

Work Session of the City Council, City of Farmington, New Mexico, held Tuesday, June 7, 2011 at 9:00 a.m. in the Executive Conference Room at City Hall, 800 Municipal Drive, Farmington, New Mexico, in full conformity with the rules, regulations and ordinances of the municipality.

At such meeting the following were present, constituting a quorum:

MAYOR	Tommy Roberts
COUNCILORS	Dan Darnell Mary M. Fischer Gayla McCulloch
ABSENT	Jason Sandel, Councilor

Constituting all the members of the Governing Body.

Also present were:

CITY MANAGER	Rob Mayes
ASSISTANT CITY MANAGER	Bob Campbell
CITY ATTORNEY	Jay B. Burnham
DEPUTY CITY CLERK	Melody Coyner

#### RECOGNITION OF PATRICIA SIMPSON

Mayor Roberts expressed his sincere appreciation to Patricia Simpson for her dedication to the Planning and Zoning Commission for the past 12 years. He presented her with a certificate of appreciation.

#### PROPOSAL TO CONSTRUCT A RECYCLING CENTER/SECOND ADDENDUM TO REFUSE COLLECTION CONTRACT

Mayor Roberts reminded the Council that the subject proposal and second addendum were tabled at the May 17, 2011 Work Session.

City Manager Rob Mayes announced that the First Addendum to the Refuse Collection Contract that was entered into with Waste Management in 2008 instituted residential curbside recycling and required the City to construct a new recycling facility within 26 months using a portion of the imposed fee as a revenue source to finance the construction. He explained that Waste Management is now proposing that the facility be constructed at the San Juan County Landfill, instead of in Farmington, and that the funds collected to date, and all future funds, be transferred to Waste Management to reimburse them for their construction costs. Because the facility will no longer be located in Farmington, the proposal includes a requirement that Waste Management operate a drop-off center at its Farmington property. Directing the Council's attention to page 1.0 of the agenda materials, he pointed out that under the current contract the cost to the City to build the recycling center would be \$7.5 million (\$4.3 million principle plus 4.226 percent interest over 30 years); but that if the Council approves Waste Management's proposal, the cost to the City would be \$2.5 million. He recommended approval of the proposal and Second Addendum to the Refuse Collection Contract ("Addendum"). He announced that Marlene Feuer, Government and Public Affairs Manager for Waste Management, is present to answer any questions the Council may have.

Ms. Feuer introduced Alberto Guardado, Director of Operations and Vice President for Waste Management of New Mexico, and Shote Forrester, District Manager at the San Juan County Landfill, who will oversee the operation of the new recycling center. She pointed out that 49.65 percent of residential customers participate in the recycling program and stated that there is strong interest to expand the program to include local businesses which cannot be accommodated with the current facility. She provided the Council with a copy of the preliminary floor plan for the proposed recycling center for their review.

Councilor Fischer initiated discussion regarding the City receiving a percentage of the profits from the recycling program. Ms. Feuer reviewed the pros and cons of such a "profit-sharing agreement" in the current economy. Following further discussion, Mr. Mayes agreed to address the issue when renegotiating the contract in five years.

Councilor Darnell expressed his support for the proposal.

Responding to Mayor Roberts, Mr. Mayes explained that if the Addendum is not approved, the City would be obligated to a 30-year revenue bond to build a new recycling center, with principal and interest amounting to \$7.5 million. Furthermore, he noted that the City would continue to charge customers the "facility charge" (currently \$1.75 per month) in order to service that debt and that the City would own the facility and be responsible for facility maintenance. However, he stated that if the Addendum is approved, the City's contractual responsibility would be \$2.5 million to be paid during the five years remaining on the existing contract and that Waste Management would own the facility and be responsible for facility maintenance.

Councilor Fischer expressed her appreciation for the recent improvement in service provided by Waste Management's local office.

Mayor Roberts announced that Councilor Sandel is absent from the meeting but has expressed his support for the proposal and hopes that the recycling program can be extended to commercial customers as well.

