

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, February 22, 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 Children's Pastor Ann Krebbs of Crossroads Community Church.

Ann Krebbs 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 February 8, 2011 and the minutes of the Regular Work Session of the City Council held February 1, 2011.

*DECLARATION OF SURPLUS PROPERTY: The Purchasing Officer recommended that worn-out, unusable or obsolete library items (Administration/Library) be declared surplus to the needs of the City and not essential for municipal purposes, and that the City Manager or his designee be authorized to dispose of such surplus property pursuant to State Statutes.

*RIGHT-OF-WAY AND EASEMENT between the City and Williams Field Services for use of City-owned right-of-way lying in Section 25, T30N, R13W, N.M.P.M. for the purpose of constructing, replacing, maintaining and operating a pipeline in, on, under and across a strip of land, 20-feet in width, for a distance of 38.595 rods.

*RIGHT-OF-WAY AND EASEMENT between the City and Enterprise Field Services for use of City-owned right-of-way lying in Section 25, T30N, R13W, N.M.P.M. for the purpose of constructing, replacing, maintaining and operating a pipeline in, on, under and across a strip of land, 30-feet in width, for a distance of 33.382 rods.

*ADOPTION OF RESOLUTION NO. 2011-1383 authorizing and approving the submission of a completed application to the New Mexico Finance Authority and for financial assistance and project approval for the purchase of new fire apparatus.

*WARRANTS PAYABLE for the time period of February 6, 2011 through February 19, 2011, for current and prior years, in the amount of \$6,871,919.36.

Mayor Roberts asked that the Rights-of-Way and Easements between the City and Williams Field Services and Enterprise Field Services be removed from the Consent Agenda.

Councilor Fischer requested that the declaration of surplus property be removed from the Consent Agenda.

Thereupon, a motion was made by Councilor Sandel, seconded by Councilor Darnell to approve the Consent Agenda, with the exception of the Right-of-Ways and Easements and the declaration of surplus property, and upon voice vote the motion carried unanimously.

PEACE CORPS MONTH PROCLAMATION

The Mayor presented Associate Planner Margaret Ambrosino and Dr. Mick O'Neill, Agriculture Science Center Professor for New Mexico State University, with a Proclamation declaring March, 2011 as "Peace Corps Month".

At the Mayor's request, Kyla Johnson, Suzanne Holman, Amy O'Neill, Marsha Glass and Gordon Glass also stood and announced to the audience their names and years of service as former Peace Corps members. The audience honored them with a hearty round of applause.

RECOGNITION OF FELIX BRIONES, JR.

The Mayor recognized Felix Briones, Jr. for his 27-years of dedicated service as a member of the Public Utility Commission. Mr. Briones was presented with a certificate of appreciation and he proudly introduced the members of his family who were present in the audience. The presentation was concluded with a hearty round of applause.

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, that it be removed from the Consent Agenda and heard in regular order.

- * (1) Adoption of the recommendation of the Planning and Zoning Commission, as contained within the Community Development Department Petition Report, to approve Petition No. ZC 11-01 from Navajo Ministries, Inc., represented by Robert Fitz, requesting a zone change from the GC, General Commercial and RA, Rural Agricultural, Districts to the MU, Mixed Use, District for 15.73 acres of land located at 2103 West Main Street.

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

Senior Planner Cindy Lopez presented the following recommendation from the Planning and Zoning Commission:

- (2) Adoption of the recommendations from the Unified Development Code Implementation Committee, Planning and Zoning Commission and the Community Development Department staff to clarify that semi-truck trailers are also prohibited from all zones except for IND (Industrial), per Section 2.5.2(E) of the Unified Development Code ("UDC"), and that Section 2.5.2(E) be amended to allow shipping crates, railroad cars, truck or bus bodies, semi-truck trailers and other similar containers to be located in the GC, General Commercial, District provided that they are in the rear yard of the property and are screened from view of any street and/or residence, in accordance with Section 5.5.7 of the UDC.

