

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, March 8, 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
ASSISTANT CITY ATTORNEY	Jennifer Breakell
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 Robert Bailey of St. John's Episcopal Church.

Councilor Sandel 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 22, 2011 and the minutes of the Regular Work Session of the City Council held February 15, 2011.

\*DECLARATION OF SURPLUS PROPERTY: The Purchasing Officer recommended that worn-out, unusable or obsolete vehicles and equipment (Administrative Services, Central Warehouse, General Services and Vehicle Maintenance) 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.

\*COOPERATIVE PROJECT AGREEMENT between the City and the New Mexico Department of Transportation for construction of Piñon Hills Boulevard East and the Animas River Bridge. Total cost of the project is estimated to be \$1,047,589 with the Federal Highway Administration to pay \$838,071 and the City to pay \$209,518.

\*PURCHASE AGREEMENT between the City and Deloris Griffith, Trustee for the Griffith Revocable Trust, for the sale of City-owned property located within 5013 East Main Street (southeast of the intersection of East Main Street and Sierra Vista). (Purchase price \$17,500).

\*CONFIRMATION OF REAPPOINTMENT OF REGISTERED VOTER KENNITH GORDON as a temporary municipal judge in the absence of the Municipal Judge or Part-Time Municipal Judge for the period of April 1, 2011 through March 31, 2012.

\*WARRANTS PAYABLE for the time period of February 20, 2011 through March 5, 2011, for current and prior years, in the amount of \$5,433,635.52.

Councilor Sandel requested that the Cooperative Project Agreement concerning the Piñon Hills Boulevard East and Animas River Bridge project be removed from the Consent Agenda.

Thereupon, a motion was made by Councilor Darnell, seconded by Councilor Sandel to approve the Consent Agenda, with the exception of the Cooperative Project Agreement, and upon voice vote the motion carried unanimously.

RECOMMENDATION 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 item would 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, and approval of Petition No. PFP 09-02 from Michael Smith, represented by Paul Martin, requesting preliminary plan/final plat approval for Flora Vista Hillside Estates Subdivision, a six-lot subdivision of 6.82 acres of land located northeast of the intersection of Road 3450 and Road 3451, outside the city limits but within Tier 2 of the City's five-mile planning and platting jurisdiction, subject to:
  - (a) subdivision improvements being completed prior to the presentation of the plat for signature;
  - (b) a reference to a recorded easement, or signature lines for the owners of the property on which the 30-foot private access road is located, being included on the plat; and
  - (c) any technical or corrective changes being made, a required by the Community Development Department.

There being no requests to remove the item, a motion was made by Councilor Darnell, seconded by Councilor Sandel 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:

- (1) Permission to draft an ordinance amending Table 2.3 and Section 2.4.65 of the Unified Development Code to add Licensed Medical Cannabis Producer as a permitted use in the IND, Industrial, and the PIP, Planned Industrial Park, Districts under the Industrial, Manufacturing and Production categories and that Licensed Medical Cannabis Producer be added to the Use Standards, as recommended by the Unified Development Code Implementation Committee, the Planning and Zoning Commission, and the staff of Community Development Department, subject to:
  - (a) medical cannabis producers being licensed and supervised in accordance with Statutes 26-2B-1 through 26-2B-7 (the "Lynn and Erin Compassionate Use Act"), as administered by the New Mexico Department of Health, Public Health Division, Medical Cannabis Program; and
  - (b) such use not being permitted within 300 feet of any school, church, daycare, youth facility, park, recreation facility or residential district.

In response to inquiry from Councilor Sandel concerning the process that was followed in determining the appropriate zoning districts, Ms. Lopez explained that staff recommended that licensed medical cannabis producers be permitted in the IND and PIP districts because the lot sizes

are larger and barbed-wire fencing is allowed. Furthermore, she explained that the difference between medical marijuana producers and pharmaceutical companies is that pharmacies only distribute federally-licensed prescription drugs and are retail in nature. At the request of Councilor Fischer, Ms. Lopez explained that licensed medical cannabis producers are strictly regulated through the New Mexico Public Health Office and are prohibited from advertising their place of business.