Thereupon, a motion was made by Councilor Darnell, seconded by Councilor McCulloch to approve the proposal and Second Addendum to the Refuse Collection Contract, as recommended, and upon voice vote the motion carried unanimously.

#### PRESENTATION/NORTHERN EDGE NAVAJO CASINO

Navajo Nation Gaming Enterprise ("Enterprise") Chief Financial Officer Derrick Watchman introduced Government Relations Officer Ophelia Bradley, Finance Manager Ramsey Harrison, Special Projects Manager Michelle Dobson and Rivas Begay of the Navajo Tribal Utility Authority.

The Mayor, Council and audience viewed a short video providing a virtual tour of the proposed Northern Edge Navajo Casino ("Casino").

Providing background information, Mr. Watchman stated that the Enterprise was created in 2006 to develop casinos for the Navajo Nation. He noted that the Casino is 30 to 40 percent complete and that they plan to open in January 2012. He proudly announced that the Casino is a \$75 million investment by the Navajo Nation and will provide economic stimulus to the Four Corners area.

In response to inquiry from Mayor Roberts, Mr. Watchman stated that the Casino will be 150,000 square feet with 750 Class III (Las Vegas-style) slot machines, gaming tables, three restaurants, a gift shop and a small retail outlet and that it will employ approximately 450 employees with an annual operating budget of \$45 to \$50 million.

Mr. Watchman responded to questions from the Mayor and Council concerning the source of Casino patrons, public safety services, entertainment, problem gaming, addition of a hotel, Casino management and state and federal gaming regulations/requirements.

In closing, Mr. Watchman stated the Enterprise and the Navajo Nation hope to work with the City and area residents and businesses to make the Casino a prosperous venture for everyone.

Mayor Roberts thanked Mr. Watchman and stated that the City looks forward to working with the Enterprise and the Navajo Nation.

#### RESOLUTION NO. 2011-1397 REMOVING UNCOLLECTIBLE AND UNSECURED UTILITY ACCOUNTS FROM THE CITY'S LIST OF ACCOUNTS RECEIVABLE

Customer Care Manager Lara Ratliff requested adoption of Resolution No. 2011-1397 removing uncollectible and unsecured utility accounts for calendar year 2006 from the City's list of accounts receivable.

After consideration of proposed Resolution No. 2011-1397, a motion was made by Councilor Darnell, seconded by Councilor McCulloch that said resolution be passed and adopted as presented. The roll was called with the following result:

Those voting aye:	Dan Darnell
	Mary M. Fischer
	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 and Resolution No. 2011-1397 was duly passed and adopted.

BID/MULTI-TERM CONTRACT FOR CONCRETE

Purchasing Supervisor Kristi Benson reported that bids for a multi-term contract for the purchase of concrete opened on June 1, 2011 with two bidders participating. She recommended that a multi-term/multi-source contract be awarded to Consolidated Constructors as the primary bidder on its low bid after application of five percent in-state preference of \$197,930 and to Four Corners Materials as the secondary bidder on its low bid after application of five percent in-state preference of \$200,085.

Thereupon, a motion was made by Councilor Darnell, seconded by Councilor McCulloch to award a multi-term/multi-source contract for the purchase of concrete to Consolidated Constructors as the primary bidder on its low bid of \$197,930 and to Four Corners Materials as the secondary bidder on its low bid of \$200,085, as recommended by the Purchasing Supervisor, and upon voice vote the motion carried unanimously.

RESOLUTION NO. 2011-1398 APPROVING CERTAIN REVISIONS TO THE FY 11 BUDGET AND REQUESTING STATE APPROVAL

Administrative Services Director Andy Mason reviewed the proposed amendments to the FY 11 budget and recommended adoption of Resolution No. 2011-1398.

After consideration of Resolution No. 2011-1398, a motion was made by Councilor Darnell, seconded by Councilor McCulloch that the said resolution be passed and adopted as presented. The roll was called with the following result:

Those voting aye: Dan Darnell  
Mary M. Fischer  
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 and Resolution No. 2011-1398 was duly passed and adopted.

