



## 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 July 7, 2009**.

### AGENDA ITEMS:

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

- a. Pledge
- b. Recognitions

#### 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 HEARING:

- a. \* Peterson General Plan Amendment
- b. \* Peterson Zoning Map Amendment
- c. \* Public Facilities Zoning Map Amendment
- d. \* In-fill Overlay Zoning Text Amendment

#### 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 – June 16, 2009
- b. \* Zip Line Contract

#### 6. NEW BUSINESS:

- a. Agenda Request – David Nichols Regarding Japanese ATV Trucks
- b. \* Title 2 Code Amendments

#### 7. EXECUTIVE SESSION:

- a. Land Purchase
- b. Potential Litigation

### ADJOURN:

I, Kimberly Robinson, certify that I am the duly appointed, qualified, and acting City Recorder of Spanish Fork City, Utah, and the forgoing City Council agenda was faxed or emailed to the Spanish Fork Press, Spanish Fork News, and Daily Herald. The agenda was also posted at the City Office bulletin board 40 South Main, on the states website, and on the city's website at [www.spanishfork.org](http://www.spanishfork.org).

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Kimberly Robinson, City Recorder

\* 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.



# REPORT TO THE CITY COUNCIL PETERSON GENERAL PLAN AMENDMENT

**Agenda Date:** July 7, 2009

**Staff Contacts:** Dave Anderson, Community Development Director

**Reviewed By:** Development Review Committee, Planning Commission

**Request:** The applicant, Warren Peterson, has requested that the zoning be changed for one parcel located at 245 North 300 East. Prior to approving the Zone Change, the General Plan must be amended, hence the proposed General Plan Amendment that encompasses three blocks on the west side of 300 East.

**Zoning:** R-1-6 existing, R-3 requested

**General Plan:** Residential 5.5 to 8 Units Per Acre existing, Residential 9 to 12 Units Per Acre proposed

**Project Size:** not applicable

**Number of lots:** not applicable

**Location:** The General Plan Amendment includes the blocks between 200 East and 300 East, 200 North and 400 North and the block bounded by 200 East, 100 North, 300 East and Center Street.

## Background Discussion

A map accompanies this report which identifies the proposed changes.

The proposed change involve making 300 East the boundary between the General Plan designation that allows for up to 8 units per acre and the designation that allows up to 12 units per acre.

The applicant's ultimate goal is the development of two twinhomes at 245 North and 300 East. Should the proposed General Plan and Zoning Map Amendments be approved, Mr. Peterson would still be required to have the In-fill Overlay approved prior to being able to construct the two twinhomes.

The question before the Council at this time is limited to the General Plan Map change.

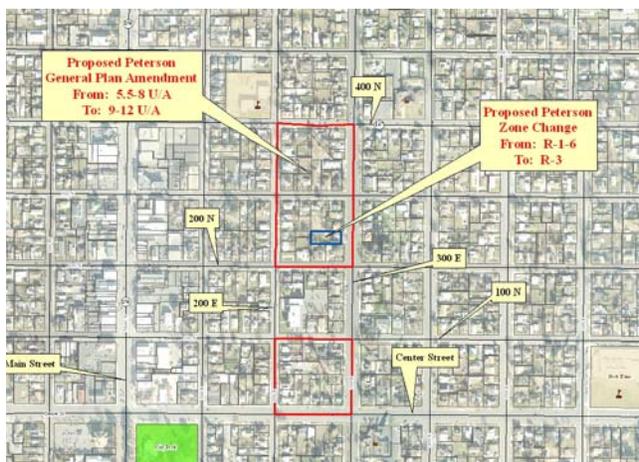
Staff understands that this proposal has generated considerable energy among the residents of the neighborhood. In a neighborhood meeting that was held several weeks ago, staff heard concerns about various impacts that people associate with the proposal to allow for additional density. These concerns include increased crime, dropping property values, increased traffic and general concerns about aesthetics.

From a comprehensive planning perspective, the proposed amendment could potentially have some effect on changing the character of the neighborhood.

If someone were to acquire every parcel of a City block and then receive approval for an In-fill Overlay project at the maximum density allowed in this area's current General Plan designation, 30 units could be constructed within that project.

If someone were to acquire every parcel of a City block and then receive approval for an In-fill Overlay project at the maximum density allowed in the proposed General Plan designation, 44 units could be constructed within that project.

However, the regulations contained in the In-fill Overlay zone will limit a potential developer's ability to maximize the density that is permitted.



This situation is exacerbated further given the fact that few, if any, properties in the area are vacant. All in all, the likelihood that someone could assemble enough property that would be configured such to make the maximum density achievable is, in staff's view, quite unlikely.

### **Development Review Committee**

The Development Review Committee reviewed this request in their April 29, 2009 meeting and recommended that it be approved. Minutes from that meeting read as follows:

#### **Peterson Zoning and General Plan Map Amendments**

Applicant: Warren Peterson  
General Plan: Residential 5.5 to 8 units per acre existing  
Zoning: R-1-6 existing, R-3 proposed  
Location: The General Plan Amendment includes the blocks between 200 East and 300 East, 200 North and 400 North and the block bounded by 200 East, 100 North, 300 East and Center Street; the Zoning Map Amendment is for the property located at 245 North 300 East.

Mr. Anderson explained that the applicant would like to build two twin home units and in order to do so the property needed to be re-zoned to R-3. Mr. Anderson expressed that he felt Mr. Peterson had put together a very good project that would be good for others to follow. He explained that there were two aspects to the proposal, the first being the General Plan Amendment which would make 300 East the boundary between the General Plan designations and the second being a Zone Change of the property at 245 North 300 East to R-3. Mr. Anderson also said that before the applicant could proceed with the development he would have to go through the In-fill Overlay zone approval process.

Discussion was held regarding the General Plan and the history of the boundary, spot zoning, and isolating zoning not being a good policy to follow.

Mr. Baker **moved** to recommend that the Planning Commission **approve** the Zoning to R-3 and change the General Plan for the 3 blocks but deny the General Plan change in the area currently General Planned as Residential Office; either change the whole block or half of the block. Mr. Anderson **seconded** and the motion **passed** all in favor.

### **Planning Commission**

The Planning Commission reviewed this request on June 3, 2009 and recommended that it be approved. Minutes from the Planning Commission meeting read as follows:

#### **Peterson Zoning and General Plan Map Amendments**

Applicant: Warren Peterson  
General Plan: Residential 5.5 to 8 units per acre existing, Residential 9 to 12 units per acre proposed  
Zoning: R-1-6 existing, R-3 proposed  
Location: the General Plan Amendment includes the blocks between 200 East and 300 East, 200 North and 400 North and the block bounded by 200 East, 100 North, 300 East and Center Street; the Zoning Map Amendment is for the property located at 245 North 300 East.

Mr. Anderson explained how 300 East was something of a delineator between two of the General Plan designations. He said that, with the current General Plan Designation, if someone were to own an entire block, and receive In-Fill Overlay Zone approval, that the maximum number of dwelling units that could be constructed on a block would be 30. With the proposed change, the number would increase from 30 to 44 units per block. It was explained that no property owner or developer was guaranteed the maximum density; it was possible but not guaranteed. He said the applicant was applying for a Zone Change along with the General Plan Amendment in order to construct two twin homes. The applicant, with the current designation, could build one single-family dwelling and one twin home. Mr. Anderson said he felt that the proposal had considerable merit and that the In-Fill Overlay Zone was written to promote this type of project.

Chairman Robins welcomed public comment.

Vicky Thompson

Ms. Thompson explained that her mother lived right next door to the property. She was concerned with the density and whether or not more than four units could be placed on the property if Mr. Peterson were to sell the property before the two twin homes (if approved) were built. She said she was also concerned with the structure being abutted right next to her home.

Chairman Robins explained to Ms. Thompson that the maximum number of units that could be

achieved on the parcel was four units even if the property was sold to someone else.

Commissioner Lewis asked for clarification on the number of units. Mr. Anderson said the maximum number was four units.

Discussion was held regarding setbacks. Mr. Anderson said the rear setback was 10 feet and that there had been discussion to increase that to 15 feet and that the minimum distance from a neighboring dwelling would need to be 15 feet.

Kelly Murdock

Mr. Murdock said that, prior to purchasing the home he lives in, a flag lot was approved for the property behind his house. He explained that his concern was density and, if any more multi-family dwellings were constructed, that it would increase the traffic. He also said he felt it was already too congested.

Chairman Robins asked how many units could be allowed on the flag lot.

Mr. Anderson said that single-family dwellings were all that could be built on a flag lot. Mr. Anderson said the flag lot was a legal building lot.

Mr. Murdock asked why the flag lot was included in the change.

Chairman Robins explained the flag lot was not included in the Zone change, only the General Plan Amendment change.

