

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 11, 2011. 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

constituting all the members of said Governing Body.

Also present were:

CITY MANAGER	Rob Mayes
ASSISTANT CITY MANAGER	Bob Campbell
CITY ATTORNEY	Jay B. Burnham
CITY CLERK	Dianne Fuhrman

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

INVOCATION: The invocation was offered by Father Tim Farrell of Sacred Heart Catholic Church.

Planning and Zoning Commission Chairman Dennis Ivie 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 28, 2010.

*GRANT AGREEMENT between the City and the State of New Mexico Economic Development Department providing for funding in the amount of \$4,000 for Certified Communities Initiative to facilitate the recruitment, retention, expansion and creation of economic-based jobs to qualified communities (expiration June 30, 2011).

*WARRANTS PAYABLE for the time period of December 26, 2010 through January 8, 2011, for current and prior years, in the amount of \$4,349,170.12.

There being no requests to remove any items, a motion was made by Councilor Darnell, seconded by Councilor Sandel to approve the Consent Agenda, as presented, and upon voice vote the motion carried unanimously.

RECOMMENDATIONS FROM THE PLANNING AND ZONING COMMISSION:

CONSENT AGENDA: Community Development Director Mary Holton requested that the Planning and Zoning Commission recommendation marked with an asterisk () be placed on the Planning and Zoning Commission Consent Agenda and voted on by one motion. She asked that if the item proposed did not meet with approval of all Councilors or if a citizen so requested, it would be removed from the Consent Agenda and heard in regular order.

*(1) Adoption of the Community Development Petition Report and action of the Planning and Zoning Commission to approve Petition No. ZC 10-13 from Patrick Nelson, represented by George Walters, requesting a zone change from the PD, Planned

Development, District to the MU, Mixed-Use, District for 17.16 acres (Lot 1 of the Cannery Subdivision) located south of Broadway and north of Cannery Court.

There being no requests to remove the item, a motion was made by Councilor Sandel, seconded by Councilor Darnell to approve the Planning and Zoning Commission Consent Agenda, as presented, and upon voice vote the motion carried unanimously.

Associate Planner Margaret Ambrosino presented the following recommendation from the Planning and Zoning Commission:

- (2) Adoption of the Community Development Petition Report and action of the Planning and Zoning Commission to approve Petition No. ANX 10-03 from Farmington Municipal Schools, represented by James Barfoot, to annex 324.23 acres of land located west of La Plata Highway, east of Troy King Road and north and south of Twin Peaks Boulevard and to approve a request from the Community Development Department to annex 114.79 acres of privately-owned land adjacent to that owned by the Farmington School District located at the intersection of Troy King Road and Twin Peaks Boulevard (a total of 439.02 acres), subject to:
 - (a) the petitioner submitting a completed Traffic Impact Analysis prior to the issuance of any building permit for the school; and
 - (b) the property owned by XL Concrete (two tracts totaling 20.86 acres on Twin Peaks Boulevard) being zoned GC, General Commercial.

Addressing the Council, Ms. Ambrosino reported that the Farmington Municipal School District ("School District") is planning to construct the new Tibbetts Middle School on 324.23 acres of land near the intersection of Troy King Road and Twin Peaks Boulevard and is requesting that the parcel be annexed into the city. She also noted that four adjacent property owners have agreed to the annexation of an additional 114.79 acres, provided that the property owned by XL Concrete is zoned Industrial rather than General Commercial as recommended in condition (b). Ms. Ambrosino stated that, pursuant to State Statutes, the proposed annexation was presented to the San Juan County Commission for comments on January 4, 2011 and advised that the Commissioners were supportive but had some concerns about the impact of additional traffic at the intersection of Piñon Hills Boulevard and La Plata Highway. She noted that such issues will be addressed through the Traffic Impact Analysis that must be completed before a building permit is issued to the School District. In closing, she requested that staff be directed to draft an ordinance authorizing the annexation if Petition No. ANX 10-03 is approved.

In response to inquiry from the Council, Community Development Director Mary Holton explained that the School District will be responsible for bearing the costs associated with extending the utility services. Councilor Fischer suggested that a condition be added to explicitly state that the School District is responsible for all costs associated with the infrastructure and any required roadway improvements (e.g. traffic signals). In response, James Barfoot, Assistant Superintendent of Operations for the School District, announced that construction is slated to begin in about a year and assured the Council that they understand that the costs associated with the construction, including those related to the extension of utilities, is entirely their responsibility.

In response to inquiry from Councilor Darnell, Mr. Barfoot stated the proposed industrial zoning should not negatively impact the school operations.

Councilor Sandel reminded Mr. Barfoot that the City has been unsuccessful in negotiating an agreement with the School District to provide a secondary access point to Piedra Vista High School. As a result, he voiced hesitancy in approving the subject petition. In response to Councilor Sandel's comments, Mr. Barfoot stated that the secondary access road has been delayed due to certain archeological findings and budgetary constraints. However, he assured him that the project is still on the school district's capital improvement list.

