**SANPETE COUNTY COMMISSION MEETING**
**April 8, 2009 6:00 P.M.**
**Sanpete County Courthouse, 160 North Main, Room 303, Manti, Utah**

Present are: Commission Chair Claudia Jarrett, Commissioners Spencer Cox and Steve Frischknecht, County Attorney Ross Blackham, and County Clerk Sandy Neill. Also present is Brian Baker. Ryan Bjerke appears by phone.

Meeting is called to order by Commission Chair Claudia Jarrett.

**RESOLUTION CONFIRMING THE ASSESSMENT LIST AND LEVYING AN ASSESSMENT AGAINST CERTAIN PROPERTIES IN THE SPECIAL ASSESSMENT AREA KNOWN AS SANPETE COUNTY, UTAH SPECIAL ASSESSMENT AREA NO. 1 (INDIANOLA VALLEY FIRE STATION SSA) FOR THE PURPOSE OF PAYING THE COSTS OF MAKING CERTAIN IMPROVEMENTS WITHIN THE AREA CONSISTING OF ACQUIRING AND CONSTRUCTING A FIRE STATION; [ESTABLISHING A SPECIAL IMPROVEMENT GUARANTY FUND]; ESTABLISHING THE EFFECTIVE DATE OF THIS RESOLUTION; AND PROVIDING FOR RELATED MATTERS.**

The Board of Equalization reports to the Board of Commissioners. Five individuals, Morris D Kunz, Larry Earl, Bryce Jackson, Don H Orme, Jerrold N Rasmussen, made formal appearance at the Board of Equalization. After hearing their concerns relative to their inclusion it was determined that 3 parcels (S 20151, S 20200, and S 20201) should not be assessed as they are outside the special assessment boundaries. Two parcels (S 20191x and S 20099) are owned by the County and by statute cannot be assessed. Quality for Animal Life will remain included in the special assessment list. It was determined that even though they are tax exempt, they would benefit from the fire protection. Motion is made by Commissioner Frischknecht to accept the report from the Board of Equalization. The motion is seconded by Commissioner Cox, and the motion passes.

Motion is made by Commissioner Frischknecht to adopt Resolution #04-08-09 subject to the amended assessment list. The motion is seconded by Commissioner Cox, and the motion passes.

Motion is made by Commissioner Cox to charge Sanpete County for services for the 2 parcels owned by the County (that are exempt from being a part of the assessment area by statute) because the county will benefit from those services. The motion is seconded by Commissioner Frischknecht, and the motion passes.

Motion is made by Commissioner Cox to adjourn. The motion is seconded by Commissioner Frischknecht, and the motion passes.

The meeting is adjourned at 6:32 P.M.

ATTEST: Sandy Neill
Sandy Neill
Sanpete County Clerk

APPROVED: Claudia Jarrett
Claudia Jarrett
Commission Chair

RESOLUTION NO. 04-08-09

SPECIAL ASSESSMENT AREA NO. 1
(INDIANOLA VALLEY FIRE STATION SAA)
ASSESSMENT RESOLUTION

A RESOLUTION CONFIRMING THE ASSESSMENT LIST AND LEVYING AN ASSESSMENT AGAINST CERTAIN PROPERTIES IN THE SPECIAL ASSESSMENT AREA KNOWN AS SANPETE COUNTY, UTAH SPECIAL ASSESSMENT AREA NO. 1 (INDIANOLA VALLEY FIRE STATION SAA) FOR THE PURPOSE OF PAYING THE COSTS OF MAKING CERTAIN IMPROVEMENTS WITHIN THE AREA CONSISTING OF ACQUIRING AND CONSTRUCTING A FIRE STATION; ESTABLISHING THE EFFECTIVE DATE OF THIS RESOLUTION; AND PROVIDING FOR RELATED MATTERS.

WHEREAS, pursuant to the Assessment Area Act, Title 11, Chapter 42 of the Utah Code Annotated 1953, as amended (the *"Act"*), the Board of County Commissioners (the *"Board"* or the *"County Legislative Body"*) of Sanpete County, Utah (the *"County"*), is authorized to designate a special assessment area to make and finance improvements consisting of the acquisition and construction of a new fire station to provide fire protection for certain properties in the County (the *"Improvements"*);

WHEREAS, on December 2, 2008, the Council adopted a resolution declaring the intention of the Council to create the Sanpete County, Utah Special Assessment Area No. 1 (Indianola Valley Fire Station SAA) (the *"Area"*) and providing for a Notice of Intention (the *"Notice of Intention"*) to designate the Area;

WHEREAS, the Notice of Intention was published on December 11, December 18, and December 25, 2008, and January 1, 2009, in *The Pyramid*, a newspaper having general circulation in Sanpete County, Utah;