Lynn Ottison

Ms. Ottison said that her main concern was density. She gave an example of the school house apartments and the things that have happened there. She expressed her disappointment with the City's webpage resources. She said she was told by the Mayor that some of the information had not been updated for over three years. She said if she had known that obtaining signatures was not a requirement it would have saved her a lot of time. She explained that she felt if the public notice that was mailed out would have been more specific than it would have resolved a lot of questions.

Chairman Robins asked Ms. Ottison to be more specific about what the citizens' issues were; whether it was density or architecture, etc. Ms. Ottison said that when people look to purchase property that they look very carefully at the neighborhood and that people do not want to

share a small space. She said that social problems are common when you put a large number of people in a small area.

Chairman Robins explained to Ms. Ottison that the City ordinance requiring signatures of 75 percent of the property owners only applied when the application covered more than one property.

Ms. Ottison suggested that more information be given for future public hearings.

Angela Murdock

Ms. Murdock asked for clarification on the properties included in the Zone Change. Mr. Anderson explained that over the past 60 years a lot of different things had been allowed to be constructed in Spanish Fork City. He said when the 4-plexes were built (within the blocks involved in the General Plan Amendment) they were permitted on small parcels and that over time City officials had stopped permitting 4-plexes to be constructed on small lots. He said City officials were trying to create, through the overlay zone, a mechanism where we can look at a specific site and determine what might make sense.

Commissioner Marshall explained that he felt the General Plan blueprint showed some inconsistencies and the impetus for the change was to fix the inconsistencies.

Paul Pullman

Mr. Pullman said he felt it was a shame that the neighbors did not have a say in this proposed change. He asked, if the General Plan continues to change, when it would stop? Commissioner Marshall explained he felt it would not stop and that the City would continue to grow and that responsible decisions needed to be made.

Mr. Pullman said he felt the proposal was too congested. He said he knew the property behind him would change and did not want to see his block turn into something like the neighborhood by Albertsons.

Commissioner Marshall said the In-Fill Overlay would be the mechanism to control that from happening.

Discussion was held regarding density and development.

Commissioner Marshall said he would prefer that the Commission look further than one block when considering changes to the General Plan. He said

he felt to either approve the General Plan Amendment as proposed, or not approve it at all. He said he felt it was a reasonable proposal and that he wanted to preserve land and have places for his children to live in Spanish Fork, and to do that the City would need to be denser in some places.

Commissioner Christianson said the General Plan designations were not that much different and the likelihood of someone purchasing the entire block was just not that reasonable.

Chairman Robins said he felt the project was good quality and, if anything, it would be the best multi-family dwelling in the neighborhood and it would be a shame to lose that.

Commissioner Christianson asked if they moved to approve the General Plan Amendment to only apply to one block, what would happen when the proposal went to the City Council.

Mr. Anderson said that the proposal would go to the City Council as proposed but with the Planning Commission recommendation to change only one block of the General Plan if that was what they chose to do.

Commissioner Huff said he was tending to lean to only approving one block and was torn by the attitude of what's good for me is not good for you. He said he was trying to base a decision on logic, and what was good for the City, instead of his heart.

Commissioner Marshall **moved** to recommend that the Planning Commission **approval** of the Peterson General Plan and Zoning Map Amendment based on the following findings:

1. That the proposed General Plan Amendment would establish an appropriate delineation for projects that are approved with R-1-6 and R-3 zoning provisions.
2. That the proposed R-3 zone is appropriate for the subject property given the General Plan designation and the property's proximity to 300 East.

Commissioner Lewis **seconded** and the motion **passed** by a roll call vote. Chairman Robins voted nay because he felt the neighborhood did not understand the impacts of the In-Fill Overlay. Commissioner Stroud voted nay because he felt

the General Plan Amendment should only apply to one block.

### **Budgetary Impact**

There is no immediate budgetary impact anticipated with the proposed General Plan amendment.

### **Recommendation**

Staff recommends that the City Council approve the Peterson General Plan Amendment based on the following findings:

1. That the proposed General Plan amendment would establish an appropriate delineation for projects that are approved with R-1-6 and R-3 zoning provisions.





# REPORT TO THE CITY COUNCIL PETERSON ZONE CHANGE

**Agenda Date:** July 7, 2009

**Staff Contacts:** Dave Anderson, Community Development Director

**Reviewed By:** Development Review Committee, Planning Commission

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**Zoning:** R-1-6 existing, R-3 requested

**General Plan:** Residential 5.5 to 8 Units Per Acre existing, Residential 9 to 12 Units Per Acre proposed

**Project Size:** not applicable

**Number of lots:** not applicable

**Location:** 245 North 300 East

## Background Discussion

A map accompanies this report which identifies the proposed change.

The proposed change involves rezoning on 245 North 300 East from R-1-6 to R-3.

The applicant's ultimate goal is the development of two twinhomes at 245 North and 300 East. Should the proposed General Plan and Zoning Map Amendments be approved, Mr. Peterson would still be required to have the In-fill Overlay approved prior to being able to construct the two twinhomes.

The question before the Council at this time is limited to General Plan and Zoning Map changes. Staff understands this proposal has generated considerable energy among the residents of the neighborhood. In a neighborhood meeting that was held several weeks ago, staff heard concerns about various impacts that people associate with the proposal to allow for additional density. These concerns include increased crime, dropping property values, increased traffic and general concerns about aesthetics.

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However, the regulations contained in the In-fill Overlay zone will limit a potential developer's ability to maximize the density that is permitted. This situation is exacerbated further given the fact that few, if any, properties in the area are vacant. All in all, the likelihood that someone could



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Discussion was held regarding the General Plan and the history of the boundary, spot zoning, and isolating zoning not being a good policy to follow.

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1. That the proposed General Plan Amendment would establish an appropriate delineation for projects that are approved with R-1-6 and R-3 zoning provisions.
2. That the proposed R-3 zone is appropriate for the subject property given the General Plan designation and the property's proximity to 300 East.

Commissioner Lewis **seconded** and the motion **passed** by a roll call vote. Chairman Robins voted nay because he felt the neighborhood did not understand the impacts of the In-Fill Overlay. Commissioner Stroud voted nay because he felt

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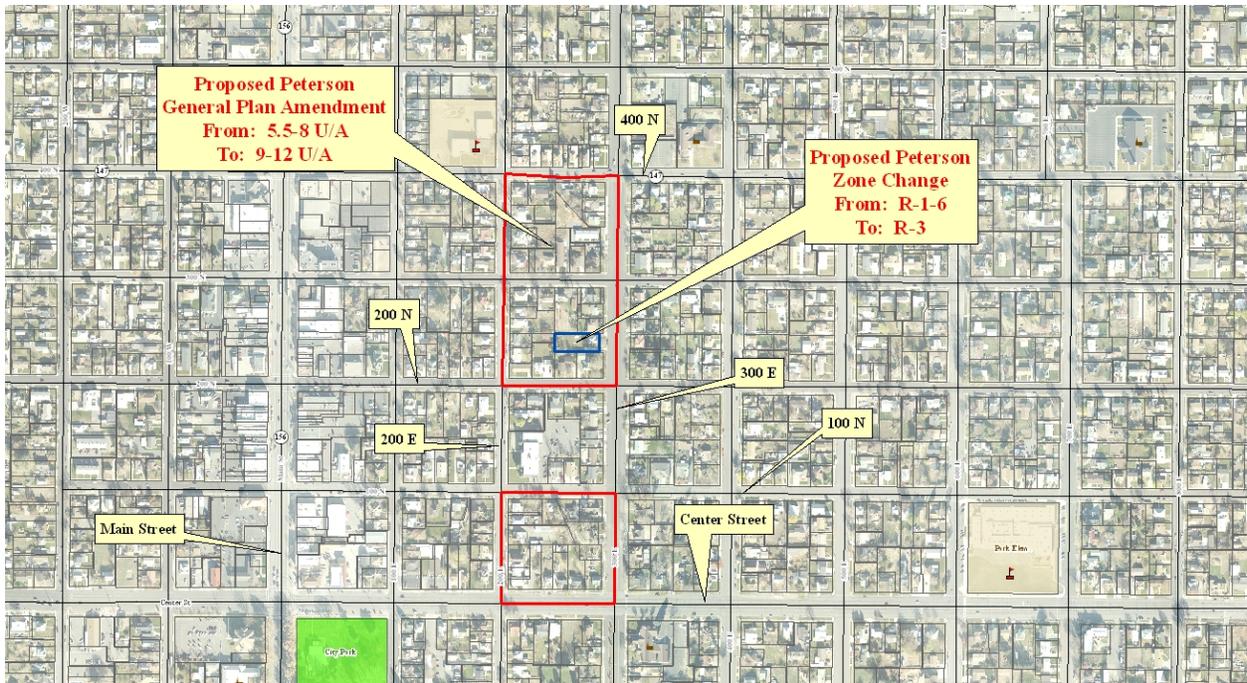
### **Budgetary Impact**

There is no immediate budgetary impact anticipated with the proposed General Plan amendment.

### **Recommendation**

Staff recommends that the Peterson Zoning Map Amendment be approved based on the following findings:

1. That the proposed R-3 zone is appropriate for the subject property given the general plan designation and the property's proximity to 300 East.