With regard to condition (b), Assistant City Attorney Brigette Thomas stated that it is her opinion that extending the 300-foot separation requirement beyond that restricted by State Statutes (schools, churches and daycare facilities) is beyond the City's legal authority. However, she stated that she believes that the City has the authority to regulate such activity through the City's zoning authority. In response to inquiry from Mayor Roberts, Ms. Thomas stated that the City could restrict the number of medical cannabis producers if it can determine how many are needed to adequately serve the clientele and/or by restricting the distance between each use.

Councilor Sandel voiced his objection to imposing any restriction that is beyond State law, stating that he believes that the Council would be violating the intent of the law by restricting medical cannabis producers to a particular zone designation. Furthermore, he contended that such regulation may actually compromise the anonymity of the producer.

Councilor Darnell stated that he believes that there is a potential for abuse and announced that he is inclined to support the strictest of regulations.

Mayor Roberts stated that he has not been contacted by any constituent who is opposed to allowing a licensed medical cannabis producer to operate within the city limits and noted that there was no response to his call for comment from the members of the audience. As a result, he concluded that this is not a controversial item and announced his support for considering an ordinance.

Councilor McCulloch stated that she only received two calls from constituents who were concerned that the City was trying to prohibit such use. She stated that she believes that producers should be restricted to the IND and PIP districts.

Following further discussion, a motion was made by Councilor Darnell, seconded by Councilor Sandel to direct staff to draft an ordinance amending Table 2.3 and Section 2.4.65 of the Unified Development Code to add Licensed Medical Cannabis Producer as a permitted use in the IND, Industrial, and the PIP, Planned Industrial Park, Districts under the Industrial, Manufacturing and Production categories and that Licensed Medical Cannabis Producer be added to the Use Standards, subject to conditions (a) and (b), as recommended by the Unified Development Code Implementation Committee, the Planning and Zoning Commission, and the staff of Community Development Department, and upon voice vote the motion carried unanimously.

Mayor Roberts asked that staff prepare maps indicating the areas allowed if medical cannabis producers are restricted to the IND and PIP districts.

#### APPOINTMENTS TO THE PUBLIC UTILITY COMMISSION

After providing the Council with background, educational and professional information on the following individuals, Mayor Roberts asked the Council's consideration of the appointment of Lonnie Setliff (term to October 2013) and Tory Larsen (term to October 2011), as members of the Public Utility Commission.

Following consideration, a motion was made by Councilor Sandel, seconded by Councilor Darnell to confirm the appointment of Lonnie Setliff (District 2) as a member of the Public Utility Commission, as recommended by the Mayor, and upon voice vote the motion carried unanimously.

Councilor Sandel announced for the record that Tory Larson is an employee of his company, Aztec Well Servicing, but stated that he does not perceive this to constitute a conflict of interest.

Thereupon, a motion was made by Councilor Fischer, seconded by Councilor Darnell to confirm the appointment of Tory Larsen (District 7) as a member of the Public Utility Commission, as recommended by the Mayor, and upon voice vote the motion carried unanimously.

Recognition of Sherri Bedonie

Mayor Roberts recognized Sherri Bedonie who was present in the audience. He explained that Ms. Bedonie is the same age as his youngest daughter, Samantha, and announced that the two girls used to play sports together. He commended Ms. Bedonie for her educational achievements, her contributions to the community and for her success in being a young mother.

Assistant City Attorney Jennifer Breakell presented a proposed ordinance pertaining to maximum permissible sound levels and stated that notice of intent to consider said ordinance has been published two weeks prior to final action upon the ordinance as required by Section 3-17-3 NMSA 1978. She recommended the ordinance, if adopted, be given the number 2011-1240. The title of the ordinance being:

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

After consideration of Ordinance No. 2011-1240, a motion was made by Councilor Sandel, seconded by Councilor Darnell 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
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Those voting nay:	None
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The presiding officer thereupon declared that four Councilors having voted in favor thereof, the said motion was carried and Ordinance No. 2011-1240 duly passed and adopted.

DISCUSSION AND ACTION UPON ITEM REMOVED FROM THE CONSENT AGENDA:

- (1) Cooperative Project Agreement between the City and the New Mexico Department of Transportation for construction of Piñon Hills Boulevard East and the Animas River Bridge. Total cost of the project is estimated to be \$1,047,589 with the Federal Highway Administration to pay \$838,071 and the City to pay \$209,518.