Ms. Lopez explained that the Unified Development Code Implementation Committee ("UDCIC") has recommended that the use of containers, including semi-truck trailers, continue to be restricted from

all districts (especially residential), except for in the IND, Industrial, District. Furthermore, she stated that the UDCIC also recommended that such containers be allowed in the GC, General Commercial, District provided that they are located in the rear yard and are screened from view of any street and/or residence in accordance with the screening standards of Section 5.5.7 of the Unified Development Code ("UDC").

In response to inquiry from Councilor Darnell, Ms. Lopez confirmed that staff interprets the current provisions of the UDC to also prohibit sealand containers in residential districts. However, she noted that if the containers were in place prior to the adoption of the UDC then they are considered to be a legal non-conforming use.

Mayor Roberts pointed out that there is a residence on Hood Mesa Trail that has a large storage container, similar to a railroad car, that is painted an olive color to blend with the landscaping. He contended that the container is well maintained and does not disrupt other residences because of the large lot size. He suggested that it may be more appropriate for the UDCIC to address the aesthetics of accessory structures instead of the types allowed since there are numerous sheds around town that are dilapidated. Ms. Lopez explained that this issue was discussed by the UDCIC and it was determined that such containers are industrial and commercial in nature and should be prohibited in residential districts.

Councilor McCulloch agreed with Mayor Roberts and stated that she would be amenable to verbiage that simply requires accessory structures to be aesthetically pleasing, regardless of the type.

Anita Hagen, 935 E. Navajo Street, voiced her complaints about a semi-truck trailer that is being stored next to her house. She contended that the trailer is being used as an accessory structure, is unsightly and can be seen from her bedroom window. Furthermore, she stated that the trailer is too tall to hide with fencing and/or landscaping and stated that she does not believe that these types of containers should be allowed in residential districts, especially in residential districts with smaller lot sizes. She also voiced frustration for the fact that the property owner has registered it with the Motor Vehicle Department as a utility trailer so that can be stored on the property.

Councilor Sandel asked Fire Chief Terry Page to advise the Council on the restrictions for locating accessory structures on residential property. In response, Chief Page reported that he is not versed on the setback requirements contained within the UDC, but explained that the fire department is most concerned with access to accessory structures in the event of a fire. He stated that the pod-type storage buildings pose a challenge to firefighters due to the types of materials that can be stored in them.

In response to inquiry from Councilor Sandel, Ms. Lopez explained that this item came about in regard to the consideration of tire shops, located within the GC District, requesting permission to use shipping crates to store old tires. She stated that the Fire Department had advised staff that such shipping crates provide more security and better contain the flames in the event of a fire. She also stated that she believes that the intent of the UDCIC was to limit the types of containers allowed in the GC District to shipping crates (not semi-truck trailers).

With regard to the comments from Ms. Hagen, Councilor Fischer contended that the Legal department should determine whether the semi-truck trailer located on Navajo Street is a legal non-conforming use.

Following further discussion, a motion was made by Councilor Sandel, seconded by Councilor Darnell to direct staff to interpret the phrase "other similar containers", as found within Section 2.5.2(E) of the Unified Development Code, to mean that semi-truck trailers are prohibited unless they are located within the IND District, and that the Unified Development Code Implementation Committee consider options for allowing accessory structures in the GC District and to also consider options for ensuring that accessory structures are maintained in an aesthetically pleasing manner, and upon voice vote the motion carried unanimously.

RECOMMENDATION FROM THE OIL AND GAS AND GEOLOGICAL AND ENGINEERING
HAZARDS ADVISORY COMMISSION/SECTION 19-3-10/FENCING AND LANDSCAPING
OF WELL SITES

Utilizing a powerpoint presentation, Oil & Gas Well Inspector Derra Mattina recommended three minor amendments to Section 19-3-10 of the City Code dealing with fencing and landscaping of well sites. She explained that the proposed amendments will provide staff with clarity and consistency in the application of the provisions. She recommended that the word "paved" be added before the word "street" in sections (a) and (b); that the phrase "that have production equipment located" be included in sections (a) and (b); and that section (e) be replaced with, "The plan shall be installed within 18 months of special use permit approval by City Council or 180 days from the well going into production, whichever occurs first."

