

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, June 14, 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:

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 Associate Pastor Larry Moore of World Harvest Center.

Farmington School Superintendent Janel Ryan 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 May 24, 2011 and the minutes of the Special Work Session of the City Council held May 24, 2011.

*DECLARATION OF SURPLUS PROPERTY: The Purchasing Officer recommended that worn-out, unusable or obsolete transformers and related equipment (Electrical Engineering/Electric Warehouse) 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.

*BID: The Purchasing Officer recommended that the bid for purchase of a cab and chassis truck with digger derrick (Electric Line/Vehicle Maintenance) be awarded to Terex Utilities, Inc. (alternate bid - 14,000 foot pound digger) on its low bid meeting specifications after application of five percent in-state preference of \$206,441, and that the primary bid (12,000 foot pound digger) from Terex Utilities, Inc. be rejected for not being in the best interest of the City. Bids opened May 19, 2011 with four bidders participating.

*MEMORANDUM OF AGREEMENT between the Cities of Aztec, Bloomfield and Farmington and San Juan County authorizing a joint application to the New Mexico Department of Transportation, Traffic Safety Bureau, for funding of a comprehensive Community DWI (CDWI) Program for Fiscal Year 2011/2012 (funding amount of \$72,462).

*ALCOHOLISM TREATMENT AND DETOXIFICATION AGREEMENT between the City and Four Winds Addiction Recovery Center, Inc. providing for payment by the City of \$273,600 annually for such services (one-year term with automatic renewal for three additional one-year consecutive terms). Letters of Interest

were received until May 23, 2011 with one Letter of Interest being submitted.

*DWI GRANT AGREEMENT NO. 12-X-I-G-25 between the City and the State of New Mexico Department of Finance and Administration providing for funding in an amount not to exceed \$300,000 for alcohol treatment and detoxification programs (expiration June 30, 2012).

*WARRANTS PAYABLE for the time period of May 23, 2011 through June 11, 2011, for current and prior years, in the amount of \$9,142,368.07.

The Purchasing Supervisor requested that the bid for purchase of a cab and chassis with digger derrick be withdrawn from the agenda.

Thereupon, a motion was made by Councilor Darnell, seconded by Councilor Sandel to approve the Consent Agenda, with the exception of the bid for purchase of a cab and chassis with digger derrick, and upon voice vote the motion carried unanimously.

RECOGNITION OF FELIX BRIONES

Mayor Roberts recognized Felix Briones for being one of eight senior citizens to be selected by the New Mexico Office of African American Affairs to receive an award for their longstanding contributions to the Farmington community. Noting that there was a mix-up in notifying Mr. Briones of the awards ceremony, Mayor Roberts announced that he proudly offered to make the presentation.

STATE CHAMPIONSHIP DAY PROCLAMATION

The Mayor presented the various teams, athletes, students and coaches from Farmington and Piedra Vista High Schools with proclamations declaring June 14, 2011 as "State Championship Day."

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 the item be removed from the Consent Agenda and heard in regular order.

- * (1) Adoption of the recommendation from the Planning and Zoning Commission, as contained within the Community Development Department Petition Report, to approve Petition No. SUP 11-02 from the United Pentecostal Church of Farmington, represented by Pastor Steve Carrington, requesting a Special Use Permit to allow a place of worship with more than 4,000 square feet of sanctuary space to be located at 1900 N. Fairview Avenue in the LNC, Local Neighborhood Commercial, District, subject to:
- (a) the petitioner submitting a "Schedule B" shared parking agreement in accordance with Section 5.2.3(B) of the Unified Development Code prior to the issuance of a building permit; and
 - (b) the petitioner submitting a revised site plan addressing security and convenient access between the plaza and the church that is suitable to the United Pentecostal Church, the management of Hutton Plaza and the Farmington Police 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.

- (2) Adoption of the recommendation from the Planning and Zoning Commission concerning Petition No. CR 11-01, as contained within the memorandum from the Community Development Department dated June 14, 2011, determining that

condition (a) of Petition No. 1430 was met and that development commenced prior to March 12, 2011.