Councilor Sandel voiced frustration for the fact that staff has not completed a cost/benefit analysis for the proposed annexation. In response, City Manager Rob Mayes explained that there is a process in place to determine whether it is financially responsible to annex additional areas, but stated that it was not applied to this particular piece of property because the School District petitioned the City for annexation. He guessed that the financial impact to the City would be minimal because the School District will be closing one school and opening a new one. Voicing his frustration for staff's inconsistency in handling requests for annexation, Councilor Sandel asked that staff establish a policy for determining the costs and benefits of all annexations, regardless of the manner in which the annexation request was initiated.

Addressing the Council as Chairman of the Planning and Zoning Commission, Dennis Ivie stated that the Commission strongly believes that a Mixed-Use (MU) zone designation is more appropriate for the XL Concrete property than the proposed Industrial (IND) or General Commercial (GC).

Following further discussion, a motion was made by Councilor Darnell, seconded by Councilor McCulloch to adopt the Community Development Department Petition Report and to approve the recommendation of the Planning and Zoning Commission to annex 324.23 acres of land located west of La Plata Highway, east of Troy King Road and north and south of Twin Peaks Boulevard and to annex and additional 114.79 acres of privately-owned land located adjacent to the property owned by the Farmington School District (a total of 439.02 acres), subject to condition (a), as recommended by the Planning and Zoning Commission; amended condition (b) to designate the zone of the property owned by XL Concrete as IND, Industrial; added condition (c) to direct staff to draft an ordinance authorizing the annexation; and added condition (d) clarifying that the developer is financially responsible for all costs associated with extending the utilities to the subject property and for construction of any roadway improvements identified by the Traffic Impact Analysis. The roll was called with the following result:

Those voting aye:	Mary M. Fischer Dan Darnell Gayla McCulloch
-------------------	---

Those voting nay:	Jason Sandel
-------------------	--------------

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

CONSIDERATION OF A WATER DRIP ALLOWANCE AS AUTHORIZED IN SECTION 26-4-34 OF THE CITY CODE

As requested by the Council at the January 4, 2011 City Council Work Session, Public Works Director Jeff Smaka reported that staff has determined that Section 26-4-34 of the City Code authorizes the City Council to implement a water drip allowance in an effort to prevent the freezing of meters and lines during the winter months. He reported that this issue was last discussed in 1991 due to the fact that City crews had to replace 300 water meters, thaw or replace 94 service lines from the water meter to the main line and thaw three six-inch water mains. He noted, however, that the drip allowance was not implemented because of the financial condition of the Water and Wastewater funds. Announcing that there have only been 18 calls for service this year, he directed the Council's attention to a table contained on page 5.1 of the agenda materials showing the nominal cost to the customer for dripping a faucet. He recommended that the Council direct staff to implement an educational campaign to advise the public of the benefits and minimal costs associated with dripping a water faucet during extreme cold weather. However, he stated that if the Council decides to enact a drip allowance, staff is suggesting that the credit be posted to the customer's billing cycle in March 2011.

Councilor Fischer voiced her support of implementing a water drip allowance.

Noting that it would cost the homeowner less than \$1 per month to drip their faucet eight hours a day at a rate of 300 drips per minute, Mayor Roberts stated that he would be more supportive of implementing an ad campaign advising residents of the benefits of dripping a faucet and the minimal cost associated with it.

Councilor Darnell stated that he could go either way on the issue but stated that he believes the ordinance was enacted to protect the City's infrastructure rather than the homeowners.

Thereupon, a motion was made by Councilor Fischer, seconded by Councilor Sandel to grant a \$1 drip allowance credit to all City of Farmington water utility customers to be posted on the March, 2011 billing cycle, and upon voice vote the motion carried unanimously.

In response to inquiry from Mayor Roberts, Mr. Smaka reported that this will have a \$16,000 impact on the Water Utility Fund.

UNFINISHED BUSINESS:

- (1) Recommendation from the Parks, Recreation & Cultural Affairs Commission to increase the rental fees at the Farmington Civic Center

Mayor Roberts announced for the record that this item was tabled at the December 28, 2010 regular City Council meeting at the request of staff.

Following a brief presentation from Parks, Recreation and Cultural Affairs Director Jeff Bowman, a motion was made by Councilor Darnell, seconded by Councilor McCulloch to increase the rental fees at the Farmington Civic Center for both the non-profit and commercial users, as recommended by the Parks, Recreation and Cultural Affairs Commission. The roll was called with the following result:

Those voting aye:	Mary M. Fischer Dan Darnell Gayla McCulloch
-------------------	---

Those voting nay:	Jason Sandel
-------------------	--------------

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

- (2) Proposed ordinance prohibiting THC-like synthetic cannabinoids

City Attorney Jay Burnham presented a proposed ordinance prohibiting the use, possession and sale of products containing THC-like synthetic cannabinoids. He noted that this item was tabled at the December 28, 2010 regular City Council meeting and stated that the said ordinance has been published two weeks prior to final action as required by Section 3-17-3 NMSA 1978 Compilation. He recommended the ordinance, if adopted, be given the number 2011-1237. The title of the ordinance being:

AN ORDINANCE PROHIBITING THE USE, POSSESSION AND SALE OF CERTAIN SMOKING PRODUCTS WITHIN THE CITY LIMITS OF THE CITY OF FARMINGTON WHICH CONTAIN THC-LIKE SYNTHETIC CANNABINOIDS.