PROPOSED ORDINANCE PROHIBITING THE SALE OR POSSESSION OF A SUBSTANCE LISTED ON SCHEDULE I OF THE FEDERAL SCHEDULES OF CONTROLLED SUBSTANCES

City Attorney Jay Burnham introduced a proposed ordinance making it unlawful to possess or sell any drug listed on the Federal banned substance list. He reminded the Council that during the discussion of the ordinance prohibiting the sale or possession of K-2 or Spice, the Council discussed, at the suggestion of Councilor Sandel, considering an ordinance prohibiting the sale or possession of any drug listed on the Federal government's list of banned controlled substances and directed staff to draft such an ordinance. He stated that this draft ordinance is the result of Council's direction and requested permission to proceed with publication of a Notice of Intent to Consider said ordinance.

Stating that he is not opposed to the proposed ordinance, Councilor Darnell pointed out that it will take time for substances to be added to Schedule I of the Federal schedules of controlled substances ("Schedule I"), making it necessary to adopt local ordinances prohibiting substances that become a local issue prior to them becoming part of Schedule I. Mr. Burnham agreed with Councilor Darnell's comments.

Councilor Fischer stated she is struggling with the need for the proposed ordinance.

Following brief discussion, Mr. Burnham stated that the proposed ordinance will allow local enforcement of violations of Federal law dealing with substances listed on Schedule I.

Thereupon, a motion was made by Councilor Darnell, seconded by Councilor McCulloch to direct the City Attorney to publish notice of intent to consider adoption of a proposed ordinance in accordance with State Statutes. The roll was called with the following result:

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

The presiding officer thereupon declared that a majority of the Councilors present having voted in favor thereof, the said motion carried.

#### COUNCIL BUSINESS

##### Fireworks Update

In response to concerns expressed by Councilor Fischer, Fire Chief Terry Page and Police Chief Kyle Westall presented their plan for controlling the use of illegal fireworks inside the city limits.

Referring the Council's attention to the packet of information provided, Chief Page briefly reviewed the State statute and local ordinance related to fireworks, noting that a general rule of thumb is that anything that goes higher than six feet in the air or is louder than a "cap gun" is illegal within the Farmington city limits. However, he pointed out that those items are legal in San Juan County and are available just outside the city limits. He stated that violation of the City ordinance can result in confiscation of the illegal fireworks, a fine of not more than \$500 and/or up to 90 days in jail. He further stated that the Fire and Police Departments have tried a variety of individual and collaborative efforts in the past to curb the use of illegal fireworks within the city but have had limited success. He listed some of the factors hindering enforcement of the ordinance as, 1) limited manpower/overtime during the fireworks season; 2) public ignorance of the ordinance; 3) abundance of illegal fireworks on the edge of the city limits; 4) inability to find the people setting off the fireworks; 5) chain of custody process related to evidence; and 6) judicial process/support from the courts.

Based on the amount of fireworks the Bomb Squad has blown up in the past, Chief Westall stated that the Police Department has been successful in seizing fireworks that are considered contraband. He reported that the number of fireworks-related calls for service were 428 in 2008, 343 in 2009 and 249 in 2010. He stated that this year the Police and Fire Departments will try a different approach to curb the use of illegal fireworks beginning with a media blitz to educate the public about what is legal within the Farmington city limits. In addition, he stated that from June 30th through July 5th the City Manager has approved overtime to have three police cars manned with one fireman and one policeman that will be dedicated to issuing fireworks citations.

Following discussion, Councilor Fischer asked that staff check on the status of a recent request by a local fireworks retailer that San Juan County legalize the sale of all state-approved fireworks. In addition, she suggested that staff pursue public service announcements to educate the public on what fireworks are legal/illegal in the Farmington city limits and asked that City management send out an e-mail to City employees identifying illegal fireworks and encourage other major local employers to do the same.

##### Piedra Vista Graduation/Balloons

Noting that balloons were released during Piedra Vista High School's graduation ceremony as an airplane flew overhead, Councilor Fischer questioned whether the balloons caused an unsafe condition for the aircraft. She requested that staff investigate whether or not balloons pose a threat to aircraft and, if so, notify the schools that the release of balloons during graduation ceremonies held at City facilities will not be allowed. There were no objections from the Council.