Current Zoning Map



Current General Plan Map



Mr. Anderson said he had prepared an amendment to the text that he believes clarified that public and charter schools are appropriate uses to have in the Public Facilities zone. Mr. Anderson acknowledged that the ALA Academy had a structure that did not conform but that it was not the principal motivation in suggesting that the ALA Academy be zoned Public Facilities.

Commissioner Stroud asked if there were other cities that allowed charter schools in public facilities zones. Mr. Anderson said he did not know.

Discussion was held regarding the Public Facilities Zone being a good zone so that it is clear to citizens what they would be living next to.

Commissioner Lewis said that the Spanish Fork City and the American Leadership Academy had a contract for Spanish Fork City to use the American Leadership Academy's facilities.

Commissioner Huff said he had reservations zoning the American Leadership Academy because the school is on private property. Commissioner Lewis said the property was owned by a non-profit organization.

Mr. Anderson said that the purpose of zoning codes and land-use regulations are intended to address impacts and that he felt the American Leadership Academy met the language of the Public Facilities zone.

Commissioner Stroud asked Mr. Anderson if the City would force the American Leadership Academy to remove the non-conforming structure if the proposal did not pass. Mr. Anderson said no.

Commissioner Christianson asked if charter schools would have to locate to the Public Facilities zone in the future. Mr. Anderson said that, because charter schools are already exempt, the proposed change would not have much of an affect.

Commissioner Huff asked, if the proposed change would bring the non-conforming use into a conforming use, how tall could the structure become if the American Leadership Academy built onto it. He said he remembered that there were concerns about whether or not elevation should be added to the structure because of the neighbors.

Mr. Anderson said the American Leadership Academy could not add onto the legal non-

conforming structure in the current zoning but if the proposal was approved than they would be able add onto the structure, but that it was not the main motivation for the proposal.

Commissioner Huff said he would be completely against the proposal if the non-conforming structure were brought into a conforming use and asked how tall it could be and, if it became obtrusive to the neighbors, if they may have some reservation as well. Mr. Anderson said 65 feet would be the maximum height and that if they wanted to build it that tall the setback would need to match.

Chairman Robins welcomed public comment. There was none.

Commissioner Marshall said he felt the American Leadership Academy was a good fit for the proposed zone.

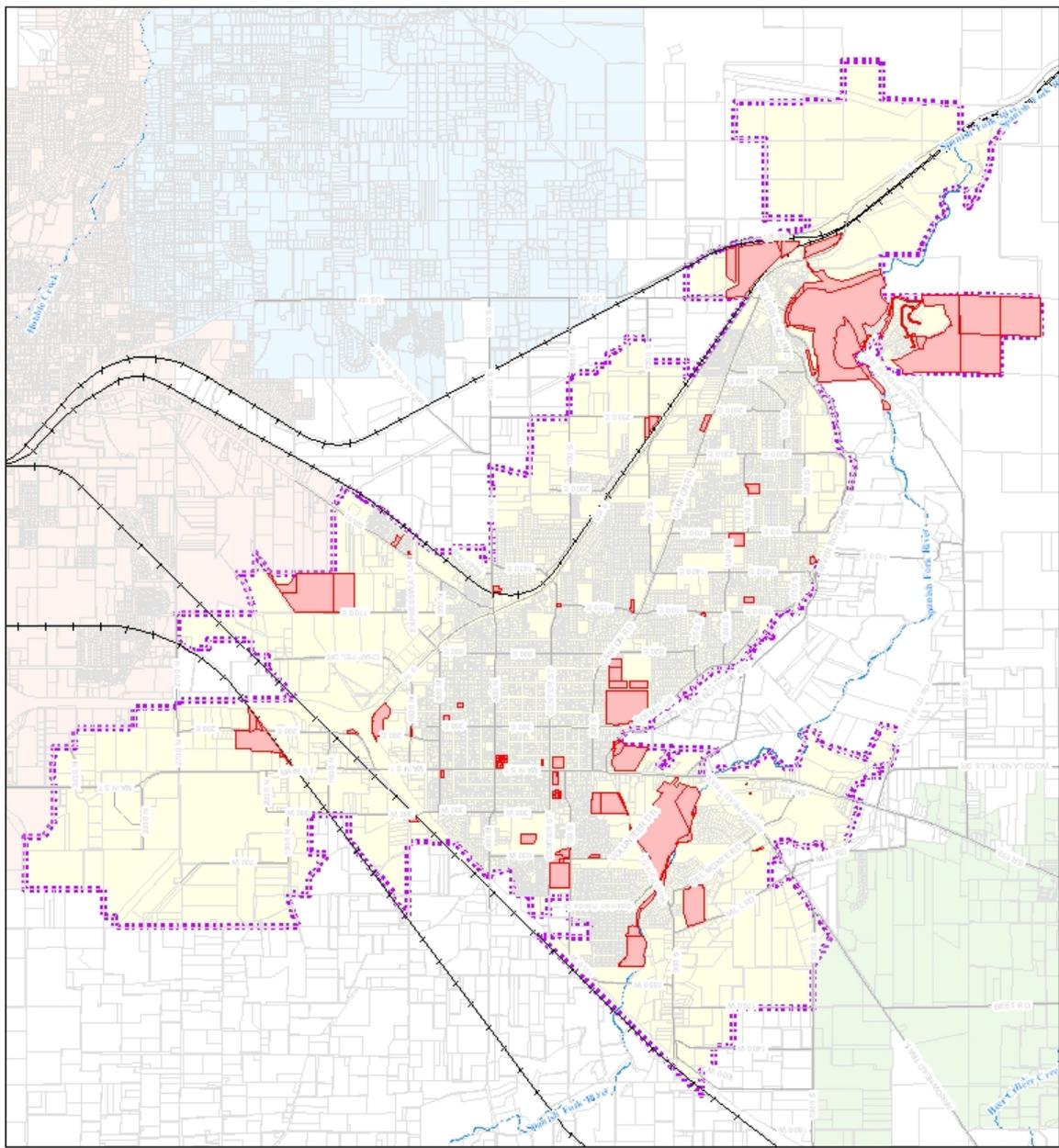
Commissioner Marshall **moved** to recommend that the City Council **approve** the Public Facilities Map Amendments. Commissioner Christianson **seconded** and the motion **passed** by a roll call vote. Commissioner Huff voted nay because of his belief that the American Leadership Academy property is owned by a private entity.

### **Budgetary Impact**

There is no anticipated budgetary impact with the proposed Zoning Map Amendment.

### **Recommendation**

Staff recommends that the proposed Zoning Map Amendment be approved.



# City Owned Property To Be Zoned Public Facilities 2009

1" = 4,480 Ft

- Legend**
- City Owned Properties To Be Zoned Public Facilities, 2009
  - Major Roads
  - Subroad
  - Boundary of Fork
  - McKean
  - Phoen
  - Main
  - West River
  - Spanish Fork Boundary



Geographic Information Systems  
 Spanish Fork City GIS  
 40 South Main St  
 Spanish Fork, UT 84660  
 GIS Phone Numbers:  
 (801) 804-4571 (Administrator)  
 (801) 804-4570 (Interns)

The above information is provided as a courtesy and is not intended to be used for any purpose other than that for which it was provided. Spanish Fork City reserves the right to correct any errors or omissions in this information at any time without notice. The information is current as of the date of publication. Spanish Fork, UT 84660.



# REPORT TO THE CITY COUNCIL PUBLIC FACILITIES ZONING MAP AMENDMENT

**Agenda Date:** July 7, 2009

**Staff Contacts:** Dave Anderson, Community Development Director

**Reviewed By:** Development Review Committee, Planning Commission

**Request:** Spanish Fork City is proposing to change the zoning of most of the City-owned properties in the City and the American Leadership Academy Site to the Public Facilities zone.

**Zoning:** multiple zones

**General Plan:** multiple designations

**Project Size:** not applicable

**Number of lots:** not applicable

**Location:** not applicable

## Background Discussion

In 2007, Spanish Fork City created the Public Facilities zone. The purpose of creating a zone for publicly owned properties was to allow for the provision of customary and even perhaps essential public services at a variety of locations throughout the City.

At this time, it is proposed that most of the properties owned by Spanish Fork City be changed from their existing zones to the Public Facilities zone.

In addition to properties that are owned by Spanish Fork, it is proposed that the zoning of the American Leadership Academy Site be changed to Public Facilities. Spanish Fork City staff has also approached the Nebo School District about the prospect of changing the zoning on the properties that they own in Spanish Fork. Future changes may also involve entities such as the United States Forest Service or the State of Utah.

In essence, this proposal comes forward primarily as a means of maintaining an orderly, consistent zoning program in the City. At present, most municipal operations are allowed in each of the different zoning districts. While this program has effectively allowed the City or other agencies to conduct their necessary business, it is believed that the implementation of the Public Facilities zone will lead to the most functional way to permit the necessary activities while helping the residents of the City understand what is allowed at various locations throughout the City.

