

**CITY OF FARMINGTON  
CITY COUNCIL WORK SESSION AGENDA  
September 2, 2014 – 9:00 a.m.**

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**DEPARTMENT HEAD REPORTS**

1. Presentation regarding the Animas River Bacterial Source Tracking Study (David Tomko and Melissa May, San Juan Watershed Group)

Action Requested of Council:

Information only.

Background/Rationale:

Water sampling of the Animas River taken by the New Mexico Environment Department in 2010 exceeded the standard for primary contact for E. coli bacteria. However, a direct E. coli source impacting the river was not identified.

The San Juan Watershed Group obtained grant funding from BHP-Billiton to examine possible E. coli sources through a DNA study. Once more specific sources are identified, the strategy is to implement a plan of action to mitigate these sources and improve water quality.

2. Proposed Resolution No. 2014-1526 consenting to the incorporation of the proposed Town of Kirtland, New Mexico which will be located within five miles of the municipal boundaries of the City of Farmington (Jay Burnham and Mark Duncan) ----- 1

Action Requested of Council:

Adoption of Resolution No. 2014-1526.

Background/Rationale:

A petition for incorporation of a proposed Town of Kirtland, New Mexico together with Exhibits "A" and "B" were received. The proposed Town would consist of the Harper Valley Subdivision and the current commercial area encompassed by the Lower Valley Water and Sanitation District. A portion of the area to be incorporated is within five miles of the current City of Farmington boundaries and therefore under NMSA 1978 3-2-3B(1) the governing body of the City of Farmington must give its consent to incorporate.

Staff Recommendation:

Adoption of Resolution No. 2014-1526.

Instructions Upon Approval:

Distribute copies of Resolution No. 2014-1526 to all entities involved.

Budgetary Impact:

None.

3. Agreement between the City of Farmington and the Farmers Irrigation District for the transportation of raw water (David Sypher)----- 2

Action Requested of Council:

Approve and execute the agreement.

Background/Rationale:

The Public Utility Commission at their August 13, 2014 meeting reviewed the proposed agreement between the City of Farmington and Farmers Irrigation District for delivery of raw water to Farmington Lake via the Farmers Irrigation Ditch. The minutes from that meeting are not yet available. A motion was made and seconded to recommend to the City Council approval of the proposed agreement for the delivery of raw water to Farmington Lake by the Farmers Irrigation District. The motion passed by unanimous voice vote.

In 1963 the City of Farmington (City) signed an Agreement with the Farmers Irrigation District to provide for the transportation of water to Farmington Lake via the Farmers Ditch. Although this Agreement was amended, mostly for the cost of transportation of water, that Agreement did terminate at the end of 2013. At the end of the 1963 Agreement, the City's cost for the transportation of water via the Farmers Ditch was \$10.00 per acre foot.

Because this relationship benefits the City's long-term water vision in providing cost-effective water to customers, the parties have been in a dialog to complete a new Agreement since November 2013. The outcome of that dialog resulted in a new Agreement being presented for Farmington City Council's consideration.

Attached documents include:

- A summary of the expired contract and a summary of the new agreement
- E-mail from Aleece Hottel, President of Farmers Irrigation District, regarding the price increase to the users of the Farmers Irrigation Ditch.

- A summary of the amount of water delivered via Farmers Irrigation District's ditch to Farmington Lake since 2004 and the associated payments that have been made.
- Proposed Agreement

Water/Wastewater's vision of why this Agreement is essential to the City is it provides a second Animas River point of diversion which is upgradient to the City's other diversion points. An upgradient diversion point using this 35-mile conduit may well be advantageous during Lake Nighthorse releases and is essential in protecting water quality should the lower Animas River be subject to impairment.

