 - 2.3. Compliance with Laws. Grantee shall comply with all present and future laws and regulations of all federal, state, county and city governments and appropriate boards, commissions and officers thereof (called “**Laws**”), which are applicable to Grantee’s particular manner of use of the Easement Area, or pertain to the making of any alterations, changes, improvements or additions to the Easement Area, which may be undertaken by Grantee pursuant to the terms of this Easement.

3. Owner's Use. Owner reserves the right to make reasonable use of the Easement Area for Owner's own use, which use will not unreasonably interfere with Grantee's use of the Easement Area or the rights and privileges of Grantee granted herein. In addition, Owner shall not grant other easements, leases, licenses or other encumbrances on the Easement Area which materially interfere with Grantee's use of the Easement Area in accordance with this Agreement.
4. Cooperation. At no cost to the Owner, Owner shall cooperate in good faith with Grantee in connection with the Roadway to be constructed, used, repaired and maintained on the Easement Area and the exercise of its rights hereunder, and in carrying out and otherwise giving full force and effect to the purposes and intent of this Agreement.
5. Recording. This Agreement will be recorded in the real property records of Utah County, Utah (the "**Records**") by Grantee, at Grantee's expense. This Agreement is intended to replace that certain Access Easement granted in favor of Joel Connell dated June 10, 2008 and of record in the Records at ENT 68036:2008, which instrument will be released simultaneously with the recording of this Agreement.
6. Assignment. Subject to the Assignee being bound by the terms hereof, Grantee shall have the right to sell, convey, lease, encumber or assign this Agreement or any of the rights granted hereunder, or to apportion, grant subeasements, co-easements, separate easements, leases, licenses or similar rights, however denominated (collectively, "**Assignments**"), to one or other persons or entities who owns a fee simple interest or holds a leasehold interest in all or a portion of the Benefited Property (each an "**Assignee**").
7. Entire Agreement. This Agreement constitutes the entire agreement between Owner and Grantee and no promises or representations express or implied, either written or oral, not herein set forth shall be binding upon or inure to the benefit of Owner and Grantee. This Agreement shall not be modified by any oral agreement, either express or implied, and all modifications hereof shall be in writing and signed by both Owner and Grantee and shall be binding upon and inure to the benefit of Owner and Grantee, their heirs, successors, administrators and assigns.
8. Covenants Running With the Land. The parties hereby agree that all of the covenants, agreements, limitations, restrictions and obligations contained in this Agreement touch and concern the real property described as the Property and the Benefited Property in this Agreement and are expressly intended to, and shall, be covenants running with the land and shall be binding upon the Parties and their respective heirs, administrators, executors, legal representatives, successors and assigns, in accordance with the terms hereof.

IN WITNESS WHEREOF, the Parties hereto, having been duly authorized by the governing bodies of said Parties, have executed this Agreement as of the Effective Date.

GRANTEE:
CF COMPANIES, INC.

Joel W. Connell, President
SPANISH FORK CITY

Joe Thomas, Mayor

Approved as to form and
legality:

Junior Baker
Attorney for Spanish Fork City

STATE OF _____)
) ss.
COUNTY OF _____)

On _____, 2008, before me personally appeared
Joel W. Connell, to me known to the President of CF Companies, Inc., a Minnesota
corporation, that said instrument was signed on behalf of the corporation.

Signature: _____

Name (Print): _____

NOTARY PUBLIC in and for the State
of Utah, residing at _____
My appointment expires: _____

STATE OF UTAH)
) ss.
COUNTY OF UTAH)

On _____, 2008, before me personally appeared
Joe Thomas, to me known to the Mayor of Spanish Fork City, a Utah municipal
corporation, that said instrument was signed on behalf of the municipal corporation.

Signature: _____

Name (Print): _____

NOTARY PUBLIC in and for the State
of Utah, residing at _____
My appointment expires: _____

EXHIBIT A

BEGINNING AT A POINT WHICH IS LOCATED SOUTH 631.76 FEET AND EAST 619.35 FEET FROM NORTHWEST CORNER OF SECTION 34, TOWNSHIP 8 SOUTH, RANGE 3 EAST, SALT LAKE BASE AND MERIDIAN; THENCE ALONG THE FOLLOWING COURSES AND DISTANCES:

S36°24'35"E 57.34'
THENCE ALONG THE ARC OF A 466.00 FOOT
RADIUS CURVE TO THE LEFT 138.42 FEET, CHORD
BEARING S44°55'09"E 137.91 FEET;
S53°25'43"E 10.49'
S57°03'30"W 23.97'
S21°03'30"W 47.26'
N53°25'43"W 14.74'
THENCE ALONG THE ARC OF A 534.00 FOOT
RADIUS CURVE TO THE RIGHT 158.62 FEET, CHORD
BEARING N44°55'09"W 158.03 FEET;
N36°24'35"W 57.34'
THENCE ALONG THE ARC OF A 632.84 FOOT
RADIUS CURVE TO THE LEFT 68.03 FEET, CHORD
BEARING N53°35'25"E 68.00 FEET;
TO THE POINT OF BEGINNING

EXHIBIT B

(Depiction of Easement Area)



SPANISH FORK CITY
PUBLIC WORKS DEPARTMENT

TO: Mayor and City Council

FROM: Richard J. Heap, City Engineer

DATE: October 21, 2008

RE: Conversion of Private Streets to Public Streets

I have recently received written requests Fairway Meadows Home Owners Association and East Fairway Meadows Home Owners Association to have the city take over ownership and maintenance of the streets presently under their control. Following is the report on this specific location from a memo submitted to the City Council a few weeks ago.

“Fairway Meadows – There are 2 separate HOA’s in this subdivision. The streets have been overlaid within the last 2 years and are in very good condition. The only deficiency is the ADA ramps that do not meet current standards.”

The existing asphalt is 28 feet across and meets the new sub-local standard. I have attached a map of the proposed streets to be considered. It is the street areas within the red outlined area. This decision needs to be made by the City Council. Public Works feels we can accommodate this request if it is the Council desire.

I have also talked with officers in Spanish Trails Home Owners Association and they have to notice their members 30 days before they can meet. They will let me know if they are interested in also making their private streets public or not. If they do we will bring this to the Council at a later date.

Property Map



1 Inch equals 90 Feet

Pipe Material

- P - PVC
- S - Steel
- C - Concrete
- I - Cast Iron
- D - Ductile Iron
- M - Clay
- T - Asbestos Cement
- H - High Density Polyethylene
- CMP - Corrugated Metal Pipe

Utility Colors

- | | | | |
|------------|---|---------|---|
| Water - | ● | Sewer - | ● |
| PI - | ● | Storm - | ● |
| Electric - | ● | Comm - | ● |

Legend

Roads

- Other Roads
- Not Paved
- Paved
- + Railroad
- Rivers
- ▭ Spanish Fork Boundary

9/30/2004



Geographic Information Systems

Spanish Fork City GIS
40 South Main Street
Spanish Fork, UT 84660
(801) 798-5000

Disclaimer: Spanish Fork City makes no warranty with respect to the accuracy, completeness, or usefulness of these maps. Spanish Fork City assumes no liability for direct, indirect, special, or consequential damages resulting from the use or misuse of these maps or any of the information contained herein. Portions may be copied for incidental uses, but may not be resold.

