

Regular Meeting of the City Council, City of Farmington, New Mexico, held in the Council Chamber at City Hall at 7:00 p.m. on Tuesday, January 10, 2012. The open regular session was held in full conformity with the laws and ordinances and rules of the Municipality.

Upon roll call, the following were found to be present, constituting a quorum:

MAYOR	Tommy Roberts
COUNCILORS	Dan Darnell Mary M. Fischer Gayla McCulloch Jason Sandel (arrived late)

constituting all the members of said Governing Body.

Also present were:

CITY MANAGER	Rob Mayes
ASSISTANT CITY MANAGER	Bob Campbell
DEPUTY CITY ATTORNEY	Bill Cooke
CITY CLERK	Dianne Fuhrman

The meeting was convened by the Mayor. Thereupon the following proceedings were duly had and taken:

INVOCATION: The invocation was offered by Pastor Gary McMillan of Providence Presbyterian Church.

Farmington High School Principal Linda Kerr led the Pledge of Allegiance.

CONSENT AGENDA: The Mayor announced that those items on the agenda that are marked with an asterisk (*) have been placed on the Consent Agenda and will be voted on by one motion. He stated that if any item did not meet with approval of all Councilors or if a citizen so requested, that item would be removed from the Consent Agenda and heard under Business from the Floor.

*MINUTES: The minutes of the Regular Meeting of the City Council held December 13, 2011 and the minutes of the Regular Work Sessions of the City Council held December 6, 2011 and December 20, 2011.

*BID: The purchasing officer recommended that the bid for maintenance of Avaya telephone equipment (Information Technology - Computer Operations) be awarded to Altura Communication Solutions on its low bid after application of five percent in-state preference of \$43,905.96, and that the bid received from North American Communications Resource, Inc. be rejected for not meeting specifications. The award amount does not include maintenance for Extreme or Intuity Audix equipment as they were not required. Bids opened December 14, 2011 with five bidders participating.

*ADOPTION OF RESOLUTION NO. 2012-1419 authorizing the City to submit an Alcohol Detoxification Grant Application to the Department of Finance and Administration, Local Government Division, to participate in the Local DWI Grant Program.

*RECOMMENDATION FROM THE LIQUOR HEARING OFFICER for approval of Application #796619 for a new restaurant license (beer and wine on-premise consumption only) from Arturo Quintana, Jr., doing business as Que Rico Restaurant, 1916 E. Main Street, Farmington, New Mexico. (Hearing held January 6, 2012)

*WARRANTS PAYABLE for the time period of December 11, 2011 through January 7, 2012, for current and prior years, in the amount of \$12,533,649.55.

There being no requests to remove any items, a motion was made by Councilor Darnell, seconded by Councilor McCulloch to approve the Consent Agenda, as presented. The roll was called with the following result:

Those voting aye:	Mary M. Fischer Dan Darnell Gayla McCulloch
Those voting nay:	None
Those absent:	Jason Sandel

The presiding officer thereupon declared that three Councilors having voted in favor thereof, the said motion carried.

Councilor Sandel arrived at the meeting at 7:04 p.m.

FARMINGTON HIGH SCHOOL BOYS SOCCER STATE CHAMPION DAY PROCLAMATION

The Mayor presented the Farmington High School Boys Soccer Team with a Proclamation declaring January 10, 2012 as, "Farmington High School Boys Soccer State Champion Day."

REQUEST FOR PERMISSION TO REAPPLY FOR A ZONE CHANGE/CRAIG STOABS/VICTORIA WAY AND COLLEGE BOULEVARD

Community Development Director Mary Holton reported that Craig Stoabs is requesting permission to reapply for a zone change on property located north of Victoria Way and east of College Boulevard, noting that the Council denied his request to change the zone from single-family to multi-family/medium density on August 9, 2011. Referring to Section 8.7.6 of the Unified Development Code ("UDC"), Ms. Holton explained that developers are prohibited from reapplying for a zone change for the same piece of property within 365 days from the date of final denial unless the applicant can determine that 1) there is a substantial change in the circumstances that might reasonably affect the Council's prior decision; 2) new or additional information has become available that might reasonably affect the Council's prior decision; or 3) a new application has been submitted that is materially different from the prior application or the Council's final decision was based on a material mistake of fact.