Providing opening remarks, Mayor Roberts reported that this item will be heard as a quasi-judicial proceeding that requires all parties offering testimony to be sworn by the City Clerk to tell the truth. He explained that the purpose of the proceeding is to determine whether the petitioner commenced development of the project within five years of the date of City Council approval (March 12, 1996). Furthermore, he noted that the original petition (ZC 1430) requested a zone change from the R-1A, Single-Family Residential, District to the R-3, Multi-Family, District subject to conditions (a) through (d). Noting that conditions (b) through (d) did not have a time limit and were directly related to site improvements, Mayor Roberts pointed out that condition (a) stated that "the apartment complex, except as noted below, being generally developed as shown on a site plan under a single ownership and meeting all City Codes with development commencing within five years of the date of City Council approval or the zoning reverting back to R-1A." He also noted that the City's zone designations were changed in 2008 with the adoption of the Unified Development Code (UDC) and, as a result, the R-1A zone designation is now referred to as SF-10 and R-3 is now MF-M. Furthermore, he announced that the order in which the presentations of evidence will be heard are (1) staff, (2) proponents, (3) opponents and (4) proponents rebuttal. Mayor Roberts advised the audience members that they are authorized to submit a written statement to the City Clerk at any time prior to the closing of tonight's hearing. He also noted that tonight's agenda contains 98 pages of documents that are related to this item and are included as evidence in the record of the meeting. He asked that the minutes from the March 12, 1996 regular City Council meeting pertaining to this item be included as evidence (Exhibit A) and that a complete set of the minutes from the May 26, 2011 Planning and Zoning Commission meeting (Exhibit B) also be included in the record.

City Clerk Dianne Fuhrman administered oaths to Senior Planner Cindy Lopez, Operations and Maintenance Manager Ruben Salcido, Craig Stoabs of Socuno, Ltd., Rod Montoya, Chuck Banks, Linda Horn, Elizabeth Hattenbruck, Bryce Hunter, Kathy Kleinsteuber, Maninder Kaur, Jerry Gattis, and Allen McKeen.

Ms. Lopez announced that on May 26, 2011, the Planning and Zoning Commission made a recommendation that the Council determine that condition (a) of Petition No. ZC 1430 was met prior to the five year sunset date of March 12, 2001. Utilizing a powerpoint presentation, Ms. Lopez reviewed the timeline of events that are relative to the subject property. She reported that 1) College Place Subdivision was originally an 8.47 acre tract of land that was carved out of a larger vacant lot and was recorded with the San Juan County Clerk on January 26, 1994; 2) College Place Subdivision Replat A was recorded on April 30, 1996 and divided the property into two tracts (Tract 1 being .90 acres and Tract 2 being 7.57 acres); 3) a zone change from R1-A (SF-10) to R-3 (MF-M) was approved by the Council on March 12, 1996, subject to conditions (a) through (d); 4) Windsor Heights Subdivision No. 6 was recorded on December 19, 1997 and created both Messina Drive and Camaron Avenue; 5) College Place Subdivision Replat B was recorded July 27, 2001 and created Tract 2A (1.13 acres) and Tract 2B (6.89 acres); 6) College Place Subdivision Replat C was recorded August 6, 2003 and created Tract 2B-1 (1.28 acres) and Tract 2B-2 (5.61 acres); and 7) that the property boundary for the subject area was extended to meet the existing roadways for Messina Drive and Camaron Avenue with each of the replats. Furthermore, Ms. Lopez reported that staff has field-verified the "as-built" plans for Sol Rey Court Subdivision, which includes Camaron Avenue, and have confirmed that there are two existing 8-inch sewer lateral stub-outs, stemming from two separate manholes, and a separate six-inch waterline stubbed-out from the existing 8-inch waterline. She also stated that staff has verified that there are water stub-outs and sewer mains in Messina Drive.

In response to inquiry from Councilor Fischer, Ms. Lopez confirmed that the petitioner has not installed any water lines on the subject property to service a building. Expanding on her comments, Mr. Salcido reported that water lines are generally installed at the time the development is constructed; however, he stated that they can also be installed in phases when a master planned project is developed.

The Mayor called for comments from those individuals who believe that the petitioner met the requirements of the subject petition.