In response to comments from Councilor Sandel, Public Works Director Jeff Smaka gave a brief report on the status of the project and stated that the City's 20 percent share will be financed through the 201 Fund.

Following further discussion, a motion was made by Councilor Sandel, seconded by Councilor Darnell to approve a Cooperative Project Agreement between the City and the New Mexico Department of Transportation for construction of Piñon Hills Boulevard East and the Animas River Bridge, as recommended by staff, and upon voice vote the motion carried unanimously.

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 Downtown Façade Improvement Program. The roll was called with the following result:

Those voting aye:	Dan Darnell Mary M. Fischer Gayla McCulloch Jason Sandel
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Those voting nay:	None
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The presiding officer thereupon declared that four Councilors having voted in favor thereof, the said motion carried.

The Mayor convened the closed meeting at 8:01 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 McCulloch to open the meeting for further business, and upon voice vote the motion carried unanimously.

The open meeting was reconvened by the Mayor at 8:14 p.m. with all members of the Council being present.

REQUEST FOR PROPOSALS FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT  
DOWNTOWN FAÇADE IMPROVEMENT PROGRAM

Purchasing Supervisor Kristi Benson announced that proposals for the Community Development Block Grant Downtown Façade Improvement Program (Community Development) opened on February 16, 2011 with one offeror participating. She recommended that a contract for \$22,000 of the available grant funds for the program be awarded to Arroyo Trading Company, Inc., doing business as Wal-Art Gallery, for downtown facade improvements as the sole proposal is deemed to be advantageous and in the best interest of the City. She stated that the award is contingent upon approval from the State Historical Preservation Office and completion of an environmental assessment.

Councilor Fischer asked if there is an overall plan of what the downtown area will look like once the renovations are complete. Government Relations Director/Downtown Coordinator Elizabeth Isenberg reported that there is no plan in place at this time, but stated that the design committee is working to develop an overall theme for the downtown area. However, she noted that the State Historical Preservation Office will ensure that any renovations to the buildings will be consistent with the era in which it was first constructed. She also noted that \$50,000 of Community Development Block Grant funds have been earmarked for streetscape improvements in the downtown area and stated that the State of New Mexico has set-aside \$1 million for capital outlay projects for Main Street Program communities.

Thereupon, a motion was made by Councilor Darnell, seconded by Councilor McCulloch to award a contract for \$22,000 of the available Community Development Block Grant funds for the Downtown Façade Improvements Program to Arroyo Trading Company, Inc., doing business as Wal-Art Gallery, as the sole proposal is deemed to be advantageous and in the best interest of the City, as recommended by the Purchasing Supervisor.

Councilor Sandel stated that he is supportive of the project, but suggested that the funding limit of \$20,000 be reconsidered in order to allow larger-scale projects to be completed. Discussion followed and Mayor Roberts stated that he embraces the focus of the project as it is currently structured, but stated that he is disappointed that there is not more interest from the downtown merchants. In response, Ms. Isenberg explained that a number of business owners are interested in the program, but the turn-around time for submitting such applications is problematic.

Councilor Darnell announced that he is supportive of the project as it is currently structured, noting that four proposal deadline dates have been established.

Councilor Fischer stated that she believes that the scope of the project is too broad. She suggested that the funds be used collectively to renovate one block at a time.

Vince Ferrari, owner of Wal-Art Gallery, thanked the Council for the opportunity to apply for funding to assist with his renovation project. He explained that the reason that he was able to meet the deadline was because he started planning the proposed project two years ago. He suggested that the City strongly encourage the downtown merchants to apply for the funds, contending that it is a great opportunity.

There being no further discussion, the Mayor called for the vote upon the motion to award a contract for \$22,000 of the available Community Development Block Grant funds for the Downtown Façade Improvements Program to Arroyo Trading Company, Inc., doing business as Wal-Art Gallery, as the sole proposal is deemed to be advantageous and in the best interest of the City, as recommended by the Purchasing Supervisor, and upon voice vote the motion carried unanimously.

There being no further business to come before the Council, the meeting was adjourned at 8:28 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 22<sup>nd</sup> day of March, 2011.

Entered in the permanent record book this 23<sup>rd</sup> day of March, 2011.

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Tommy Roberts, Mayor

SEAL

ATTEST:

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Dianne Fuhrman, City Clerk