## Planning Commission

The Planning Commission reviewed this request on June 3, 2009 and recommended that it be approved. Minutes from the Planning Commission meeting read as follows:

### Public Facilities Map Amendment

(continued from May 6, 2009)

Applicant: Spanish Fork City

General Plan: City-wide

Zoning: City-wide

Location: City-wide



# REPORT TO THE CITY COUNCIL IN-FILL OVERLAY ZONING TEXT AMENDMENT

**Agenda Date:** July 7, 2009

**Staff Contacts:** Dave Anderson, Community Development Director

**Reviewed By:** Development Review Committee, Planning Commission

**Request:** Spanish Fork City is proposing to change the text of the In-fill Overlay zone.

**Zoning:** R-1-6 and R-3 zones

**General Plan:** not applicable

**Project Size:** not applicable

**Number of lots:** not applicable

**Location:** not applicable

## Background Discussion

In late 2008, the City Council adopted the In-Fill Overlay zone. Since the City's adoption of that zone, there has been one application filed for its implementation. After reviewing that application, staff and officials have suggested modifications to the text of the In-fill Overlay zone.

Accompanying this correspondence is a proposed ordinance that identifies what the proposed changes are. In staff's view, the most significant change involves the elimination of the opportunity to develop multi-family dwellings of any type in the R-1-6 zone.

The following is a summary of the proposed changes:

- The most significant change involves the disallowance of twinhomes and duplexes in the R-1-6 zone. The changes would make the R-1-6 zone exclusively a single-family zone.
- Language that explicitly pertains to homeownership as a requirement would be removed so as to avoid confusion relative to the overall purpose of the In-fill Overlay zone.
- Some slight adjustments to setback requirements are proposed.
- It is proposed that minimum lot size requirements be eliminated. The General Plan designation will still govern the maximum number of units someone could propose to include in an In-fill Overlay project.
- Minimum project sizes have changed so that 8,000 square feet of land area is required to propose a project in the R-3 zone and 12,000 square feet of area are required to propose a project in the R-1-6 zone.
- The allowed impervious surface area of a project is proposed to be changed from 60% to 65%.

The Development Review Committee reviewed this proposal and recommended that it be approved on April 29, 2009.

## Planning Commission

The Planning Commission reviewed this request on June 3, 2009 and recommended that it be

approved. Minutes from the Planning Commission meeting read as follows:

### **Proposed Amendments to Title 15, In-Fill Overlay**

(continued from May 6, 2009)

Applicant: Spanish Fork City

General Plan: City-wide

Zoning: City-wide

Location: City-wide

Mr. Anderson said he had condensed the changes into six or seven bullet points and described the most significant change involved no longer allowing multi-family uses in the R-1-6 zone. Discussion was held regarding detached single-family homes and impervious surface area.

Commissioner Marshall expressed that he felt that only allowing multi-family in one zone is huge; as you move away from the core of the City the density decreases and he feels the transition should be gradual.

Mr. Anderson said that in the R-3 and R-1-6 zones it made sense to allow the General Plan to identify what the density would be.

Commissioner Marshall said he feels this proposal takes away from open space.

Chairman Robins asked if you could still build a twin home in the R-1-6 without applying for the In-Fill Overlay Zone. Mr. Anderson said no; that twin homes were not permitted by right.

Chairman Robins said he did not feel that we should be restricting the units that could be built in the Overlay zone. The In-Fill Overlay zone was made to encourage developers to be creative and he felt that the proposal was removing the creativity.

Commissioner Marshall **moved** to recommend that the City Council **approve** the changes with the exception of the change involving the disallowance of twinhomes and duplexes making the R-1-6 zone exclusively a single-family zone. Discussion was held regarding twin homes, duplexes, tri-plexes, and four-plexes in the R-1-6 and R-3 zones. Chairman Robins **seconded** and the motion **passed** all in favor.

Commissioner Stroud **moved** to close public hearing. Commissioner Lewis **seconded** and the motion **passed** all in favor at 8:50 p.m.

### **Budgetary Impact**

Staff believes there would be little or no budgetary impact with the proposed Zoning Text Amendment.

### **Recommendation**

Staff recommends that the proposed Zoning Text Amendment be approved.

**ORDINANCE NO. 04-09**

ROLL CALL

VOTING	YES	NO
MAYOR JOE L THOMAS <i>(votes only in case of tie)</i>		
G. WAYNE ANDERSEN <i>Councilmember</i>		
RODNEY 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: Councilman \_\_\_\_\_  
I SECOND the foregoing motion: Councilman \_\_\_\_\_

ORDINANCE 04-09

WHEREAS, Spanish Fork City has enacted a zoning ordinance setting forth a number of zones and the permitted uses within each zone; and

WHEREAS, City staff has researched and studied the issue of appropriate in-fill uses, as requested by the Council, and has made the recommendation to amend the in-fill ordinance which establishes standards for in-fill housing in the R-1-6 and R-3 zones; and

WHEREAS, public hearings were held before the Planning Commission on Wednesday, the 6<sup>th</sup> day of May, 2009, whereat public comment was received; and

WHEREAS, a public hearing was held before the Spanish Fork City Council on Tuesday, the 19<sup>th</sup> day of May, 2009, whereat additional public comment was received; and

WHEREAS, the Council finds that the proposed amendments to the in-fill zone is consistent with the language and intent of the City's Comprehensive General Plan; and

WHEREAS, the Council finds that the proposed amendments to the in-fill zone would allow high quality residential units that promote the general welfare and common good of the community;

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

**I.**

Spanish Fork City Municipal Code §15.3.16.035 is hereby amended as follows:

**15.3.16.035. In-Fill Overlay Zone (I-F).**

This district is intended to provide flexibility in development standards for small residential parcels that are difficult to develop under standard residential requirements, allowing them to be developed with modified standards, while maintaining high quality construction and maintaining the general character of the underlying zone. This zone may only be applied as an overlay zone in the R-1-6 and R-3 zones. Prior to approving the I-F Zone, the City Council shall determine that the proposed development promotes the historic character of the neighborhood and conforms to the physical characteristics of the adjoining properties including architectural style and materials, and size, and provides new opportunities for home ownership.

**A. Permitted Uses:**

- Single family dwellings.
- Twin homes (R-3 zone only).
- Duplexes (R-3 zone only).
- Triplexes (R-3 zone only).
- Fourplexes (R-3 zone only).

(see §15.3.08.060):

**B. Accessory Buildings and Uses (see §15.3.24.090).**

**C. Development Standards.**

Development standards for projects in the I-F Zone shall be generated on a project-by-project basis. It is expected that the development standards will provide for project designs that will promote conformity to existing neighborhood characteristics while allowing for innovation and creativity. Development standards shall also include design elements that will provide appropriate screening and buffers between the project and the surrounding properties. As appropriate, project designs should incorporate amenities for the use of the project's residents. In each case, standards created for elements including but not limited to setbacks, lot size, building design, fencing and landscaping shall be presented to the Planning Commission for recommendation and the City Council for approval.

Notwithstanding the potential flexibility in development standards for the I-F Zone, the following standards must be maintained:

1. Building design shall incorporate architectural elements that reinforce architectural styles found in other structures in the neighborhood and/or along the street. Architectural considerations shall offer reasonable protection relative to the privacy of adjoining properties. Architectural elements utilized to promote the purpose of the zone may include the following:
  - A. Roof pitch.
  - B. Building materials.
  - C. Door and window placement and orientation.
  - D. Building colors.
  - E. Building ornamentation.
  - F. Building articulation.
  - G. Garage placement.
2. Setbacks shall be as follows for all primary buildings:
  - A. Front yard, 20 feet from public right-of-way or shared driveway to living space.
  - B. Corner side yard, 15 feet to living space.
  - C. Interior side yard, ~~10~~ 5 feet, provided 15 feet exists between residences.
  - D. Rear yard, ~~10~~ 15 feet.
  - E. Accessory buildings, 5 feet to property lines and other structures.
  - F. Garage doors, 20 feet from public right-of-way.
3. Density shall not exceed that which is identified on the Land Use Map of the Comprehensive General Plan.
4. Minimum project size is ~~6,000~~ 8,000 square feet in the R-3 zone and 12,000 square feet in the R-1-6 zone. Minimum lot sizes and/or area requirements shall be as follows:
  - ~~A. Single family residences, 4,000 square feet;~~
  - ~~B. Duplexes, 8,000 square feet;~~
  - ~~C. Twinhomes, 8,000 square feet;~~

- ~~D. Triplexes, 14,000 square feet;~~
- ~~E. Other multi-family units, 18,000 square feet per four units;~~
- 5. Minimum street frontage for a development is 80 feet except for duplexes where the minimum frontage requirement is 60 feet.
- 6. Maximum impervious surface in the I-F zone shall be ~~65%~~ 60% of the project area.
- 7. Minimum parking shall include one garage per dwelling unit and 1.5 additional spaces per unit within the development.
- 8. Minimum finished living space shall be provided as follows:
  - A. Single family residence, 1,000 square feet;
  - B. Duplex, 900 square feet, each side;
  - C. Triplex, 900 square feet, each unit;
  - D. Other multi-family units, 900 square feet, each unit.
- 9. Curb, gutter, and sidewalk shall be provided in accordance with the City's Development Standards.
- D. Site Plan/Design Review (see §15.4.08.010 et seq.).**
- E. Landscaping, Buffering, Walls (see §15.4.16.130).**

Detailed landscape plans shall be submitted with each application for I-F Zone approval. ~~Landscaping plans shall be generally consistent with surrounding properties.~~ Projects shall be landscaped in a manner that is ~~generally~~ consistent with ~~the approved plans~~ surrounding ~~properties~~. Landscape Plans shall identify the following:
 
  - A. Planting Plan, including all ground cover.
  - B. Plant schedule.
  - C. Irrigation Plan.
  - D. Details for any proposed structures or features.
  - E. Walls.
- F. Signs. (see §5.36.010 et seq.)**
- G. Parking (see §15.4.16.120).**

**II.**

This ordinance shall be effective twenty days after passage and publication.