The important elements of the new Agreement are:

- Term: 20 years: This Agreement shall terminate on December 31, 2033. However, as described below, either party can renegotiate certain terms of the Agreement after 2024.
- Rate: Beginning January 1, 2014 for calendar years 2014 and 2015, the budget to transport water through the Farmers Ditch will increase from the current \$10.00 per acre-foot to \$13.00 per acre-foot. Beginning in calendar year 2016 and for the next eight (8) calendar years, the rate for the transportation of water will increase by 2.5% per annum. After the eighth year, the increase rate will remain at 2.5% for the remaining term of the Agreement unless either party elects to initiate a change in the increase rate because of the econometrics at that time. In the event of such circumstances, the parties would negotiate any change to the annual percentage rate and term for the remaining years of the Agreement.

Staff's vision in collaborating timely renegotiations of this Agreement, especially when the economic conditions dictate a change in the percentage rate (either increase or decrease) would benefit the City, would minimize periodic drastic changes in transportation costs of water from the Animas River to Farmington Lake.

The City will pay Farmers at a rate of \$13.00 per acre-foot for all water obtained from Farmers since January 1, 2014 until the execution of an Agreement.

- The billing periods will change from twice to three times per year as described in this table.

<b>Billing Period</b>	<b>Billing Date</b>	<b>Payment Date</b>
June 1 through September 30	October 15	November 1
October 1 through January 31	February 15	March 1
February 1 through May 31	June 15	July 1

- Disputes will be resolved through an arbitration process.

- In the event Farmers elects to sell, dispose of, or otherwise liquidate the ditch, the City has first right of refusal to acquire the ditch and its right-of-way.

Other:

During the July 16, 2014 Farmers Irrigation Ditch meeting, the ditch members present approved the City of Farmington – Farmers Irrigation District Agreement by acclamation of members present and authorized the ditch board president to execute said Agreement. President Aleece Hottell did execute the Agreement on July 24th, 2014 on behalf of the Farmers Irrigation District.

Staff Recommendation:

Approve and execute the agreement.

Instructions Upon Approval:

Distribute executed copies of the agreement to all entities involved.

Budgetary Impact:

None; the Fiscal Year 2015 budget took into account a proposed increase for the delivery of water by Farmers Irrigation District.

4. Bid for lift station No. 3, 5, and 22 improvements (Eddie Smylie) ----- 3

Action Requested of Council:

Approve recommendation for award.

Background/Rationale:

Bids opened August 20, 2014 for the lift station No. 3, 5, and 22 improvements (Public Works) with three bidders participating.

Staff Recommendation:

Award the bid to Sunwestern Contractors as the lowest and best bidder meeting specifications after application of five percent in-state preference (\$938,218).

Instructions Upon Approval:

Award the contract.

5. Consideration of cancellation of the November 24, 2014 and December 23, 2014 regular City Council meetings (Rob Mayes)

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**COUNCIL BUSINESS**

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**CLOSED MEETING**

6. To discuss request for proposals for professional engineering services for master drainage alternatives, phase II, pursuant to Section 10-15-1H(6) NMSA 1978 and acquisition of real properties (MRA district), pursuant to Section 10-15-1H(8).
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**DEPARTMENT HEAD REPORTS**

7. Request for proposals for professional engineering services for master drainage alternatives, phase II (Eddie Smylie) ----- 4

Action Requested of Council:

Approve recommendation to begin negotiations with the top evaluated firm.

Background/Rationale:

Proposals for professional engineering services for master drainage alternatives, phase II (Public Works) were opened on July 25, 2014 with four offerors participating.

Staff Recommendation:

The evaluation committee recommends that negotiations be commenced with Bohannon Huston, Inc. as the top evaluated firm.

Instructions Upon Approval:

Begin negotiations.

**AGENDA ITEM SUPPORT MATERIALS ARE AVAILABLE FOR INSPECTION AND/OR PURCHASE AT THE OFFICE OF THE CITY CLERK, 800 MUNICIPAL DRIVE, FARMINGTON, NEW MEXICO.**

**ATTENTION PERSONS WITH DISABILITIES:** The meeting room and facilities are fully accessible to persons with mobility disabilities. If you plan to attend the meeting and will need an auxiliary aid or service, please contact the City Clerk's Office at 599-1106 or 599-1101 prior to the meeting so that arrangements can be made.