Addressing the Council, Craig Stoabs argued that the new application is materially different since he is now proposing the construction of apartment complexes through the Planned Development ("PD") process. He explained that the PD will restrict the development on the property to a pre-defined site plan that has been approved by the Council and will reduce the density from 130 units to 104 (a 31 percent decrease); restrict the maximum height of the structures from 45 feet to 28 feet (a 38 percent reduction); and increase the setbacks from the adjacent single-family properties from 25 feet to 80 feet. Furthermore, he noted that the PD will require a minimum of 10 percent common open space and assured the Council that he will not be requesting "Phase 2" which was originally proposed for the northern side of the subject property. He also stated that he has read numerous studies that indicate that apartment complexes that are located adjacent to residential areas do not decrease the property values. In closing, he noted that he was unaware of the 365-day waiting period at the time his prior rezoning application was considered and announced that he interprets the UDC requirement differently from that of the City Attorney since he believes that if a different rezoning application is submitted, then it can be considered within the same year.

In response to inquiry from the Mayor, Ms. Holton announced that staff believes that an application for a planned development is materially different from an application to rezone a piece of property.

Mayor Roberts explained that the Council, at tonight's meeting, is simply being asked to determine whether Mr. Stoabs has met the criteria to allow him to reapply for a zone change for the subject property within the 365 days. He assured the residents who were present at the meeting that if such determination is made, they will be given adequate opportunity to address their concerns with the Planning and Zoning Commission and the City Council. He asked for comments from the audience.

Jeff Gilbertson, 3115 Windsor Drive, questioned the difference between the previously proposed MF-M zone designation and the proposed PD. In response, Ms. Holton explained that the MF-M zone designation would allow the maximum densities and height restrictions and would not require Mr. Stoabs to submit a site plan until such time that a building permit is issued. She stated that the PD will give the residents more opportunity to be involved in the planning phase since the site plan will have to be reviewed and approved by the Planning and Zoning Commission and the City Council.

Victoria Lacey, 4104 Abbey Road, argued that Mr. Stoabs will not be presenting an application that is materially different because he is still proposing the construction of apartment units that will be rented instead of townhomes or condominiums that will be owned by the residents.

Steve Perkins, 4810 Cameron Avenue, voiced his strong objection to allowing Mr. Stoabs to proceed with another zone change request for the subject property, contending that an apartment complex does not take into account the safety and welfare of the existing residents. Arguing that traffic will increase and property values will decrease, Mr. Perkins urged the Council to deny Mr. Stoabs' request because he believes that the developer has not been honest with the residents.

Jonathan Anderson announced that he lives on Country Club Drive and stated that he is concerned about the increase in traffic if an apartment complex is constructed on the subject property.

Heather Malone, 3700 Manchester Street, announced that she is opposed to an apartment complex being constructed on the subject property since the developer initially told the residents that he was constructing a gated-community for retirees. She strongly urged the Council to deny Mr. Stoab's request, contending that it will hurt his reputation and future business opportunities because current property owners will not be giving him a good reference.

Noting that he believes that Mr. Stoabs should have been pursuing a planned development on the property all along, Councilor Darnell explained that he does not see the benefit of having Mr. Stoabs wait 365 days before submitting a new application. He also stated that he believes that the proposed PD is materially different from the prior MF-M zone change request since there is more oversight in the development process.

Councilor McCulloch stated that she also believes that the proposed PD is materially different from the MF-M zone change request.

Councilor Fischer disagreed, stating that she believes that Mr. Stoabs should wait the 365 days before reapplying for a zone change.

Announcing that he believes that Mr. Stoabs has met the criteria of Section 8.7.6A of the UDC, Councilor Sandel stated that he believes that an application that is substantially different from the prior zone change request will be submitted.

Following further discussion, Mayor Roberts pointed out that Mr. Stoabs has the right to appeal tonight's decision of the Council to district court within 15 days, in accordance with Section 8.7.7 of the UDC.

Thereupon, a motion was made by Councilor Sandel, seconded by Councilor Darnell to grant Craig Stoabs permission to reapply for a zone change for approximately six acres of land located north of Victoria Way and east of College Boulevard. The roll was called with the following result:

Those voting aye:	Dan Darnell Gayla McCulloch Jason Sandel
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Those voting nay:	Mary M. Fischer
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The presiding officer thereupon declared that three Councilors having voted in favor thereof, the said motion carried.