Addressing the Council, Mr. Stoabs stated that he strongly believes that development commenced within the five year period of time. He referred to the 1996 staff report concerning Petition No. 1430 which states, "Community Development Director Joseph Schmitz stated that the proposed extension of Sunrise Parkway (Messina Drive) should be reviewed in connection with the rezoning and **constructed when development occurs** (emphasis added)." He noted that condition (c) of the original petition stated, ". . . street improvements agreement being approved by the City to address the need for streets to be constructed by the petitioner prior to the issuance of a building permit." As a result, Mr. Stoabs contended that he could not apply for a building permit for the proposed development until Cameron Avenue and Messina Drive were constructed, noting that the roads were built and the utilities were installed between 1997 and 1998. With regard to the utilities, he stated that he installed two 8-inch sewer stubs and two 6-inch water stubs on Camaron Avenue to service the proposed apartment complex. He also stated that two 1½-inch water meters were installed in Messina Drive, noting that the standard for a single, residential structure is 5/8-inch. Furthermore, he pointed out that he ran electrical conduit from College Boulevard to supply 3-Phase electric utility services to the proposed apartment complex, instead of single-phase, which is required for single-family developments. Mr. Stoabs strongly argued that constructing the roads, as required in condition (c) of the original petition, meets the requirement of commencing development since there was no time frame specified for the issuance of a building permit or the completion of the project. He also noted that he would not have been required to connect Messina Drive to College Boulevard if single-family residential homes were to be constructed on the subject property.

Referring to page 8.0 of the agenda materials, Mayor Roberts questioned Mr. Stoabs in regard to condition (a) of the original petition where it states "The apartment complex, except as noted below, being generally developed as shown on the site plan. . . . with development commencing within five years of the date of City Council approval. . . ." He asked Mr. Stoabs that if the subject of the sentence was the "apartment complex" then wouldn't construction of it have to be commenced in order to satisfy the condition? Mr. Stoabs maintained his argument that he did commence development when he installed the water and sewer stub-outs.

Councilor Darnell noted that he is on the record for supporting the construction of additional multi-family residential developments. However, he questioned whether Mr. Stoabs ever advised the single-family residential homeowners of his plans to construct the proposed apartments. In response, Mr. Stoabs explained that he does not handle the sale of the properties so he does not have direct contact with the customers. He pointed out, however, that there used to be a copy of the master plan development hanging in the sales office but stated that he is unable to locate it. In response to questioning, he also stated that there were never any signs erected on the property to advise potential homeowners of the proposed multi-family development. Furthermore, Mr. Stoabs pointed out that the east side of Camaron Avenue has been completely developed and stated that the reason that he has not started construction on the west side is because he was planning to construct the apartment complex. He attributed economics as the reason for the delay in constructing the apartment complex.

In response to inquiry from Councilor Sandel, Mr. Stoabs pointed out that the campus remodel that was done at San Juan College a few years ago caused the intersection of Messina Drive, the entrance to San Juan College and College Boulevard to be out of alignment.

Councilor Fischer contended that the site plan depicted on page 8.19 of the agenda materials does not meet City Code requirements because there are no drainage ponds or trash receptacle areas. Noting that she was on the Council in 1996 when the original petition was first discussed, she stated that it was the intent of the Council that construction of the apartment complex had to be started within five years.

There being no further discussion from the proponents, the Mayor called for comments from the opponents.

Addressing the Council, Rod Montoya, 4902 Cameron Avenue, presented the Council with photographs that were taken of the signs that are

erected within the Windsor Heights Subdivision (Exhibits C and D). He noted that the sign endorses custom homes and protective covenants and does not mention the proposed apartment complex. He argued that the zone change was subject to all of the conditions being met, not just condition (c) as Mr. Stoabs is claiming. He also stated that he was never notified of Mr. Stoabs' intent to construct the apartment complex, noting that a master development plan was never on display in the sales office as Mr. Stoabs claims.

Elizabeth HATHENBRUCK, 4822 Cameron Avenue, stated that she was told by Mr. Stoabs that the subject property would be developed, but that the property owners should not be worried because it would be developed last. Furthermore, she contended that the property owners had no way of knowing what Mr. Stoabs' intentions were because there were no signs to advise them of the planned apartment complex.

Chuck Banks, 300 Majesta Place, stated that he purchased his house in December, 2000 and concurred that all of the signs on the property indicated that only custom homes would be constructed. He also stated that he walked by the sales office on a regular basis, because his wife used to work for Stoabs Oil, and confirmed that there was never a master development plan posted on the wall.