PASSED AND ORDERED PUBLISHED BY THE CITY COUNCIL OF SPANISH FORK,  
UTAH, this \_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
JOE L THOMAS, Mayor

ATTEST:

\_\_\_\_\_  
KIM ROBINSON, City Recorder

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**Tentative Minutes**  
**Spanish Fork City Council Meeting**  
**June 16, 2009**

Elected Officials Present: Mayor Joe L Thomas, Councilmember's G. Wayne Andersen, Councilman, Steve Leifson, Richard M. Davis, Jens P. Nielson, Rod Dart

Staff Present: Dave Oyler, City Manager; Seth Perrins, Assistant City Manager; Dave Anderson, City Planner; Kent Clark, Finance Director; Pam, John, Dale, Dee, Elaine Hansen,

Citizens Present: Aaron Cloward, Alan Clark, Jeff Nelson, Dave Johnson, Cary Hanks, Shane Lawrence, Jean Duffield, Matt Nelson, Jarrett Jarvis, Hayden Nelson, Greg Money, Taggart Lunceford, Trevor Reynolds, Gavin Hales, Dallas Smith, Sam Lunceford, Jill Thorpe, Jennifer Bradford, Grant Jensen, Chris Jackson, Lindsay Wolsey, Mike Morley

**CALL TO ORDER, PLEDGE:**

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

Councilman Nielson led in the pledge of allegiance.

**Spanish Fork High School 5A Baseball Team**

Coach Nelson stated they are proud to represent Spanish Fork City as 5A State Champions. They want to thank Spanish Fork City for the celebration and the Fire Department for the parade down Main street, they also thanked the City Recreation Department, the coaches and the playing facilities. He thanked Dale Robinson and Tad Thorpe for all the hard work they do.

**PUBLIC COMMENT:**

Dave Johnson

Mr. Johnson works at Segway. He wanted to note they support the kite festival and put a lot of effort into it last year. He is concerned with the support of the Council and the City for this event. He feels it needs a five year period to finally get off the ground, and they need the support of the City and the Council to do it.

**COUNCIL COMMENTS:**

Councilman Davis reported at the last Council meeting they had people who disagreed about the quality of life. He is one that loves Spanish Fork, he is proud of the quality of life Spanish Fork has to offer. Big businesses come here and want the airport, golf courses, pools, and library. Our golf course is one of the prettiest

47 in the State, they offer stuff for kids to adults. The swimming pool is always busy  
48 and they offer swim lessons, and parties, they have had some great directors  
49 throughout the years that care about the city. The Senior Citizens is second to  
50 none, and the people going there were leaders in our community. He can't see  
51 why we would give up something that is so important to them. The ball parks are  
52 the best as coach Nelson stated. Our library is wonderful there is nothing like  
53 sitting down and reading to your child, he added they really need a new library  
54 because it is so busy. He then asked the Library Director for a report.

55  
56 Ms. Jackson explained the items going on at the library. She appreciates the  
57 support of everyone and they have a hard working and dedicated staff. She  
58 thanked the Mayor for his comments in the previous Council Meeting and feels it is  
59 important to get the information out about what the library has to offer. They have  
60 reading programs for all ages and have a tremendous turn out. They love to be  
61 part of the community and offer different classes. She is grateful to be a part of the  
62 library and the community.

63  
64 Councilman Davis appreciates the staff and all that they are doing. He thanked the  
65 employees and feels they deserve more than they can give, they are working hard  
66 everyday. He thanked the citizens, for all the volunteers and the examples they  
67 set. He hopes they continue to be good neighbors, build trail systems, and keep  
68 open spaces. He is proud to be a citizen of Spanish Fork.

69  
70 Councilman Dart agreed with Councilman Davis and recognized two members of  
71 the Chamber of Commerce Board in attendance.

72  
73 Councilman Leifson agreed with Councilman Davis. He and his wife noticed this  
74 week even with all the rain people were out working on their yards and making  
75 them beautiful, he commended all those that take pride in their yards.

76  
77 Councilman Andersen agreed with what has been said and wanted to remind  
78 everyone if they have children interested in signing up for the Mutton Bustin' they  
79 need to get to Creative Signs and get signed up.

80  
81 Mayor Thomas feels this city has a lot going for it. The staff loves the city and so  
82 do the citizens. He thinks the Golf Pro will get the golf course supporting itself. He  
83 is delighted the library has so much going on and hopes they can find ways to use  
84 volunteers. He noted sometimes the Council seems defensive because they know  
85 more than the average citizens. They send out a newsletter in the city bills that has  
86 a comment section, he responded to some dear mayor letters and gave examples.  
87 He asks that people be specific and leave a name and contact information so they  
88 can respond and help. In his opinion the next wave of stores that will come into  
89 town will benefit the community. He clarified that the north park project was in the  
90 works before he took office. He encouraged his father to sell his land for the same  
91 price he had already been offered before. He spent the last few days at the APPA  
92 conference dealing with the American Public Power, hosted in Salt Lake City this

93 year. He noted that power costs are going to go up, and asked everyone to look  
94 for ways to reduce and modify the use of our energy. He gave some ideas of how  
95 we can save power.

96  
97 **CONSENT ITEMS:**

- 98  
99     **a. Minutes of Spanish Fork City Council Meeting – June 2, 2009**  
100     **b. Amended GPS Interlocal Agreement**

101  
102 Councilman Leifson made a **Motion** to approve the consent items. Councilman  
103 Dart **Seconded** and the motion **Passed** all in favor.

104  
105 **PUBLIC HEARING:**

106  
107 Councilman Andersen made a **Motion** to open the public hearing at 6:34 p.m.  
108 Councilman Nielson **Seconded** and the motion **Passed** all in favor.

109  
110 **Proposed Amendments Title 15**

111  
112 Mr. Anderson explained the proposal for Urban Village Commercial. One thing that  
113 makes it unique is it allows for development of projects with both residential and  
114 commercial components. The change has to do with the ratio of residential and  
115 non-residential uses, changing the minimum requirement from 50% down to 30%.

116  
117 This item was opened for public comment.

118  
119 There was no public comment given at this time.

120  
121 Councilman Davis made a **Motion** to approve the change to the zoning text  
122 making amendments to Title 15. Councilman Nielson **Seconded** and the motion  
123 **Passed** all in favor.

124  
125 **Budget FY09 Revision #2**

126  
127 Mr. Clark handed out the budget revision and clarified this revision was for last  
128 year's budget not this years. He discussed the general fund revenue and  
129 expenditures, capital projects, and other items of the budget.

130  
131 Councilman Andersen clarified the Deseret News reporter misunderstood the  
132 budget information.

133  
134 Mr. Clark clarified how the discussion with the reporter went and where the  
135 possible misunderstanding could have happened. He then explained the airport  
136 budget was drafted by Springville City and it is presented to the council tonight for  
137 adoption of our portion. He noted it is on Springville Cities agenda to adopt as well.  
138

139 This item was opened for public comment.

140

141 There was no public comment given at this time.

142

143 Councilman Andersen made a **Motion** to approve the FY 2009 Budget Revision  
144 #2 as well as the Spanish Fork/Springville Airport Budget. Councilman Leifson  
145 **Seconded** and the motion **Passed** all in favor.

146

147 Councilman Leifson made a **Motion** to close the public hearing. Councilman  
148 Nielson **Seconded** and the motion **Passed** all in favor at 6:55 p.m.

149

150 **NEW BUSINESS:**

151

152 **South Utah Electric District Joint Venture Power Plant – Bruce Hall**

153

154 Bruce Hall

155 Mr. Hall represents the South Utah Electric District. He is proposing a joint venture  
156 with Spanish Fork City on the Crab Creek line. He explained some background  
157 regarding the plant and how they decided to do a joint venture for the project. He  
158 stated the district would front the costs of the plant and the lines and they would  
159 then work out an agreement to the cost and use of the power. He feels this would  
160 be a win-win for the city in the future.