PROPOSED FEES/PIÑON HILLS AND CIVITAN GOLF COURSES

Providing the Council with opening remarks, Parks, Recreation and Cultural Affairs Director Jeff Bowman reported that at least 1,000 golfers were notified of the public meeting that was held last Thursday for the purpose of advising them on the status of the Golf Fund and staff's proposal to increase golf fees at Piñon Hills and Civitan Golf Courses. He also assured Mayor Roberts that the \$2 surcharge on pass holders rounds that was originally proposed has been removed from consideration. He directed the Council to pages 5.0 through 5.5 of the agenda materials and stated that staff is requesting Council approval of one of the six options that have been presented.

Mayor Roberts stated that he supports the reallocation of monies from the Golf Fund to the General Fund for the operation Civitan Golf Course and the continued operation of Piñon Hills Golf Course ("PHGC") as an enterprise account in the Golf Fund. Thus, he announced that he supports Options 2a, b, or c.

City Manager Rob Mayes noted that staff is recommending that the Council authorize annual adjustments to the golf fees that are equal to the Consumer Price Index ("CPI") plus 1.5 percent. Mayor Roberts reported that he is not opposed to an annual adjustment in fees, but stated that he would prefer that it be authorized by the Council on a discretionary basis.

In response to inquiry from Mayor Roberts, Mr. Bowman stated that staff is most supportive of Option 2b which, compared to Option 2a, proposes slightly higher fees per round of golf but reduces the annual pass fees.

The Mayor asked for comments from the audience.

Randy Pacheco, 405 N. Behrend Avenue, cautioned the Council about imposing annual increases on the fees, contending that it may force pass holders to switch to Riverview Golf Course. He suggested that the City consider implementing corporate memberships or afternoon reduced-rate fees in an effort to increase revenue.

Chris Whitney reported that he often plays at Riverview Golf Course because the fee is less costly and it is easier to get a tee time, contending that there are too many tournaments being scheduled at PHGC during the weekend.

Following further consideration, a motion was made by Councilor McCulloch, seconded by Mayor Roberts, to adopt Option 2b.

Discussion followed concerning the proposed annual rate adjustment based on the CPI plus 1.5 percent. Councilors McCulloch and Darnell announced that they support a discretionary increase based on the economic condition of the Golf Fund. Councilor Fischer maintained her position that water rates are too high and contended that the Golf Fund would be healthy if the water rates were reduced. Councilor Darnell defended the prior action of the Council, noting that there would be significant infrastructure deficiencies if the water rates had not been increased.

Staff responded to numerous questions from Councilor Sandel concerning the capital improvement needs at Piñon Hills and Civitan Golf Courses.

Thereupon, the Mayor called for the vote upon the motion to adopt Option 2b. The roll was called with the following result:

Those voting aye:	Dan Darnell Gayla McCulloch Jason Sandel
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Those voting nay:	Mary M. Fischer
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The presiding officer thereupon declared that three Councilors having voted in favor thereof, the said motion carried.

Following further consideration, a motion was made by Councilor Darnell, seconded by Councilor McCulloch to authorize an annual fee adjustment based on CPI plus 1.5 percent, provided that the adjustment is

considered and approved by the Council on an annual basis prior to it being implemented. The roll was called with the following result:

Those voting aye: Dan Darnell
Gayla McCulloch

Those voting nay: Mary M. Fischer
Jason Sandel

The Mayor voted in favor of the motion and declared the motion carried.

COUNCIL BUSINESS

Posting of Employee Names, Positions and Salaries on the City's Website

Mayor Roberts reported that it was brought to his attention last Wednesday that the names, positions and salaries of all City employees were posted to the website for the Rio Grande Foundation (a watchdog agency that is focused on government transparency) in early August of last year. He stated that he was shocked to learn that such information was already available since the Council has been considering for the past month whether to post such information on the City's website. However, Mayor Roberts explained that he has determined that the information was properly released by the City Clerk in response to a written request for information that was received on June 30, 2011. He also pointed out that the City Clerk is prohibited by state law from asking why such information is being requested and contended that she could not have foreseen that such information was going to be posted on a website for public viewing. Furthermore, he announced that such information is open to public inspection pursuant to the State of New Mexico's Inspection of Public Records Act and City Resolution No. 99-967. With that being said, he explained that the purpose for his comments this evening are to address an article that was written by Debra Mayeux and published in the *Tri-City Tribune* on January 6, 2012 asserting that the City "has a policy on the books that states an employee should be made aware when a request is made of a personal nature" and then goes on to quote Councilor Fischer as saying, "that policy should have been followed, when the request was made, and it was not followed 700 times." Announcing that he has been unable to locate the policy, Mayor Roberts noted that he left Councilor Fischer a couple of voice mails asking her for guidance as to where the policy is located. Announcing that she failed to return his calls, he stated that he is asking her at tonight's meeting to direct him to the policy.