Linda Horn, 3600 N. Coronado Avenue, stated that she was involved in the zoning of the Piñon Hills Boulevard corridor and stated that, during that process, Mr. Stoabs never once questioned the single-family zone designation for the subject property as shown on City maps.

Bryce Hunter, 4912 Camaron Avenue, argued that conditions (b) through (d) do not apply to condition (a) because it clearly states that, "The apartment complex, except as noted below (conditions (b) through (d)) being generally developed as shown on a site plan. . . ." Furthermore, he argued that the utilities were installed only because the petitioner was developing Camaron Avenue and Messina Street, noting that utilities are generally installed with roadway construction. He also directed the Council's attention to a letter that was submitted via e-mail by Steve and Sandi Perkins and asked that the Mayor and Council carefully read the document.

Kathy Kleinsteuber, 4804 Kingsway Drive, stated that she believes that Mr. Stoabs is backtracking on his intentions because he failed to start construction on the apartment complex while the economy was failing. She argued that he lost his intent to proceed with the project at one point in time but is now ready to proceed since the economy is starting to improve. Furthermore, she confirmed that the adjoining property owners were never notified of the proposed development.

Maninder Kaur, 5011 Rio Street, pointed out that Messina Drive services Mr. Stoabs' commercial development on the north side and, as a result, contended that Messina Drive was not built just to service the proposed apartment complex.

Mayor Roberts asked that the letter submitted by Steve and Sandi Perkins be entered into the record as Exhibit E and asked the Council and Mr. Stoabs if they have had a chance to read it. Councilor Fischer and Mr. Stoabs both announced that they have not yet read the letter.

RECESS

The Mayor called a recess at 8:54 p.m. to afford Councilor Fischer and Mr. Stoabs an opportunity to read Exhibit E.

The Mayor reconvened the meeting at 9:13 p.m. with all members of the Council being present.

Noting that he has attended most of the meetings that have been held with regard to this issue, Alan McKeen, 5008 Rio Street, stated that Mr. Stoabs' story continually changes. He pointed out that the zoning discrepancy was found when Mr. Stoabs approached the City requesting a zone change for the subject property from single-family to multi-family. He argued that Mr. Stoabs knew that he had not met the conditions and believed that the zone designation had reverted to single-family.

There being no further response to the Mayor's call for testimony, he reiterated that the Council is being asked to determine whether the petitioner satisfied the requirements Petition No. 1430, condition (a).

He explained that if the Council finds that the condition was met, the subject property will retain the R-3 (or MF-M) zone designation, as granted in 1996. If the Council determines that the condition was not met, then the zone designation would revert to R-1A (or SF-10).

Following further discussion, a motion was made by Councilor Darnell, seconded by Councilor Fischer to determine that the condition requiring development of the apartment complex on the property commencing within five years was not met because 1) the construction of the streets adjacent to the property was necessary to serve other development in the area and the streets were not constructed solely for the purpose of developing an apartment complex on the site; 2) water and sewer lines are often placed in the street to accommodate possible future development, and such installation does not indicate an immediate intention to commence development; 3) no site plan or building plans consistent with the construction of an apartment complex on the site were ever submitted to the City for approval; 4) no building permits for an apartment complex on the site were ever sought or granted; 5) no dirt was disturbed on the site and no construction of apartments on the site itself was ever started or completed; 6) no signs or other means of advertising ever indicated that apartments would be built on the site; 7) property owners that purchased lots or homes in the area were not told that apartments were being built on the property in question; 8) a sign was constructed on the site advertising the sale of lots for single family homes; and 9) the landowner's representative testified that he did not construct apartments on the subject site because it was not economically feasible.

Councilor Sandel stated that he believes that Mr. Stoabs is in compliance with condition (a). However, he explained that he does not believe that the zone designation for the subject property should have been changed from R-1A to of R-3 because the petitioner did not meet all of the conditions imposed upon Petition No. 1430.