WHEREAS, not later than 10 days after the first publication of the Notice of Intention, the Notice of Intention was mailed, addressed to each owner of record of property to be assessed within the Area and addressed to "owner" at the street number or other mailing address (to the extent such street number or other mailing address was available) of each piece of improved property to be assessed, in satisfaction of the requirements of the Act, particularly Section 11-42-202 thereof;

WHEREAS, in accordance with the Notice of Intention and after giving notice as required by the Act, a public hearing was conducted by the Board on January 20, 2009, and the Board considered all filed protests and heard all objections concerning the creation of the Area, the making of the Improvements and all other matters relating to the Area;

WHEREAS, after protests against the designation of the Area were considered and objections relating to the Area were heard, on February 3, 2009, the Board adopted Resolution No. 02-03-09, designating the Area to make the Improvements;

WHEREAS, within fifteen days after the designation of the Area, the Board filed in the County Recorder's office a copy of the Notice of Intention and the resolution designating the Area, along with a list of properties proposed to be assessed described by the tax identification number and legal description;

WHEREAS, on March 3, 2009, the Board adopted Resolution No. 03-03-09 appointing a Board of Equalization and Review for the Area (the *"Equalization Board"*), setting the place and dates for said Equalization Board to hear arguments relating to the proposed assessments, and providing for a notice of meeting of said Equalization Board (the *"Board Hearing Notice"*);

WHEREAS, the Board Hearing Notice was published on March 12, 2009, in *The Pyramid*, a newspaper having general circulation in Sanpete County, Utah;

WHEREAS, not later than 10 days after the first publication of the Board Hearing Notice, the Board Hearing Notice was mailed, addressed to each owner of record of property to be assessed within the Area and addressed to "owner" at the street number or other mailing address (to the extent such street number or other mailing address was available) of each piece of improved property to be assessed, in satisfaction of the requirements of the Act, particularly Section 11-42-402 thereof; and

WHEREAS, the Equalization Board held hearings on April 6, April 7 and April 8, 2009, and the report, findings, decision and recommendation of the Equalization Board have been presented to the Board and are attached hereto as *Exhibit B*;

NOW THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the Board of County Commissioners of Sanpete County, Utah, as follows:

*Section 1. Approval of Assessment List; Findings.* The Board hereby confirms and approves the assessment list for the Area, a copy of which is attached hereto as *Exhibit A* and incorporated herein by reference (the *"Assessment List"*), and the findings of the Equalization Board, a copy of which is attached hereto as *Exhibit B*. The Council hereby confirms that the Assessment List, as corrected by the Equalization Board, is just and equitable; that each piece of property to be assessed within the Area will be benefited in an amount not less than the assessment to be levied against said property; and that no piece of property listed on the Assessment List will bear more than its proportionate share of the cost of the Improvements.

*Section 2. Levy of Assessments.* The Board does hereby levy an assessment upon the property identified on the Assessment List. The assessments levied upon each piece of property therein described shall be in the respective amount set forth on the Assessment List for such piece of property.

The assessments hereby levied are for the purpose of paying (a) the costs of the Improvements, which consist of acquiring and constructing an approximately 4800 square foot fire station that will house 4 fire trucks, gear and other personnel protective equipment to support wild land and structure fire fighting activities in the Area and (b) the costs relating to the creation and administration of the Area and the issuance of the special assessment bonds anticipated to be issued by the County relating to the Area (the *"Bonds"*).

*Section 3. Cost of Improvements; Amount of Total Assessments.* The total cost of the Improvements in the Area is $780,000, including allowable related expenses. The amount to be assessed against property affected or benefited by the Improvements is $340,000. This amount does not exceed in the aggregate the sum of: (a) the total estimated contract prices for the Improvements; (b) the reasonable cost of utility services, maintenance and operation, labor, materials or equipment, if any; (c) the property price, if any; (d) connection fees, if any; (e) overhead costs not to exceed fifteen percent (15%) of the sum of (a), (b), (c) and (d); and (f) an amount for contingencies not to exceed 10% of the sum of (a) and (b).

*Section 4. Method and Rate.* The total assessment for the Area is levied by lot, which for purposes of the Area means a lot or a parcel as identified by a separate tax identification number. The applicable assessment for each piece of property was determined based on costs as set out in the preceding Section.