161

162 Councilman Leifson asked what the estimated costs are to build the plant.

163

164 Mr. Hall estimated about \$450,000 to build the plant but he is not sure on the cost  
165 of the lines.

166

167 Councilman Andersen asked how much power they could generate.

168

169 Mr. Hall said when they did the tests they estimated approximately a megawatt of  
170 power.

171

172 Mayor Thomas asked what the estimated cost the power would be to the citizens.

173

174 Mr. Hall pointed out if the plant would have to have maintenance it would not affect  
175 the flow to the city.

176

177 Councilman Andersen clarified the culinary water being used and the impact it  
178 would have.

179

180 Mr. Hall stated there is no impact, and that this type of project it is used all over the  
181 country; they just have to use special materials etc.

182

183 Mr. Baker stated this would have to be run through UMPA due to the City's  
184 contract with them.

185  
186 Mayor Thomas thinks it is something they should get more information on.  
187  
188 Councilman Andersen would like to get some more information from the legal side  
189 of it.  
190  
191 Mr. Hall stated all they want to know is if the Council wants to move forward and  
192 get more information.  
193  
194 The Council agreed they can move forward and work with staff on the legal issues  
195 etc.

### 196 **UDOT South Main Street Storm Drain Easement**

197  
198  
199 Mr. Heap explained the project UDOT is doing on south Main street. In order for  
200 the curb and gutter to work they have been working with City staff on the storm  
201 drainage water. Staff recommends they approve the agreement with UDOT.  
202  
203 Councilman Leifson made a **Motion** to approve the UDOT South Main Street  
204 Storm Drain Easement. Councilman Dart **Seconded** and the motion **Passed** all in  
205 favor.

### 206 **Changes to Title 5 Business Licensing**

207  
208  
209 Mr. Anderson explained Title 5 is the business license section of the City Code.  
210 These changes pertain to the itinerant merchant section of the code. The  
211 standards currently in place do not address issues like parking, traffic signage etc.  
212 This comes out of concerns staff has had about the lack of some of those  
213 standards. This will give the city the means to look at site specific approval for  
214 each location. The parking and pedestrian traffic are some of the major issues.

215  
216 Mr. Baker addressed one of the issues, the requirements stated the produce must  
217 be locally grown, with these changes it will allow residents access to more fresh  
218 produce etc.

219  
220 Councilman Nielson feels it seems to make it a little easier for the merchants and  
221 the city.

222  
223 Mr. Anderson stated that is their hope.

224  
225 Councilman Davis made a **Motion** to adopt Ordinance #09-09 making changes to  
226 Title 5 Business Licensing. Councilman Nielson **Seconded** and the motion  
227 **Passed** all in favor.

### 228 **Discussion on Airport Access Agreement with Rocky Mountain Composites**

229  
230

231 Councilman Davis made a **Motion** to continue this for a couple weeks.  
232 Councilman Andersen **Seconded** and the motion **Passed** all in favor.

233  
234 **Discussion Zip Line Land Lease – AA Machine and Welding – Dale**

235  
236 Mr. Robinson explained the different possibilities for the line locations.

237  
238 Troy Richardson

239 Mr. Richardson presented a business plan for the project, which included  
240 approximate ridership etc. The first 50,000 would be 10%, 100,000 would be 15%  
241 then 150,000 and up from there would be a percentage payment to the city. They  
242 are looking at offering all day and half day passes with an option for travel. The  
243 approximate cost would be \$15 for two lines or \$7.50 for the lower line.

244  
245 Councilman Leifson commented they need to take steps and address some  
246 concerns regarding staying on the paths and preserving the area etc.

247  
248 Mr. Richardson stated they want to promote a green atmosphere in that area.

249  
250 Mayor Thomas likes the idea of putting signs educating people about the wildlife  
251 and the plants because there are some endangered plant life in that area.

252  
253 Mr. Richardson wants to promote a great place for kids to get out and be able to  
254 hike and enjoy and still get some exercise.

255  
256 Councilman Davis is concerned about the protection of the lines when no one is  
257 using them.

258  
259 Mr. Richardson explained they have addressed those issues.

260  
261 Mr. Rosenbaum explained the police department will be affected due to the use of  
262 the shooting range. The police department goes up every other month and it takes  
263 several days for them to complete the shoot. They also have groups such as the  
264 scouts and hunters safety that use the facility.

265  
266 Councilman Andersen noted the lines should be installed to make it available  
267 during all events.

268  
269 Councilman Leifson stated the Council is in agreement with the two lines, it will  
270 need to be worked out with the third line to place it in the area with the least  
271 amount of impact.

272  
273 The Council directed staff to work with Mr. Richardson on the location and to make  
274 sure to protect the vegetation.

275  
276 **PUBLIC COMMENT:**

277  
278 Bill Harkness  
279 Mr. Harkness explained about his Palladian organ. He knows money is tight and  
280 he proposes \$10,000 down and \$10,000 a year for five years equaling \$50,000.  
281 He feels the senior citizens have done a lot and deserve the best and he would  
282 like to see it used in the senior's center.  
283  
284 Councilman Leifson feels Mr. Robinson the Parks and Recreation Director should  
285 review this and work with them.  
286  
287 Mayor Thomas offered an idea that they may be willing to find someone with a  
288 high tax bracket that could buy it and then donate it to the city. He can't imagine  
289 the Council approving this much money for an organ.  
290  
291 **Boards and Commission Appointments – Planning Commission**  
292  
293 Mayor Thomas would like to appoint Tyler Cope, and Rick Evans to the Planning  
294 Commission.  
295  
296 Councilman Andersen made a **Motion** to appoint Tyler Cope and Rick Evans to  
297 the Planning Commission Board. Councilman Leifson **Seconded** and the motion  
298 **Passed** all in favor.  
299  
300 **Kite Festival Discussion**  
301  
302 Mr. Robinson gave a handout regarding the Windfest and Green Energy Expo. He  
303 reviewed the numbers regarding costs for the event. It exceeded their  
304 expectations last year, now they are more educated in their projections for this  
305 year. He explained they have planned this year to use a lot of volunteers instead  
306 of staff and they have the ability to adjust staff's schedules in order to alleviate a  
307 lot of the overtime. They are going to do everything in their power to see that this  
308 event pays for itself. They have reached a point where they need the council's  
309 direction.  
310  
311 Mayor Thomas likes the idea and feels they should set a reasonable number.  
312  
313 Mr. Robinson stated their goal is for this event to pay for itself, but they need to  
314 know if the Council will back them if things happen that are out of their control.  
315  
316 Elaine Hansen  
317 Ms. Hansen explained they have formed a committee of people that are  
318 enthusiastic and ready to help. David Johnson, Executive Vice President Segway  
319 of Utah; Jean Duffield, Manager of Mountain America Credit Union; LaNelle  
320 Simons, Private Citizen & School Teacher; Mike Morley, Representative.  
321 Ms. Hansen has taken the first directive to reduce the scope and try to not make it  
322 so expensive. She then reviewed the scope of the project for this year.

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Mike Morley

Mr. Morley feels it is a good event and if it can be done without cost to taxpayers it is a great way to showcase Spanish Fork.

Councilman Nielson feels this year for the City Council the question is if they can afford it. It is a great event and if it doesn't impact the tax payers they should do it. He is willing to say that with what they see there will not be a large shortfall, if it goes well it won't cost the city anything. He feels if there is a shortfall it will be a few thousand dollars and they could be able to help.

Ms. Hansen stated the community and sponsors have been very generous.

Councilman Davis thought it was great last year, his concern is the amounts they are short about \$8,000 - \$9,000 dollars. He has heard comments that citizens will not attend if it will cost, he is also concerned about the safety factor. He noted the employees are not getting a cost of living increase but the Council is subsidizing this festival. He doesn't think it is fair to work all the employees so hard and put money in this direction. He is just not in support of it this year with the recession we are in.

Councilman Andersen is opposite of Councilman Davis. He can't forget last year seeing single mothers or families who had lost employment and didn't have the ability to have their children participate in some of the other activities the city offers that require a fee, enjoying themselves at the festival. There are those in the community that do not have the means to participate the question he asks himself is do they have an obligation to those people. He has seen those individuals enjoying themselves and feels it is worth it. The other thing he wants to point out is the golf course, pool, parks, seniors, arts council, library etc. they subsidize those activities to the tune of approximately \$2 million dollars a year. They are worried about several thousand dollars for this quality of life event. He commends Ms. Hansen for the work she has done. He knows as far as advertising there will be a lot more than they had; he thinks it will be an even bigger event this year. There will be more than enough people to cover the expenses and feels it is worth it. The nature of the event and number of people involved makes it so everyone can come and participate, what a wonderful family activity.