Following brief discussion, City Attorney Jay Burnham stated that staff is requesting permission to draft an ordinance to incorporate the proposed amendments.

There being no further discussion, a motion was made by Councilor Sandel, seconded by Councilor Darnell to direct staff to draft an ordinance to incorporate the proposed amendments, and upon voice vote the motion carried unanimously.

APPEAL OF THE DECISION OF THE ADMINISTRATIVE REVIEW BOARD:

- (1) Appeal filed by Sandra Tucker regarding the decision of the Administrative Review Board to deny Petition No. ARB 10-20 requesting a variance to operate a kennel within 500 feet of a residence at 616 industrial avenue in the GC, General Commercial, District.

Mayor Roberts announced that the appellant, Sandra Tucker, has submitted in writing a request to withdraw her appeal of the decision of the Administrative Review Board ("ARB") to deny Petition No. ARB 10-20.

Addressing the Council, Sandra Tucker stated that she does not wish to withdraw her appeal because she was never notified by the Community Development Department staff that they received her e-mail. Consequently, she stated that she felt compelled to attend tonight's meeting.

Thereupon, Mayor Roberts announced that an affirmative vote of at least three City Councilors is required to reverse, modify or amend a decision of the administrative review board in accordance with Section 2-4-42 of the City Code. Furthermore, he announced that this is a quasi-judicial hearing and that anyone wishing to address the Council must first be sworn to tell the truth by the City Clerk. Thereupon, oaths were administered to the following individuals: Sandra Tucker, Rena Fair and Doug Sandefer.

At the request of the Mayor, Ms. Tucker presented her case. She stated that she was not made aware of tonight's meeting until Saturday when she received a letter in the mail. She stated that she believes that she is being singled-out since no other boarding facilities in Farmington are being asked to install a block wall. She also explained that she purchased an existing business and was never made aware of the fact that the dogs could not be left outside. Ms. Tucker advised the Council that her and her husband often spent the night at the subject location and were never disrupted by the dogs barking. She contended that staff's unwillingness to work with her caused her to close the business, but stated that she will resume such activity at the subject location if the decision of the ARB is overturned.

Addressing the Council on behalf of the appellant, Rena Fair contended that Ms. Tucker was not given a fair chance to rectify the situation. She stated that she believes it is unreasonable for staff to demand that a masonry wall be erected on a piece of property that is being rented. She also questioned why it is the responsibility of the business owner to make concessions when Doug Sandefer's home is located within an industrial/commercial district. Furthermore, she stated that there were numerous individuals who were willing to attend tonight's meeting on Ms. Tucker's behalf, but explained that the letter that was sent by the Community Development Department did not clearly state when the meeting was scheduled since it had today's date but said "Thursday".

At the request of the Mayor, she provided the Council with a copy of the letter. Mayor Roberts asked that this item be included as part of the record of the hearing [Exhibit A].

In response to inquiry from Councilor Sandel, Assistant City Manager Bob Campbell confirmed that Ms. Tucker is no longer conducting business at the subject location, but stated that it was not staff's request that the business be closed.

As a result of the typographical error in the letter that was sent to the affected property owners, a motion was made by Councilor Sandel, seconded by Councilor Darnell to table the appeal filed by Sandra Tucker regarding the decision of the Administrative Review Board to deny a variance to operate a kennel within 500 feet of a residence at 616 Industrial Avenue to the March 22, 2011 regular City Council meeting, and upon voice vote the motion carried unanimously.

Councilor Fischer suggested that staff conduct a meeting with Mr. Sandefer and Ms. Tucker to try and negotiate a compromise to the situation.

Officer Jared Stock

Mayor Roberts wished Police Officer Jared Stock a speedy recovery from the injuries he sustained this past week after he was hit by a car while on duty.

COUNCIL BUSINESS

Prevention of Childhood Pedestrian Injuries/Speed Limit on Dustin Avenue

Councilor Fischer contended that the discussion that was held a couple of weeks ago regarding the speed limit on Dustin Avenue contained expert advice from a traffic engineer but did not include other professional opinions. As a result, she stated that she has asked Dr. Stephen Rankin to present a medical opinion on methods for preventing childhood pedestrian injuries. Councilor Fischer pointed out that she did not vote in favor of the motion to maintain the speed limit on Dustin Avenue and, as a result, cannot make a motion to reconsider the decision of the Council.