*Section 5. Payment of Assessments.* **THE WHOLE OR ANY PART OF THE ASSESSMENTS FOR THE AREA MAY BE PAID WITHOUT INTEREST WITHIN TWENTY-FIVE (25) DAYS AFTER THIS RESOLUTION BECOMES EFFECTIVE. ANY PART OF THE ASSESSMENT NOT PAID WITHIN SUCH TWENTY-FIVE (25) DAY PERIOD SHALL BE PAYABLE OVER A PERIOD OF TWENTY (20) YEARS IN TWENTY (20) SUBSTANTIALLY EQUAL ANNUAL INSTALLMENTS. THE UNPAID BALANCE OF THE ASSESSMENT SHALL BEAR INTEREST AT THE SAME RATE AS THE NET EFFECTIVE INTEREST RATE OF THE BONDS PLUS 300 BASIS POINTS (3.00%)(OR SUCH LOWER AMOUNT AS DETERMINED BY THE BOARD) TO PAY ONGOING COSTS OF THE COUNTY INCURRED WITH RESPECT TO THE ADMINISTRATION OF THE AREA, INCLUDING, BUT NOT LIMITED TO, THE ESTABLISHMENT OF A RESERVE FUND TO SECURE THE BONDS. THE ASSESSMENT PAYMENT DATES SHALL BE APRIL 1, 2010 AND EACH APRIL 1 THEREAFTER. INTEREST SHALL ACCRUE FROM THE LATER OF (X) THE EFFECTIVE DATE OF THIS RESOLUTION AND (Y) THE DATE OF ISSUANCE OF THE BONDS, UNTIL PAID.**

After the above-referenced twenty-five (25) day period, all unpaid installments of an assessment levied against any piece of property may be paid prior to the dates on which they become due. Such prepayment must include an additional amount equal to (a) the interest which would accrue on the assessment to the next succeeding date on which interest is payable on the Bonds plus (b) such additional amount as, in the opinion of the County Auditor or such other department, employee or officer of the County designated by the Board (in such capacity, the *"Area Coordinator"*), is necessary to assure the availability of money to pay interest on the Bonds as interest becomes due and payable plus (c) any premiums which may be charged and become payable on Bonds subject to redemption in order to utilize the assessments paid in advance.

At least thirty days before a prepayment is made, the property owner shall request in writing, from the Area Coordinator, the total prepayment amount. The Area Coordinator shall calculate and deliver written notice of such prepayment amount, including the amounts specified in the preceding paragraph, within fifteen days of receipt of such request.

Upon prepayment in full of the assessment of a piece of property in accordance with this Section 5, the County shall file a release of lien with the County Recorder releasing the lien of assessment on said piece of property.

*Section 6. Default in Payment.* (a) If a default occurs in the payment of any installment of principal or interest, when due, the County may declare the unpaid amount to be immediately due and payable and subject to collection as provided herein. In addition, it may accelerate payment of the total unpaid balance of the assessment and declare the whole of the unpaid principal and interest then due to be immediately due and payable. Interest shall accrue and be paid on all amounts declared to be delinquent or accelerated and immediately due and payable at the same rate or rates of interest as are applied to delinquent real property taxes for the year in which the assessment installment becomes delinquent (the *"Delinquent Rate"*) until the next succeeding date after payment or collection on which interest is payable on the Bonds. Costs of collection as approved by the Council or required by law shall be charged and paid on all amounts declared to be delinquent or accelerated and immediately due and payable.

(b) If a default occurs in the payment of any installment, when due, and the County declares the unpaid amount to be due and payable, the Area Coordinator, on behalf of the Board, shall give notice, in writing, of the default to the owner of the property in default, as shown by the last available equalized assessment rolls. Notice shall be effective upon deposit of the notice in the U.S. Mail, postage prepaid, and addressed to the owner as shown on the last equalized assessment rolls for the County or on the official ownership records of the County. The notice shall provide for a period of thirty (30) days in which the owner shall pay the installments then due and owing together with accrued interest at the regular rate plus costs as determined by the Area Coordinator, on behalf of the Board. The Notice shall also declare that after the thirty (30) day period the County may accelerate the then unpaid balance of the principal of the assessment to be immediately due and payable together with costs and interest on the entire unpaid balance to accrue from the date of delinquency at the Delinquent Rate.

(c) If a default occurs in the payment of any installment, when due, and the County accelerates payment of the total unpaid balance of the assessment and declares the whole of the unpaid principal and interest then due to be immediately due and payable, the Area Coordinator, on behalf of the Board, shall give notice, in writing, of the default to the owner of the property in default, as shown by the last available equalized assessment rolls. Notice shall be effective upon deposit of the notice in the U.S. Mail, postage prepaid, and addressed to the owner as shown on the last equalized assessment rolls for the County or on the official ownership records of the County. The notice shall provide for a period of thirty (30) days in which the owner shall pay the total unpaid balance of the assessment with accrued interest at the Delinquent Rate plus costs as determined by the Area Coordinator, on behalf of the Board.