Councilman Leifson was not here last year and missed out on this. All the reports he heard were great, his concern was how much money they lost last year. When they had their work session they discussed the kite festival and decided if they can do it at no cost to the citizens they should move forward. That is still his opinion and as he looks at the numbers presented they are getting close, he would like to see enough sponsors to cover the unknown costs. He feels if we can do it with no cost to the citizens he supports it. He is worried every time they do a one time event it becomes an annual event. He feels it is a great idea and will support it if it doesn't cost the city anything. He does not have heartburn over a few thousand

369 dollars to cover if something happens out of their control. He added they need to  
370 get more sponsors and continue to move forward.

371  
372 Councilman Dart came to the meeting skeptical because of the loss the city took  
373 last year. When they first approved this he thought it was going to be a one time  
374 event. Some on the recreation board have the opinion of not doing the event and  
375 he respects their opinion. He can see there is a lot of organization and time  
376 already spent and he hates to throw that away, he liked Councilman Andersen's  
377 comment about bringing people together and Spanish Fork is known for that. He  
378 feels if they can do it without costing the city a bundle of money they should go for  
379 it.

380  
381 Mr. Robinson explained the Parks and Recreation Board have had individuals that  
382 want the event and some that do not. He noted the Recreation Board has not  
383 made a formal vote on the matter.

384  
385 Mayor Thomas asked people about the event and their response was mostly  
386 positive. He agrees with Councilman Leifson, and hopes everything could be free.  
387 He feels there are two ways to get the money one is to get the zip-line, he figures  
388 if 15,000 people come and ride the zip-line during that event it would be \$7,500  
389 right there. The other is Ms. Hansen should continue to find more sponsorship,  
390 and he challenged everyone of the council to commit to find \$1,000 in  
391 sponsorships. Mr. Morley committed \$3,000 for the event.

392  
393 Councilman Leifson likes the idea of sponsorships but pointed out they should not  
394 start precedence.

395  
396 Ms. Hansen noted she is big on what Disney calls "edutainment", and feels it will  
397 be bigger and bigger every year. She is in support of the event.

398  
399 Councilman Andersen would like to see the event later in September because of  
400 the other events prior. He thinks they should have a little more of a break between  
401 Fiesta Days, the County Fair, and the Kite Festival.

402  
403 Councilman Leifson doesn't feel it will cost the city anything, and supports it if the  
404 tax payers don't have to pay for it.

405  
406 Mr. Robinson said they are asking for approval to move forward. They will do  
407 everything they can to cover the costs, and hopes this event will pay for itself and  
408 more, however he need the Council's approval to spend funds even if the  
409 sponsorships don't cover the costs.

410  
411 Keri Hanks, Chamber Board Representative

412 Ms. Hanks feels it is a great idea but wants to make sure it does not cost the  
413 citizens either. She is concerned about the economics at this time just like  
414 everyone else.

415  
416 Councilman Andersen committed to finding a sponsor for \$1,000.  
417  
418 Councilman Andersen made a **Motion** to give the Parks and Recreation  
419 Department the go ahead to put on another fantastic event. Councilman Nielson  
420 **Seconded** and the motion **Passed** by a roll call vote. Councilmember's Andersen,  
421 Nielson, Leifson, and Dart voted in favor. Councilman Davis voted nay.  
422  
423 **Approval of FY 2010 Budget**  
424  
425 Mr. Clark presented the FY 2010 Budget and discussed any changes since the  
426 last meeting. Changes to the Kite Festival revenue and expenses will be adjusted  
427 to \$33,450 and this budget will be adopted with the changes. He pointed out the  
428 donation list and asked if the Council would like to make any changes.  
429  
430 Councilman Andersen commented the finance committee has reviewed it and is  
431 comfortable with the list.  
432  
433 Councilman Davis feels the city already does a lot; he does not like the amount  
434 given for the humanitarian aide.  
435  
436 Mr. Clark stated the Airport Budget for next year is also included in this budget.  
437  
438 Councilman Nielson asked how much money the city saved bidding out the north  
439 park projects.  
440  
441 Mr. Heap explained the first bid was probably the one that saved the most money,  
442 a few \$100,000 is going to be the approximate savings. He noted there are some  
443 issues with items not in the engineers estimate.  
444  
445 Councilman Dart asked how the recycling program is going.  
446  
447 Mr. Perrins stated since the program started they have added an additional 100  
448 cans.  
449  
450 Mayor Thomas asked everyone to sign up for the program.  
451  
452 Mr. Clark reconfirmed there is not a salary, merit or cola increase budgeted for the  
453 employees. The general fund decrease is \$1.6 million, and there will be no tax  
454 increase.  
455  
456 Councilman Andersen commented the budget given to the Council is 79 pages  
457 long it is only part of the information concerning the budget that is available. For  
458 every line item there is a breakdown for what is involved. He noted the city  
459 manager sends the council an e-mail with the information regarding the budget  
460 and he also has him e-mail the current year's budget and as he reviews the line

461 items he checks the detailed information, if he can't get his questions answered he  
462 then talks to staff. Any citizen that has questions should take the time to come in  
463 the staff will explain it to them. He also noted the budget represents Spanish Fork  
464 City and in the budget it tells the world the cities priorities.

465 He has lived in Spanish Fork his whole life and cannot point out one single  
466 activity that defines who he is. He feels most of the citizens are the same way they  
467 enjoy a number of activities. One way or another whether they subsidize these  
468 programs they will be spending the same amount of money or more. They can  
469 spend the money subsidizing these positive events, or as some would suggest  
470 they can eliminate them, but the trade off is expensive as well. Experience across  
471 the nation shows when there is nothing to do crime goes up. Right now Spanish  
472 Fork has .87 policeman per 1,000 people in larger cities they have 3 or 4, if they  
473 increased the amount it would be an expenditure of over \$3 million, they subsidize  
474 all these quality of life programs for less than that. He would rather spend the  
475 money on these positive programs then hire some more police officers.

476 Yes they can improve and yes they can become more efficient, there is  
477 always room to improve. These activities need to be taken care of, when people  
478 suggest we eliminate them they are taking away a part of his personal identity,  
479 taking away the identity of the citizens of this community, they rob us of our  
480 heritage and it has been a proud one for many years, this is who we are this is  
481 what Spanish Fork is, and thousands of us call it home and love it here. If they  
482 want to cut the heart and soul out of our community he will not be a part of it.  
483

484 Councilman Andersen made a **Motion** to adopt the FY 2010 Budget with the Kite  
485 Festival amendment, and the Airport Budget. Councilman Dart **Seconded** and the  
486 motion **Passed** by a roll call vote. Councilman Davis voted nay, he does not  
487 approve of kite festival and humanitarian aid.  
488

489 **ADJOURN TO RDA MEETING:**

490 Councilman Leifson made a **Motion** to adjourn to RDA Meeting. Councilman  
491 Nielson **Seconded** and the motion **Passed** all in Favor at 9:29 p.m.  
493

494 Councilman Leifson made a **Motion** to move out of RDA back to City Council.  
495 Councilman Andersen **Seconded** and the motion **Passed** all in favor at 9:31 p.m.  
496

497 **ADJOURN:**

498 Councilman Andersen made a **Motion** to adjourn to executive session to discuss  
499 potential litigation. Councilman Davis **Seconded** and the motion **Passed** all in  
500 favor at 9:31 p.m.  
501

502 ADOPTED:  
503  
504  
505

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Kimberly Robinson, City Recorder

## LEASE CONTRACT FOR ZIP LINE RECREATION PURPOSES

COME NOW Spanish Fork City (City) and AA Machining and Welding, Inc. dba Zip Flyer (Zip) and hereby contract, covenant, and agree as follows:

1. City is a municipal corporation and, as such, operates a parks and recreation department in order to provide quality of life recreational opportunities for its residents.
2. City operates recreation facilities in the eastern part of the city which include a gun club, irrigation water reservoir, and camp sites.
3. Zip has invented and patented a zip line product which is used for recreational opportunities. Zip has reviewed the City owned property around the gun club and reservoir and finds them suitable to operate a recreational zip line.
4. Zip has approached City about use of certain properties in the vicinity of the gun club and reservoir from which to offer zip line rides to the public for a price.
5. City agrees to lease to Zip certain properties, identified hereinafter, for use as a commercial recreational business. The terms and conditions of the lease are set forth herein.
6. Attached as Exhibit A, and incorporated herein by this reference, is the approximate layout of three zip line routes, each party realizing that the exact location will be determined by construction conditions. The three locations shall be from a point known as "Lookout Point" to a point known as "Red Knoll" (the Blue Line), and from "Red Knoll" to two points, one of which is at the far west end of the gun club's westerly most shooting station (the Red Line), and the other of which will proceed to a point on the east or southeast corner of the reservoir (the Green Line). Notwithstanding anything to the contrary, however, should City change the use of its property, it has the right to direct Zip to relocate any or all of these lines. If City directs a

change in the location of the lines, and Zip deems it too costly, it may terminate its obligations under this agreement.