Initiating discussion, Councilor Darnell noted that he has heard that other communities are considering a similar ordinance. He strongly urged the Council to adopt Ordinance No. 2011-1237.

Mr. Burnham pointed out that the proposed ordinance has been amended to incorporate the suggestions made by Councilor Darnell at the December 28, 2010 regular City Council meeting.

Councilor Sandel recommended that the proposed ordinance be amended to simply prohibit the use of any substance that is deemed illegal by the Federal Drug Enforcement Agency instead of singling out a particular substance. In response, Councilor Darnell stated that he is not opposed to that method, but explained that changes at the Federal level are usually the result of local legislation and contended that the federal government moves much more slowly than what he believes is tolerable in this situation. He suggested that we proceed with adopting the proposed ordinance but agreed to work with Councilor Sandel to develop an ordinance that adopts the federal regulations.

Following further discussion, a motion was made by Councilor Sandel, seconded by Councilor Fischer to table indefinitely proposed

Ordinance No. 2011-1237 and that staff be directed to draft a new ordinance that prohibits the sale, use and possession of all substances deemed illegal by the Federal Drug Enforcement Agency. The roll was called with the following result:

Those voting aye: Mary M. Fischer
Jason Sandel

Those voting nay: Dan Darnell
Gayla McCulloch

The Mayor voted in opposition of the motion and declared the motion failed.

Thereupon, a motion was made by Councilor Darnell, seconded by Councilor Fischer to pass and adopt Ordinance No. 2011-1237 as amended. The roll was called with the following result:

Those voting aye: Dan Darnell
Mary M. Fischer
Gayla McCulloch

Those voting nay: Jason Sandel

Those voting nay: None

The presiding officer thereupon declared that three Councilors having voted in favor thereof, the said motion carried and ordinance No. 2011-1237 was duly passed and adopted.

In closing, Councilor Sandel requested that staff be directed to research options for prohibiting the sale, use and possession of all substances deemed illegal by the Federal Drug Enforcement Agency. There were no objections from the Council.

COUNCIL BUSINESS

Daily Times Reporter Steve Lynn

Mayor Roberts announced that tonight is Daily Times Reporter Steve Lynn's last day in Farmington. He thanked Mr. Lynn for his objective and fair reporting of City business and wished him well in his new endeavors.

Proposed Ordinance - Texting While Driving

Councilor Sandel asked permission to authorize him and Councilor Darnell to research provisions for an ordinance that would prohibit texting while driving a motor vehicle. There were no objections from the Council.

CLOSED MEETING

A motion was made by Councilor Darnell, seconded by Councilor Sandel to close the meeting to discuss request for proposals for the Community Development Block Grant Transitional Housing Project.

The roll was called with the following result:

Those voting aye: Dan Darnell
Mary M. Fischer
Gayla McCulloch
Jason Sandel

Those voting nay: None

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

RECESS

The Mayor called a recess at 8:38 p.m.

The Mayor convened the closed meeting at 8:42 p.m. with all members of the Council being present.

Following the closed meeting, during which meeting the matter

discussed was limited only to that specified in the motion for closure, a motion was made by Councilor Darnell, seconded by Councilor Sandel to open the meeting for further business, and upon voice vote the motion carried unanimously.

The open meeting was reconvened by the Mayor at 8:44 p.m. with all members of the Council being present.

REQUEST FOR PROPOSALS FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT
TRANSITIONAL HOUSING PROJECT

Purchasing Officer Eddie Smylie announced that proposals for the Community Development Block Grant Transitional Housing Project (Community Development) opened on November 4, 2009 with two offerors participating. He recommended that the contract be awarded to Masada House, Inc. as the top evaluated responsive offeror and that the offer received from Navajo United Methodist Center be rejected because their General Board of Global Commissions did not authorize them to sign the contract. He also stated that the award is contingent upon the City's receipt of an approved Housing and Urban Development (HUD) environmental review.

Thereupon, a motion was made by Councilor Darnell, seconded by Councilor Sandel to award the proposal for the Community Development Block Grant Transitional Housing Project to Masada House, Inc. as the top evaluated responsive offeror and to reject the offer received from Navajo United Methodist Center, as recommended by the Purchasing Officer. The roll was called with the following result:

Those voting aye:	Dan Darnell Mary M. Fischer Gayla McCulloch Jason Sandel
-------------------	---

Those voting nay:	None
-------------------	------

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

There being no further business to come before the Council, the meeting was adjourned at 8:45 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 25th day of January, 2011.

Entered in the permanent record book this 26th day of January, 2011.

Dan Darnell, Mayor Pro Tem

SEAL

ATTEST:

Dianne Fuhrman, City Clerk