Thereupon, the Mayor called for the vote upon the motion to determine that the condition requiring development of the apartment complex on the property commencing within five years was not met because 1) the construction of the streets adjacent to the property was necessary to serve other development in the area and the streets were not constructed solely for the purpose of developing an apartment complex on the site; 2) water and sewer lines are often placed in the street to accommodate possible future development, and such installation does not indicate an immediate intention to commence development; 3) no site plan or building plans consistent with the construction of an apartment complex on the site were ever submitted to the City for approval; 4) no building permits for an apartment complex on the site were ever sought or granted; 5) no dirt was disturbed on the site and no construction of apartments on the site itself was ever started or completed; 6) no signs or other means of advertising ever indicated that apartments would be built on the site; 7) property owners that purchased lots or homes in the area were not told that apartments were being built on the property in question; 8) a sign was constructed on the site advertising the sale of lots for single family homes; and 9) the landowner's representative testified that he did not construct apartments on the subject site because it was not economically feasible. The roll was called with the following result:

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

In closing, Mayor Roberts announced that the Council has concluded that 1) the construction of streets and utilities adjacent to the property did not constitute commencement of development since the streets and utilities build-out was mandatory for any development to take place, not solely for the project in question; 2) even if construction of streets and utilities did indicate a plan to build the apartment complex in the future, it did not constitute actual commencement of the apartment construction; and 3) even if the landowner did originally intend to build an apartment complex on the property, he abandoned the project before 2001 when the five year time limit expired. Noting that the printed agenda for tonight's meeting did not clearly indicate that the Council

would take action to revert the zoning, he asked that staff schedule the reversion of the zone designation for Council action at the June 21, 2011 City Council Work Session.

COUNCIL BUSINESS:

Recognition of Electric Utility Director Maude Grantham-Richards

Mayor Roberts proudly stated that it was recently announced that Electric Utility Director Maude Grantham-Richards will be awarded the highest honor from the American Public Power Association (APPA), the Alex Radin Distinguished Service Award. He commended Ms. Grantham-Richards for her outstanding service to the community and to the Farmington Electric Utility customers.

Illegal Fireworks

Councilor Fischer announced that Municipal Judge Bill Liese has assured her that he will impose the strictest of penalties upon those who are convicted of using illegal fireworks inside the city limits. Furthermore, she stated that he has suggested that the Police and Fire Departments investigate fires that are caused by fireworks as a negligent arson and suggested that this be included in the public service announcements that are being planned.

Red Apple Transit

Noting that Daisy Swadesh was in the audience earlier tonight seeking an opportunity to address the Council concerning the Red Apple Transit, Councilor Fischer asked that staff schedule a presentation at a future Work Session to update the Council on the plans of the transit system.

City Manager Rob Mayes

Mayor Roberts requested that the following discussion be recorded verbatim in the record of tonight's meeting.

[Begin verbatim Record]

Councilor Fischer: This is a subject that I would really have preferred not having to bring up, but I'm wondering what the heck is going on with the Rob Mayes situation? I have not been consulted in anything and, quite honestly, Mr. Mayor, when I see you on television saying that Rob has 100 percent support. . . his job isn't in jeopardy. . . and any of those things, I'm wondering how did you come to those conclusions without consulting the Council?

Mayor Roberts: Well, because I know what I think.

Fischer: Well, you're wrong.

Roberts: I didn't speak for you. I spoke for myself.

Fischer: You said that Rob had 100 percent support.

Roberts: I said he has my 100 percent support, and he does.

Fischer: Well, I don't think you made it clear that it was your 100 percent support.

Roberts: Well, I think that I did. . . and he has my 100 percent support.

Fischer: I've said on the record that I did not support him prior to this unfortunate accident. . . or not accident. . . event, and I don't support him now. How this has all been handled. . . with letting the Council know what's happened, I think has not been handled properly. I believe that we certainly could do better with the information that is out there. I find it a bit unusual that all the information that I've gotten is from the newspaper. I think that is not what is supposed to be happening in good open government and I just would like to register my displeasure at how this has all turned out.

Roberts: Thank you, Councilor Fischer. Let me just say, again, that. . . I tried to make it clear that when I'd been interviewed that I'm

speaking as Mayor. . . in my capacity as Mayor. These are my feelings. I am supportive of Rob and his personal crisis. He has got my support in his professional position. You are certainly free to express your opinion and you've done that and I respect that. Councilor Sandel?