RESOLUTION NO. 2014-1526

A RESOLUTION CONSENTING TO THE INCORPORATION OF THE PROPOSED TOWN OF KIRTLAND NEW MEXICO WHICH WILL BE LOCATED WITHIN FIVE (5) MILES OF THE MUNICIPAL BOUNDARIES OF THE CITY OF FARMINGTON

WHEREAS, the City of Farmington has received a copy of a "Petition for Incorporation of Town of Kirtland, New Mexico Requesting the Board of Commissioners of San Juan County to Hold an Election on the Question of Incorporation," and has determined that the proposed Town of Kirtland would be located within five (5) miles of the boundaries of the City of Farmington; and

WHEREAS, the City of Farmington currently has a contract with the Lower Valley Water and Sanitation District whereby the City of Farmington receives the effluent from the District's wastewater gathering system and treats it at the City of Farmington wastewater treatment plant; and

WHEREAS, the City of Farmington understands that if the new Town is formed the plan is to dissolve the Lower Valley Water and Sanitation District and transfer the District's operations to the new Town.

NOW, THEREFORE, BE IT RESOLVED by the governing body of the City of Farmington that the City of Farmington consents to the incorporation of the proposed new Town of Kirtland, the area of which is outlined in the Exhibits "A" and "B" to the Petition for Incorporation of the Town of Kirtland, New Mexico Requesting the Board of Commissioners of San Juan County to Hold an Election on the Question of Incorporation, which is attached.

PASSED, ADOPTED AND APPROVED this 2<sup>ND</sup> day of September, 2014.

\_\_\_\_\_  
Tommy Roberts, Mayor

SEAL

ATTEST:

\_\_\_\_\_  
Dianne Smylie, City Clerk

# **COPPLER LAW FIRM, P.C.**

**A PROFESSIONAL CORPORATION**

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\* also licensed in Texas

August 14, 2014

**VIA E-MAIL ONLY TO [jburnham@fmtn.org](mailto:jburnham@fmtn.org)**

**Mr. Jay Burnham Esq.  
City Attorney  
City of Farmington**

**Re: Proposed January 6, 2015 Election/Incorporation of a new Town of  
Kirtland  
Our File No. 3986**

**Dear Mr. Burnham:**

**Enclosed here with please note for background information is:**

1. A petition for incorporation of a proposed Town of Kirtland, New Mexico together with Exhibits "A" and "B", which describe the area and provide a map of the proposed Town boundaries. The proposed Town to consist of the Harper Valley Subdivision and the current commercial area encompassed by the Lower Valley Water and Sanitation District.

2. Affidavits by the President of the Homeowners Association of the Harper Valley Subdivision and the Manager of the Association Water system serving Harper Valley indicating the area contains a number of people at least equal to one person per acre in the proposed Town boundaries.

3. A Municipal Services and Revenue Plan for the proposed new Town.

4. An Election Calendar setting forth the actions that must be taken in order to allow the voters an opportunity to vote on the issue of incorporation on the statutory date of January 6, 2015.

The purpose of this letter is to advise the City of Farmington that a portion of the area to be incorporated is within five (5) miles of the current City boundaries of the City of Farmington and therefore under NMSA 1978 §3-2-3B(1) the governing body of the City of Farmington must give its consent to incorporation of the Town. The incorporation effort is being led by members of the Board of Directors of the Lower Valley Water and Sanitation District which currently has a contract with the City of Farmington whereby

Mr. Jay Burnham Esq.  
August 14, 2014  
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sewage collected in the commercial area of the proposed Town is transported for processing and treatment to the City of. You will notice in the Plan for Municipal Revenue and Services of the Town, should approval of the incorporation be given by voters, the plan is to transfer District property and operations to the Town. The result will be that the new Town will then carry on the relationship with Farmington with respect to sewage treatment and the District will be dissolved. After incorporation, for the near-term, with respect to such services as planning, zoning, subdivision approval and code enforcement, it is planned that the new Town would seek to negotiate with the City of Farmington contracts for these services. Contracts for other services, 911, dispatch, Sheriff, road maintenance etc., would be sought to be negotiated with San Juan County.