Potential Infestation of Invasive Mussels at Farmington Lake

Councilor Fischer reiterated her concern about the possibility of the City's water supply being hindered by the use of boats in Farmington Lake that are contaminated with invasive mussels and requested that staff provide an update on the situation. In response, City Manager Rob Mayes stated that the Council will be updated following the meeting of the mussels task force that is planned for the near future.

Pryor Lane/Sewer

Stating she has been contacted by a resident of Pryor Lane regarding the lack of sewer service in the area, Councilor Fischer asked that staff evaluate if/when sewer service will be made available to residents of that area.

Brush Removal/Fire Grant

In response to inquiry from Councilor McCulloch, Fire Chief Terry Page reported that the City is eligible for a portion of the wildland funding, as contained in the Federal stimulus package that was received by San Juan County for hazard mitigation activities, in areas at high risk of wildfire and stated that the Fire Department has identified the Auburn corridor as an area that qualifies for funding. He stated that property owners were contacted and that all but one signed up to take advantage of the program. He noted that work has begun, but that he is unsure of the status of the project at this time. He stated that his department will follow up with the project manager and/or contractor.

CLOSED MEETING

A motion was made by Councilor Darnell, seconded by Councilor McCulloch to close the meeting to discuss a 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
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.

The Mayor convened the closed meeting at 11:07 a.m. with Councilors Darnell, Fischer and McCulloch 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 11:16 a.m. with Councilors Darnell, Fischer and McCulloch 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 May 11, 2011 with 13 offerors participating. She recommended that contracts be awarded to KMD Activewear (\$4,200), Andrea Kristina's Bookstore & Kafe (\$7,000), Frontline Mission (\$22,000), My Fathers House (\$6,326.50), Tuxedo Junction (\$2,000), Browns Shoe Fit Co. (\$5,500), Advantage 2U Insurance (\$1,769), Wisner Family Investments (101 W. Main St. - \$11,000), Wisner Family Investments (115 W. Main St. - \$2,500), Wisner Family Investments (203 W. Main St. - \$6,000), SMEM Properties LLC (\$11,850) and Ashkii's Navajo Grill (\$8,722.50), as the best evaluated firms.

Thereupon, a motion was made by Councilor Darnell, seconded by Councilor McCulloch to award the proposal for Community Development Block Grant Downtown Façade Improvements to KMD Activewear (\$4,200), Andrea

Kristina's Bookstore & Kafe (\$7,000), Frontline Mission (\$22,000), My Fathers House (\$6,326.50), Tuxedo Junction (\$2,000), Browns Shoe Fit Co. (\$5,500), Advantage 2U Insurance (\$1,769), Wisner Family Investments (101 W. Main St. - \$11,000), Wisner Family Investments (115 W. Main St. - \$2,500), Wisner Family Investments (203 W. Main St. - \$6,000), SMEM Properties LLC (\$11,850) and Ashkii's Navajo Grill (\$8,722.50), as recommended by the Purchasing Supervisor, and upon voice vote the motion carried unanimously.

CLOSED MEETING

Expressing a desire to have a full Council present for the City Attorney annual evaluation, a motion was made by Councilor Fischer to postpone the City Attorney annual evaluation to the June 21, 2011 Work Session. The motion died for lack of a second.

Thereupon, a motion made by Councilor McCulloch, seconded by Councilor Darnell to close the meeting to discuss a limited personnel matter (City Attorney annual evaluation). The roll was called with the following result:

Those voting aye:	Dan Darnell Mary M. Fischer 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.

RECESS

The Mayor called a recess at 11:19 a.m.

The Mayor convened the closed meeting at 11:24 a.m. with Councilors Darnell, Fischer and McCulloch 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 11:57 a.m. with Councilors Darnell, Fischer and McCulloch being present.

There being no further business to come before the Council, the meeting was adjourned at 11:58 a.m.

APPROVED this 28<sup>th</sup> day of June, 2011.

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Tommy Roberts, Mayor

SEAL

ATTEST:

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Dianne Fuhrman, City Clerk