Councilor Sandel: Thank you very much, Mr. Mayor. I looked, quite frankly. . . I looked, Mr. Mayor, at the open meetings act and looked for a way for us to be able to have this discussion that I have in closed session. I did not find any way for that to be able to occur. I'd like to preface my conversation with. . . I also. . . I echo your support, Mr. Mayor, for Mr. Mayes, personally and professionally, and find him to be a man of outstanding character. So I would like to make that absolutely clear. That being said, I have had some concerns about the notification procedure that occurred to me, as a Councilor. . . as a Councilor where this particular event occurred. . . and the lack of coordination for information that was provided to me, specifically. It was embarrassing, at least, for me to be notified about this particular incident with details from no fewer than five members of my district. . . which then prompted me to seek information about what was going on. I do not have any desire to go back and relive the past of that, because I don't think that does any good. I do believe that, as a Council, we should expect. . . on behalf of ourselves and on behalf of the body and on behalf of our constituents, that some type of formal process be put into place, moving forward, on how communication occurs with the Council. I certainly understand that there were extenuating circumstances in this particular event but, as I said, I did not feel as if I could answer the questions that I was being asked to the level of confidence that should be expected of me as an elected official. What I would like, as a result of this, is rather than blaming the past, I would like to look at how we can improve the future. What that would be is providing a level of expectation on behalf of Farmingtonians on how crime is to be reported and publicized inside of our community, especially at the point that the perpetrator has been caught. Historically, there has been very close communication, in fact there's been press releases that have come out of the police department. I understand that we are under new leadership and I have not seen any of that in this particular circumstance. So we've got a new regime from a previous term and this is the first major event of that new regime. . . both in the police department as well as on the Council. On behalf of my constituents, Mr. Mayor, what I would like to do is work together to develop some type of a process that's dependable and that we can provide better assurance to our constituents.

Roberts: Councilor Sandel, I appreciate the desire to know. . . the need to know and the need to be able to communicate with constituents. Obviously, this was a unique situation. I could be flippant and say that next time we'll do it better. But, obviously, I'm hoping there's not a next time. I think what you're saying is, let's expand the scope of this discussion beyond the unique circumstances of this situation. . . which I think, any reasonable person would say, were extra ordinary, and look at a plan for dissemination of information involving significant crime that works for the Councilors. I'm very open to that. Obviously, there's going to be some restrictions on the ability of law enforcement to distribute information. Going back to this particular situation, I would like to provide a timeline. You indicated that you don't want to go back and discuss what has happened, but I feel that because of the comments of Councilor Fischer and then yours that maybe the timeline is appropriate just so that everyone has an understanding with what people were dealing with. I'll take it from the timeline as it begins with me. At about 1:30 p.m. I was notified by Chief Westall that there was a situation that had occurred. . . that it was a terrible situation and that there were not a lot of details that he could give to me at that time. . . but that they involved John Mayes and that he had been taken into custody in connection with this crime. Chief Westall. . . and, Kyle, I want you to correct me at any time that you think that I am wrong, but don't do it until I finish. Just take notes.

Police Chief Kyle Westall: Okay.

Roberts: The message at that point was that the investigation was ongoing and it was premature to draw any conclusions and that it was information that he ask that I keep to myself. Probably at about 6:15, I received a call from Bob Campbell who indicated that Kyle had asked that he call me to indicate that there had been a confession and that John Mayes had not yet been interrogated, but would be at some point fairly soon. . . that there were still a lot of questions left unanswered. . . a lot of questions out there that were not answered and it still was in a

highly sensitive state and asked that. . . Bob reminded me that Kyle had indicated that this was highly sensitive information and asked that I keep it confidential. I was having dinner and I got a message from Kyle and I went outside to call him. . . that was probably about 7:15. I could be off a little bit on time. . . I'm just trying to be fairly close. Kyle and I had a bit more lengthy discussion at that time. I got some more detailed information. Kyle indicated to me that he had gotten permission to give me that information and that it was still information that was highly sensitive and my reaction was that it's still confidential information. . . got home about 9 or 9:15 and got a text message from Councilor Sandel asking about it. . . the situation notification process. My intent, as I was headed home, was that when I got home I would be talking to Kyle and to Bob to discuss the notification to the Council and the proper timing for that. It's my feeling that it needed to be done prior. . . that evening, prior to any news stories coming out Saturday morning. Basically, the advice I got was that it would be appropriate for me to call the Council at that point in time. I did do that. I notified each of the Councilors by phone and Councilors Fischer and Darnell and McCulloch had not known of the incident. . . had no knowledge of it. . . and I talked to Councilor Sandel. That is what happened from my perspective.

Sandel: Mr. Mayor, if I may?