Therefore on behalf of the entire group leading the effort to have an election January 6, 2015, presented to you herewith is a proposed Resolution of the City Council of the City of Farmington which would consent to the incorporation of the new Town of Kirtland. I would appreciate it if you would request that this Resolution be on the City of Farmington City Council agenda for September 2, 2014 9:00 a.m. Please do not hesitate to give me a call should you wish to discuss any issues.

Thank you very much.

Very truly yours,

Coppler Law Firm P.C.

  
Frank R. Coppler

FRC:dfh

T:\FRC\LETTER\3986 2014 08-14 Letter Burnham with Proposed Resolution



**PETITION FOR INCORPORATION OF TOWN OF KIRTLAND, NEW MEXICO  
REQUESTING THE BOARD OF COMMISSIONERS OF SAN JUAN COUNTY  
TO HOLD AN ELECTION ON THE QUESTION OF INCORPORATION**

Pursuant to §3-2-1A NMSA 1978, the undersigned petitioners state that the name of the proposed municipality shall be the Town of Kirtland.

1. Attached hereto and incorporated herein as Exhibit "A" is a description of the territory to be incorporated as a municipality (hereinafter referred to as the "Territory") in the San Juan County, New Mexico.

2. Attached hereto and incorporated herein as Exhibit "B," is a plat or map outlining the boundaries of the territory described in Exhibit "A."

3. The Town is to be governed by a Mayor and four Trustees.

4. By signing this Petition, you swear or affirm that you are the owner of property within the territory proposed to be incorporated and the property you own is either tax exempt or if on the tax rolls you are not delinquent in the payment of property taxes on the property immediately prior to the date of your signature on this Petition. Any person knowingly providing or causing to be provided any false information on this Petition, forging a signature, or signing this Petition when that person knows that they are not a landowner or are a landowner delinquent in the payment of property taxes on the property, in the territory proposed to be incorporated as a municipality, is guilty of a fourth degree felony.

5. The San Juan County Commission is requested to conduct such an election on January 6, 2015.

Date	Name (Printed)	Signature	Land Owned in Exhibit "B" (Physical Address)	Size in acres (if known)

\_\_\_\_\_ Date

Approved As To Form, Debbie Holmes,  
County Clerk, San Juan County

**EXHIBIT "A"**

**A certain territory indicated in Exhibit "B" to the petition for Incorporation of the Town of Kirtland including an area to the southeast known as Harper Valley Subdivision and an area to the northwest known as the Valley Water and Sanitation District including Highway 64 and County Road 6100 right-of-ways, consisting of 373 acres.**

# TOWN OF KIRTLAND



THIS MAP WAS PREPARED BY DTF ENGINEERING UTILIZING AVAILABLE AERIAL PHOTOGRAPHY AND PORTIONS OF THE BOUNDARIES OF THE VALLEY WATER AND SANITATION DISTRICT, HARPER VALLEY SUBDIVISION INCLUDING HIGHWAY 64 AND COUNTY ROAD 6100 RIGHT OF WAYS, CONSISTING OF 373 ACRES.



LEGEND  
 VALLEY WATER AND SANITATION DISTRICT  
 HARPER VALLEY SUBDIVISION  
 UTILITY ALIGNMENT/EASEMENT (5 FT WIDE)



EXHIBIT "B"  
 TOWN OF KIRTLAND

DATE: 9/1/14

SHEET OF 1