Referring to a letter that he and Dr. Joseph Pope sent to the Mayor last week regarding childhood pedestrian injuries, Dr. Rankin reiterated his position that the speed limit along Dustin Avenue, in front of the Brookside skateboard park, should be reduced from 30 to 25 miles per hour. He reported that the American Academy of Pediatrics recently published an article that states that speed limit, among other measures, is a major factor in determining whether a child survives a vehicle/pedestrian accident. He asked that the Council reconsider its decision to maintain a 30 mile per hour speed limit on Dustin Avenue.

There was no further discussion.

City Attorney Jay Burnham presented for discussion a proposed ordinance dealing with maximum permissible sound levels. The title of such proposed ordinance being:

AN ORDINANCE AMENDING SECTION 12-5-8 OF THE CITY CODE DEALING WITH MAXIMUM PERMISSIBLE SOUND LEVELS

There being no response to the Mayor's call for discussion, Mr. Burnham announced that the proposed ordinance will be presented for final action at the March 8, 2011 regular City Council meeting.

Mr. Burnham also presented a proposed ordinance approving the annexation of 439.02 acres of land and stated that notice of intent to consider said ordinance had been published two weeks prior to final action upon the ordinance as required by Section 3-17-3 NMSA 1978. He recommended the ordinance, if adopted, be given the number 2010-1238. The title of the ordinance being:

AN ORDINANCE APPROVING THE ANNEXATION OF 439.02 ACRES OF LAND CONTIGUOUS TO THE CURRENT CITY LIMITS LOCATED WEST OF LA PLATA HIGHWAY (NM HIGHWAY 170), NORTH AND SOUTH OF TWIN PEAKS BOULEVARD AND EAST OF TROY KING ROAD

There being no discussion of Ordinance No. 2010-1238, a motion was made by Councilor Darnell, seconded by Councilor Sandel that said ordinance be passed and adopted as presented. 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 was carried and Ordinance No. 2010-1238 was duly passed and adopted.

Lastly, Mr. Burnham presented a proposed ordinance amending certain sections of the City Code dealing with nonoperating motor vehicles, weeds and debris, public nuisances and illegal car sales and stated that notice of intent to consider said ordinance had been published two weeks prior to final action upon the ordinance as required by Section 3-17-3 NMSA 1978. He recommended the ordinance, if adopted, be given the number 2010-1239. The title of the ordinance being:

AN ORDINANCE REVISING CERTAIN SECTIONS OF THE CITY CODE PROVIDING FOR CLARIFICATION AND ADDITIONS TO PROVISIONS IN CHAPTERS 12, 18, 23 AND 25 RELATING TO NONOPERATING MOTOR VEHICLES, WEEDS AND DEBRIS, PUBLIC NUISANCES AND ILLEGAL CAR SALES.

Councilor Sandel asked if this ordinance would address a situation whereby a semi-truck trailer is located in the back yard of a residence and cannot be seen from a public right-of-way, but can be seen from a neighbor who lives across the wash. He explained that the neighbor was told by the Code Compliance Division that the trailer is legal since it cannot be seen from a public right-of-way. In response, Assistant City Attorney Jennifer Breakell stated that the proposed amendments will not address that issue. As a result, Councilor Sandel requested that he be given the opportunity to meet with the Code Compliance Division to further discuss this issue.

There being no further discussion of Ordinance No. 2010-1239, a motion was made by Councilor Darnell, seconded by Councilor McCulloch that said ordinance be passed and adopted as presented. 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 was carried and Ordinance No. 2010-1239 duly passed and adopted.

DISCUSSION AND ACTION UPON ITEMS REMOVED FROM THE CONSENT AGENDA:

- (1) DECLARATION OF SURPLUS PROPERTY: The Purchasing Officer recommended that worn-out, unusable or obsolete library items (Administration/Library) be declared surplus to the needs of the City and not essential for municipal purposes, and that the City Manager or his designee be authorized to dispose of such surplus property pursuant to State Statutes.