Roberts: Yes?

Sandel: I appreciate that very much and it then raises another issue for me that I believe is of Council purview, which is confidentiality within the police department. If there was information that was coming to you, Mr. Mayor, that was indicating that this information should not be spread. . . I can tell you, very specifically. . . and my timeline is. . . I was in Alaska at the time. The Mayor and I had a conversation, but. . . I was in Alaska at the time and I got a call from my wife who's a stone's throw away from this house. But prior to that call, at 8:21 mountain, I received a text message of very specific detail from somebody that would have no knowledge of Mr. Nordstrom, personally. Then within an hour from 8:21 until 9:25, I received four more phone calls, one of them being from my wife. So if information was so widespread within that period of time, Mr. Mayor, that the City Manager. . . or the Assistant Manager who had stepped into the role of leader at that time and the Police Chief were asking for things to be kept confidential then. . . not to belittle the police department, but there was a leak somewhere.

Westall: Councilor, I think I can resolve some of this. First, let me apologize. Probably within the hour that you are talking about there was probably a time when I could have received permission within that hour. . . hour-and-a-half to release more widely-disseminated information. I fully take that as my negligence in not getting that out. But let me kind of explain. When I initially contacted the Mayor and I knew that John Mayes was involved in the incident. . . I did know that. . . let me try to state this as smoothly as I can. I knew that the crime scene was a horrible crime scene. . . it's suffice to say. I knew that good things probably weren't going to come of this. That being said, I knew that my department had a huge conflict of interest in investigating this case. I spoke with the Mayor, at that time, about turning the case over to the New Mexico State Police, which I did. From that time, my role as the director or Chief of Police in this investigation is very limited. I have to maintain their integrity of the investigation by not interfering, myself. I'm very much at their decisions as to what I can release and when I can release it. I did receive specific permission to inform the Mayor of some of these issues. I suppose, in hindsight, I probably could have just added on the end of that, "and the City Council" and that may have passed. They weren't really thrilled about the Mayor. But I think I could have gotten it added on to that, and probably should have. But it was specifically that I could inform the Mayor and Acting City Manager of what was occurring. Part of the huge problem of this entire deal which, by the way, if I work here for another 30 years I don't believe anything this bizarre will occur again. But part of the problem is the normal mechanism for contacting you was out of the picture. So I didn't readily think about that either. I kind of presumed, without discussion with the Mayor, that he would inform you. But we had no discussion of that and that was probably wrong of me to presume that. I was very limited in what information I could release because it's no longer my investigation and, thus, the same reason why you haven't seen a press release from my agency. . . because it's not our investigation. It would

be very presumptive and over-stepping my bounds to do something like that.

Sandel: Mr. Mayor and Chief. I appreciate, very much, that explanation and understanding each and every word of it to be the absolute truth. Thank you. I don't assess blame in any of this, but what I am looking for is the assurance that we can provide to our community when there is some hysteria. . . and I was dealing with some hysteria inside of my district and amongst my constituents. Providing some information to be able to assist in quelling what was going on, particularly, when a suspect was, at that time, in custody. That's what I'm looking for is at the end of the day, from this Council's purview, I guess. . . providing that assurance to our community because there were a lot of people affected, in my perspective.

Westall: Certainly. If the circumstances had of been different. . . if there hadn't been a conflict of interest and it's then my investigation to decide who's privy and who's not, then it makes it so much simpler. That's why this one got so complicated. I certainly take responsibility, and I will tell you that in the future. . . certainly when I talked with you Friday night, I won't forget that conversation for a long time. I totally understand where you're coming from and it's perfectly legitimate. There were people in the neighborhood who were obviously upset and seeing that many crime scene units out at a residence is certainly going to electrify a neighborhood and I completely understand that. In hindsight, I probably should have been consistently seeking when I could have made the notification wider.

Roberts: I think, Kyle. . . what I think Council would like, and I assume there would be consensus on this, is to kind of look at the protocol for notification and looking at, maybe, all kinds of contingencies.

Westall: Sure.

Roberts: Particularly if the City Manager is not available. . . those kinds of things.

Westall: Right.

Roberts: A general review, I think and maybe a report back.

Westall: Okay.

Roberts: That would be it, Councilor Sandel?

Sandel: Yes, Sir, Mr. Mayor.