(d) After notice has been given as provided in Section 6(b) or Section 6(c), the County may commence foreclosure proceedings in the manner provided for actions to foreclose mortgage liens or trust deeds. If at the sale no person or entity shall bid and pay the County the amount due on the assessment plus interest and costs, the property shall be deemed sold to the County for these amounts. The County shall be permitted to bid at the sale.

(e) The remedies provided herein for the collection of assessments and the enforcement of liens shall be deemed and construed to be cumulative and the use of any one method or means of collection or enforcement shall not deprive the County of the use of any other method or means, including the remedies provided for collection of property taxes under Title 59, Chapter 2, Utah Code Annotated 1953, as amended. The amounts of accrued interest and all costs of collection shall be added to the amount of the assessment up to the date of foreclosure sale.

*Section 7. Remedy upon Default.* If prior to the final date that payment may be legally made under a final sale or foreclosure of property to collect delinquent assessment installments, the property owner pays the full amount of all unpaid installments that are past due and delinquent with interest at the Delinquent Rate to the date of payment plus all approved or required costs, said owner shall be restored so that the owner will have the right to make the payments in installments as if the default had not occurred.

*Section 8. Lien of Assessment.* An assessment, or any part or installment of it, and interest accruing and the penalties and costs of collection shall constitute a lien against the property upon which the assessment is levied on the effective date of this Resolution. Said lien shall be superior to the lien of any trust deed, mortgage, mechanic's or materialman's lien or other encumbrance and shall be equal to and on a parity with the lien for general property taxes. The lien shall apply without interruption, change in priority, or alteration in any manner to any reduced payment obligation and shall continue until the assessments, reduced payment obligations, and any interest, penalties and costs on it are paid, notwithstanding any sale of the property for or on account of a delinquent general property tax, special tax or other assessment or the issuance of tax deed, an assignment of interest by the County or a sheriff's certificate of sale or deed.

*Section 9. Contestability.* No assessment or proceedings in the Area shall be declared void or set aside in whole or in part in consequence of any error or irregularity which does not go to the equity or justice of the assessment or proceeding. Any party who has not waived his objections to same as provided by statute may commence a civil action against the County to enjoin the levy or collection of the assessment or to set aside and declare unlawful any proceeding in the Area.

Such action must be commenced and summons must be served on the County not later than 30 days after the effective date of this Resolution. Such action shall be the exclusive remedy of any aggrieved party. No court shall entertain any complaint which the party was authorized to make by statute but did not timely make or any complaint that does not go to the equity or justice of the assessment or proceeding.

After the expiration of the 30-day period provided in this section:

(a) The Bonds and the assessments levied in the District shall become incontestable as to all persons who have not commenced the action provided for in this section: and

(b) No suit to enjoin the issuance or payment of the Bonds, the levy, collection or enforcement of the assessments, or in any other manner attacking or questioning the legality of the Bonds or assessments may be instituted in the State of Utah, and no court shall have authority to inquire into such matters.

*Section 10. Notice.* The Area Coordinator is hereby authorized and directed to give notice of the assessment by mail to the property owners in the Area. Said notice shall, among other things, state the amount of the assessment and the terms of payment. A copy of the form of notice of assessment is available for examination upon request at the office of the County Clerk.

*Section 11. All Necessary Action Approved.* The officials of the County are hereby authorized and directed to take all action necessary and appropriate to effectuate the provisions of this Resolution.

*Section 12. Repeal of Conflicting Provisions.* All Resolutions, resolutions or parts thereof in conflict with this Resolution are hereby repealed.

*Section 13. Publication and Effective Date of Resolution.* This Resolution shall be published once in *The Pyramid*, a newspaper having general circulation in the County, and shall take effect immediately upon its passage and approval and publication as required by law; *provided, however,* that this Resolution shall take effect no earlier than April 16, 2009.

*Section 14. Incorporation of Assessment List.* This Resolution incorporates by reference the Assessment List which describes the list of properties assessed by tax identification number and a valid legal description of the property within the Area.

*Section 15. Filing of Notice of Assessment Interest.* The County Clerk is hereby authorized and directed to file a copy of a Notice of Assessment Interest, as required by Section 11-42-404(4), within five days after the twenty-five day prepayment period described in Section 5 hereof in the County Recorder's office.

(*Signature page follows.*)

Approved and adopted by the Board of County Commissioners of Sanpete County, Utah this 8th day of April, 2009.

SANPETE COUNTY, UTAH

Chair, Board of County Commissioners

[SEAL]

ATTEST:

County Clerk