In response to his comments, Councilor Fischer referred to Resolution No. 99-967 and claimed that someone from the City Clerk's Office told her that it was policy to notify employees when a personal inquiry is made. Mayor Roberts read in full paragraph (c) of the stated resolution and pointed out that there is no such provision in the resolution. In response to inquiry from Mayor Roberts, City Clerk Dianne Fuhrman announced that she has worked in the Clerk's Office for the past 12 years and stated that it has never been the policy to notify employees of requests for information that are of a personal nature. Furthermore, she explained that she was the one who spoke directly to Councilor Fischer about this issue and she denied that she told her that it was policy. Mayor Roberts stated that he believes that the credibility of the City Manager and City Clerk were compromised by Councilor Fischer's false statements since they were forced to defend their actions. He stated that he believes that Councilor Fischer owes them an apology.

Councilor Fischer announced that she refuses to apologize for her statement because she believes that policy was breached since the names of the Region II officers were released and posted on the Rio Grande Foundation's website. Stating that she has heard that the City of Rio Rancho does not release the names of their employees, she contended that such information could have been lawfully withheld. In response to her comments, Mayor Roberts stated that he does not understand how the City of Rio Rancho can withhold such information since employee names, positions and salaries are not a specific exception to the Inspection of Public Records Act. Furthermore, he announced that once he was made aware of the format in which the information was posted, he directed City Manager Rob Mayes to contact the Executive Director of the Rio Grande Foundation and ask that the names of the Region II officers be redacted. In addition, he reported that up-to-date information has since been

provided to the Rio Grande Foundation and assured Councilor Fischer that it does not identify the Region II officers but does include the salary information for the Mayor and Council since it was erroneously omitted from the first listing.

Discussion followed concerning the accuracy of the information that is being posted on the Rio Grande Foundation's website and Councilor Fischer asked how the City would ensure that such information is updated on a regular basis. Mr. Mayes explained that the data that was provided to the Rio Grande Foundation was printed from the City's payroll records on the date that the information was requested. Furthermore, he explained that the City can only request that the Rio Grande Foundation keep the information as current as possible since the City does not have direct control over their website.

In closing, Councilor Fischer reiterated her uncertainty that such information is public record and asked that the Legal Department review the opinions of the New Mexico Attorney General to determine if a third-party posting of employee names, positions and salaries has been deemed illegal.

Request for Status on Certain Items

Councilor Sandel announced that there are several items where the Council provided a consensus to staff to proceed, but he has yet to see a report on the status of the projects. He stated that the projects are 1) review the City Code to determine if the City Treasurer is an at-will employee, similar to the City Manager, City Attorney and City Clerk; 2) determine who has liability within a planned unit development where the property is privately owned by the developer; 3) provide a side-by-side comparison on the costs of the originally-proposed animal shelter versus the newly-proposed "scaled down" facility; and 4) provide a report from the City's bond counsel on the five-year bonding cycle.

Request for update from State Lobbyist

Noting that the State Legislature is scheduled to be in session next week, Councilor Sandel questioned why the Council has not been provided an opportunity to discuss its legislative priorities with the City's State Lobbyist. In response, City Manager Rob Mayes announced that this item is scheduled for next Tuesday's City Council Work Session.

Public Information Officer

Voicing his concern for recent statements that were made by a City employee and published in the *Daily Times* concerning a traffic accident at the intersection of College Boulevard and 30th Street, Councilor Sandel stated that he believes that it would be beneficial to the City to create a public information officer position.

Following brief discussion, Mayor Roberts suggested that a training session be scheduled to teach City employees how to better deal with the media.

Electric Utility Newsletter

Noting that the Council recently approved a request from the Electric Utility Department to provide utility customers with the APPA eco@home quarterly newsletter, Councilor Sandel stated that he would prefer that the Electric Utility provide its customers with a publication that resembles the La Plata Electric Association newsletter. He provided the Council with the most recent copy of the publication.

There being no further business to come before the Council, the meeting was adjourned at 9:09 p.m.

The City Clerk certified that notice of the foregoing meeting was given by posting pursuant to Resolution No. 96-844, et seq.

Approved this 24th day of January, 2012.

Entered in the permanent record book this 25th day of January,
2012.

Tommy Roberts, Mayor

SEAL

ATTEST:

Dianne Fuhrman, City Clerk