Roberts: All right. Anything else, Councilor Sandel?

Sandel: No, Sir, Mr. Mayor.

Roberts: Did you have anything else, Kyle?

Westall: I don't.

Roberts: Okay. Thank you, Kyle. I appreciate the stress that you were dealing with that day as well. You're dealing with it on dual levels, I think. . . professionally and personally. It's a tough time.

[End of verbatim record]

Assistant City Manager Bob Campbell presented and read by title Resolution No. 2011-1399 adopting an official final budget for Fiscal Year 2012. The title of the resolution being:

A RESOLUTION ADOPTING AN OFFICIAL FINAL BUDGET FOR THE CITY OF FARMINGTON, NEW MEXICO FOR FISCAL YEAR 2012 AND REQUESTING STATE APPROVAL.

Mayor Roberts announced that he has given due consideration to Councilor Sandel's suggestion that a portion of the City's General Fund revenues be set-aside to fund debt service in an effort to construct some large community projects. He explained that he agrees that a mechanism should be identified to fund capital projects, but stated that he cannot

support the proposal at this time due to the uncertainties of the economy.

Thereupon, a motion was made by Councilor Darnell, seconded by Councilor McCulloch to pass and adopt Resolution No. 2011-1399 as presented. The roll was called with the following result:

Those voting aye:	Dan Darnell Gayla McCulloch
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Those voting nay:	Mary M. Fischer Jason Sandel
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The Mayor voted in favor of the motion and declared that Resolution No. 2011-1399 was duly passed and adopted.

City Attorney Jay Burnham presented for discussion a proposed ordinance dealing with the selling or possession of substances listed on Schedule 1 of the Federal Schedules of Controlled Substances. The title of such proposed ordinance being:

AN ORDINANCE MAKING IT A VIOLATION OF THE CITY CODE TO SELL OR POSSESS A SUBSTANCE LISTED ON SCHEDULE 1 OF THE FEDERAL SCHEDULES OF CONTROLLED SUBSTANCES.

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 June 28, 2011 regular City Council meeting.

Mr. Burnham also presented a proposed ordinance increasing sanitation fees 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 Compilation. He recommended the ordinance, if adopted, be given the number 2011-1245. The title of the ordinance being:

AN ORDINANCE AMENDING SECTION 23-2-7 OF THE FARMINGTON CITY CODE TO PROVIDE FOR AN INCREASE IN RESIDENTIAL AND COMMERCIAL CHARGES FOR SANITATION SERVICE

In response to inquiry from Councilor Sandel, Mr. Burnham stated that Waste Management has indicated a commitment to implement a commercial recycling program once a new recycling center is constructed.

After consideration of Ordinance No. 2011-1245, 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:	Mary M. Fischer Dan Darnell 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 and ordinance No. 2010-1245 was duly passed and adopted.

Lastly, Mr. Burnham presented a proposed ordinance prohibiting texting while driving 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 Compilation. He recommended the ordinance, if adopted, be given the number 2011-1246. The title of the ordinance being:

AN ORDINANCE PROHIBITING TEXTING WHILE DRIVING.

In response to inquiry from Councilor Fischer, Police Chief Kyle Westall explained that there will be some difficulty in enforcing the proposed ordinance, but stated that he believes that it will send a message to the community and promote some voluntary compliance.

Councilor Fischer stated that she cannot support an ordinance that is difficult to enforce.

Councilor McCulloch quoted statistical data that states that 80 percent of all motor vehicle accidents are caused by eating while driving. Noting that she is not a proponent of texting while driving, she concurred with Councilor Fischer's concern that it is unenforceable and stated that she would prefer to consider a comprehensive distracted driving ordinance.

After consideration of Ordinance No. 2011-1246, 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 Jason Sandel
Those voting nay:	Mary M. Fischer Gayla McCulloch

The Mayor voted in favor of the motion and declared that Ordinance No. 2011-1246 was duly passed and adopted.

Mayor Roberts explained that he would prefer a more comprehensive ban on the use of cellular telephones while driving, but stated that he believes that this ordinance is a step in the right direction.

There being no further business to come before the Council, the meeting was adjourned at 10:27 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 12th day of July, 2011.

Entered in the permanent record book this 13th day of July, 2011.

Tommy Roberts, Mayor

SEAL

ATTEST:

Dianne Fuhrman, City Clerk