In response to inquiry from Councilor Fischer, City Manager Rob Mayes explained that the items that are being declared surplus belong to the City of Farmington but are currently being used by the Aztec and Bloomfield Public Libraries. He explained that these items are now being conveyed to those cities as a result of the recent decision to end the contractual arrangement for library services between the City of Farmington and the Cities of Aztec and Bloomfield.

Councilor Fischer questioned whether it can be determined that such items already belong to Aztec and Bloomfield since they have been

paying the City of Farmington an annual fee. Furthermore, she asked that staff provide the Council with a report on the reasons why the Cities of Aztec and Bloomfield decided to end the contractual agreement, contending that the articles that have been published in the newspaper concerning the issue have not painted a very good picture of the Farmington Library staff.

Councilor Sandel asked that Mr. Mayes provide the Council with a financial breakdown on the costs associated with the recent separation, stating that he has heard that the Cities of Aztec and Bloomfield may be asking for a refund for the monies paid during Fiscal Year 2011.

There being no further discussion, a motion was made by Councilor Fischer, seconded by Councilor Darnell to declare worn-out, unusable or obsolete library items surplus to the needs of the City and not essential for municipal purposes and to authorize the City Manager or his designee to dispose of such surplus property pursuant to State Statutes, and upon voice vote the motion carried unanimously.

- (2) RIGHT-OF-WAY AND EASEMENT between the City and Williams Field Services for use of City-owned right-of-way lying in Section 25, T30N, R13W, N.M.P.M. for the purpose of constructing, replacing, maintaining and operating a pipeline in, on, under and across a strip of land 20-feet in width for a distance of 38.595 rods.

Mayor Roberts announced that he had asked that this item be removed from the Consent Agenda because he was not sure whether the City would be receiving funding for use of the right-of-way. He asked Public Works Director Jeff Smaka to address the issue.

Mr. Smaka explained that the City will be relocating some low pressure gathering lines owned by Williams Field Services and Enterprise Field Services for the purpose of constructing a dam for the Porter Arroyo. He reported that such relocation will cost the City about \$180,000.

Councilor Fischer questioned whether pipelines in the City are inspected for safety. In response, Mayor Roberts stated that he feels comfortable that the pipelines are being inspected on a regular basis due to regulations that were implemented a few years ago when a pipeline in Carlsbad, New Mexico exploded. Mr. Smaka stated that he will research the issue to determine when the pipelines were last inspected.

Councilor Fischer also reiterated her request that each item that is being considered by the Council reflect in the agenda materials its financial impact on the budget.

There being no further discussion, a motion was made by Councilor Darnell, seconded by Councilor Fischer to approve a Right-of-Way and Easement between the City and Williams Field Services for use of City-owned right-of-way lying in Section 25, T30N, R13W, N.M.P.M. for the purpose of constructing, replacing, maintaining and operating a pipeline in, on, under and across a strip of land 20-feet in width for a distance of 38.595 rods, as recommended by staff, and upon voice vote the motion carried unanimously.

- (3) RIGHT-OF-WAY AND EASEMENT between the City and Enterprise Field Services for use of City-owned right-of-way lying in Section 25, T30N, R13W, N.M.P.M. for the purpose of constructing, replacing, maintaining and operating a pipeline in, on, under and across a strip of land 30-feet in width for a distance of 33.382 rods.

There being no further discussion, a motion was made by Councilor Darnell, seconded by Councilor McCulloch to approve a Right-of-Way and Easement between the City and Enterprise Field Services for use of City-owned right-of-way lying in Section 25, T30N, R13W for the purpose of constructing, replacing, maintaining and operating a pipeline in, on, under and across a strip of land 30-fet in width for a distance of 33.382 rods, as recommended by staff, and upon voice vote the motion carried unanimously.

There being no further business to come before the Council, the meeting was adjourned at 8:43 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 8th day of March, 2011.

Entered in the permanent record book this 9th day of March, 2011.

Tommy Roberts, Mayor

SEAL

ATTEST:

Dianne Fuhrman, City Clerk