7. City maintains the right to order the Red Line closed during gun club events or when the shooting range is scheduled and/or in use. City further maintains the right to order the Green Line closed, or its alignment modified, if the Green Line usage would interfere with City sponsored or co-sponsored events scheduled at the reservoir or on adjacent facilities. City will provide Zip with one week notice prior to closure for planned events so Zip can plan and schedule employees appropriately.

8. Zip shall be responsible to construct the bases and towers for each starting and ending point on each of the lines. The construction shall be designed by a licensed engineer and shall be in compliance with all industry safety standards for this type of use. Appropriate lightening rods shall be installed as Zip's engineer recommends. Zip shall be responsible for all required permits.

9. Zip shall be responsible for improving the trail system for potential riders to reach Lookout Point to commence their ride. Trail construction shall be in accordance with standards or directives provided by City. The trail shall be eco-friendly and blend in with surrounding environment. Efforts will be taken to make the impact on the surrounding area minimal. Zip shall also provide benches periodically along the trail for potential riders to stop and rest. These shall be constructed in accordance with standards provided by City. Materials shall also be approved by City. Zip may place directional signs, but must be identical in form and style to signs used in the area by City and may only be placed where authorized by City.

10. City has the discretion to allow vehicular traffic to access Red Knoll and/or Lookout Point in order for riders to use the zip line from those locations. If allowed, Zip is responsible

for constructing a road to accommodate limited traffic. It shall be of the width and material as directed by City. No private vehicles shall be allowed, but Zip may use low impact shuttle vehicles such as golf carts, ATV's, and other similar uses, as authorized by City, to transport its customers from the parking area to Red Knoll or Lookout Point.

11. Once the trail is improved and if the road is constructed, City shall be responsible for day to day maintenance of the trails, road, and signage. City maintenance shall be in accordance with its standards and policies. In the event Zip desires the maintenance to be performed to higher standards, it shall be responsible to provide the maintenance to the higher standard. City must approve any higher maintenance standard prior to its implementation.

12. Zip may use existing parking facilities owned by City at the gun club. Only in the event of overflow parking needs, may Zip use the parking facilities at the reservoir. City is responsible for all signage concerning parking, including directional signs for zip line parking.

13. Zip is responsible to provide its own employees to operate the zip line ride(s). All employees shall be trained in appropriate safety procedures and standards. Zip shall be responsible for all wages, taxes, workers compensation insurance, and any other expenses incidental to an employer/employee relationship.

14. Zip agrees to provide liability insurance in the minimum amount of two million dollars (\$2,000,000.00) covering the recreational zip line. Zip further agrees to provide a certificate of insurance to City which names City, its officers, employees, and agents as additional insureds.

15. Zip agrees to indemnify and hold harmless City, its employees, officers, successors, or assigns from any and all liability for property damage or personal injury suffered as a result of the use, misuse, or abuse of the recreational zip line referred to herein. Zip agrees to provide all

defense to any claims made for property damage or personal injury as a result of the use, misuse, or abuse of the recreational zip line referred to herein. The City retains the option of selecting its own counsel to defend such action, at Zip's expense.

16. As consideration for the use of City property and facilities, as set forth herein, Zip shall pay rent to City as follows:

a. Ten percent (10%) of gross revenues derived from riders on the zip line, up to the first \$50,000.00 of gross revenue.

b. Fifteen percent (15%) of gross revenues derived from riders on the zip line for all gross revenues over \$50,000.00.

17. Payment of the sums required in paragraph shall be made within 15 days of the end of each calendar month and shall be for the gross revenues generated during the prior month.

18. Zip shall offer discounts on the zip line rides to participants in City sponsored events at the reservoir or gun club. Discounts are limited to one per participant per City sponsored event. Zip may set the amount of the discount, as well as any conditions thereto.

19. City shall have the right to audit Zips books and records to verify correct amounts have been paid to City. Said audit may be at any time during normal business hours of Zip.

20. Zip may not operate between December 1 and March 1 of the following year. Zip is responsible to notify City 30 days prior to opening and ten days prior to closing for the season. Zip may only operate the zip line ride during daylight hours. Notice of specific hours of operation must be given to City ten days in advance.

21. City is hereby granted the first right of refusal to purchase the zip line should it ever be offered for sale while on City property.

22. This agreement is assignable by Zip only with the written approval of City, which approval may be denied at City's discretion. This agreement is assignable by City only in the event of sale of the property, in which event this agreement is binding on the successor in interest.

23. This lease agreement is on a year to year basis, based on a calendar year. If neither party gives notice to terminate the agreement at least thirty days prior to the end of the calendar year, it shall automatically be renewed for another year.

24. Either party may terminate the lease agreement by giving notice of its intent at least 30 days prior to the end of a calendar year.

25. Notice are deemed given when mailed by United States Postal Service, first class mail, postage prepaid and addressed as follows:

If to City:  
Spanish Fork City  
Attn: City Manager  
40 S. Main  
Spanish Fork, Ut 84660

If to Zip:  
Zip Flyer  
Attn: Troy Richardson  
503 E. Salem Hills Dr.  
Elk Ridge, Ut 84651

26. In the event either party is in breach of any of its obligations set forth herein, notice of the breach shall be given as set forth herein. The party in breach shall have thirty (30) days to cure the breach. If no cure takes place within thirty (30) days, the non-breaching party may terminate this agreement.

27. Upon termination of this agreement, Zip shall, at its expense, remove its towers, lines, and any other equipment which is above ground. The tower bases shall be covered with a minimum of four inches of natural soil and vegetated over to avoid erosion. Benches along the trail are to remain and shall become the property of City.

28. A waiver of any portion of this agreement does not waive any other portion, nor does it constitute a waiver of the same portion in a subsequent year.

29. This document represents the entire agreement between the parties. All prior negotiations, understandings, or agreements are merged herein and superceded hereby.

30. This document may only be amended by a written document executed by all the parties hereto.

31. In the event of a breach of this agreement, the breaching party shall be responsible for the attorneys fees incurred by the non-breaching party.

32. This contract has been an arms length negotiation, with each party having the opportunity to have its attorney review it. Thus, no provision of this agreement may be construed against a party by reason of the rule of law that a contract term is construed against the drafting party.

DATED this \_\_\_\_\_ day of June, 2009.

SPANISH FORK CITY by:

\_\_\_\_\_  
JOE L THOMAS, Mayor

ATTEST:

\_\_\_\_\_  
KIMBERLY ROBINSON, Recorder

AA MACHINING AND WELDING, INC. dba  
ZIP FLYER by:

\_\_\_\_\_  
MICHAEL TROY RICHARDSON, President

## MEMO

To: Mayor and City Council  
From: S. Junior Baker  
Date: 1 July 2009  
Re: Ordinance amending elections requirements

The July 7 council agenda contains a consent items for an ordinance making amendments to the election code section of the Spanish Fork Municipal Code. These are made to be in compliance with state law. Currently, our ordinance lists the filing for office period as between July 15 and August 15. The state law has now changes and the filing period is now July 1 through July 15. Primary elections used to be held in October, which is what our current ordinance states. The law now required it to be held in September. This ordinance makes those changes to our Code. Since the changes are very minor, this appears as a consent item.

# ORDINANCE NO. 13-09

## ROLL CALL

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

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

## ORDINANCE 13-09

### AN ORDINANCE AMENDING THE MUNICIPAL CODE CONCERNING NOMINATIONS FOR ELECTIVE OFFICE

WHEREAS, Spanish Fork City has enacted, as part of its Municipal Code, an ordinance outlining the procedure for nomination to elective office; and

WHEREAS, the Utah State Legislature has amended the state law requirements for nomination to public elective office, thus requiring an amendment to the Spanish Fork Municipal Code to remain in compliance with state law;

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

### I.

Spanish Fork Municipal Code §2.48.020(B) is hereby amended to read as follows:

**2.48.020 Nominations**

B. To become a candidate for elective office at a November election of the City, a declaration of candidacy or nomination petition shall be filed with the City Recorder in compliance with state law, as found in Utah Code Ann. §20A-9-203(1953 as amended). The declaration of candidacy shall comply with the form set forth in Utah Code Ann. §20A-9-203(3) (1953 as amended).

**II.**

Spanish Fork Municipal Code §2.48.030 is hereby amended to read as follows:

**2.48.030 Primary Elections**

A primary election shall be held, in accordance with Utah Code Ann. §20A-9-404 (1953 as amended), to determine the candidates for elective office at the municipal election. If the number of candidates for a particular office, however, does not exceed twice the number of offices to be filled in the election, no primary election for that office shall be held and the candidate is deemed nominated for the final election.

**III.**

This ordinance shall become effective 20 days after passage and publication.

PASSED AND ORDERED PUBLISHED BY THE SPANISH FORK CITY COUNCIL  
OF SPANISH FORK, UTAH, this 7th day of July, 2009.

\_\_\_\_\_  
JOE L THOMAS, Mayor

ATTEST:

\_\_\_\_\_  
KIMBERLY ROBINSON, City Recorder