

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, August 9, 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 Gayla McCulloch Jason Sandel
ABSENT	Mary M. Fischer, Councilor

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 Pastor Raul Granillo of Crossroads Community 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 July 26, 2011.

*MEMORANDUM OF AGREEMENT between the City and the New Mexico Department of Transportation authorizing Safe Routes to School (SRTS) Phase 2 non-infrastructure funds to implement and develop a SRTS educational and encouragement program for Fiscal Years 2011-2013 (funding amount of \$25,000).

*ADOPTION OF RESOLUTION NO. 2011-1406 commemorating changes to the official Municipal Election District Map of the City of Farmington.

*ADOPTION OF RESOLUTION NO. 2011-1407 accepting and approving a certain grant agreement between the City and the Federal Aviation Administration for Project No. 3-35-0016-033-2011 (snow plow) at the Four Corners Regional Airport in Farmington, New Mexico.

*ADOPTION OF RESOLUTION NO. 2011-1408 accepting and approving a certain grant agreement between the City and the Federal Aviation Administration for Project No. 3-35-0016-034-2011 (electrical upgrades, apron reconstruction and snow removal equipment building) at the Four Corners Regional Airport in Farmington, New Mexico.

*WARRANTS PAYABLE for the time period of July 25, 2011 through August 6, 2011, for current and prior years, in the amount of \$4,406,989.33.

Mayor Roberts announced that Airport Manager Ben Trujillo has requested that Resolution Nos. 2011-1407 and 2011-1408 concerning grant

programs at the Four Corners Regional Airport be withdrawn from consideration.

Councilor Sandel asked that Resolution No. 2001-1406 concerning the Municipal Election District Map 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 Resolution Nos. 2011-1406, 2011-1407 and 2011-1408, and upon voice vote the motion carried unanimously.

PUBLIC HEARING/2011 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM

Mayor Roberts convened the public hearing concerning the 2011 Edward Byrne Memorial Justice Assistance Grant ("JAG") Program.

Police Chief Kyle Westall reported that the City of Farmington and San Juan County have received \$82,830 from the Fiscal Year 2011 JAG program and requested authorization to expend the City's portion (\$53,902) on various items of police equipment and accessories required to maintain the operational efficiency and regional response capabilities of the vehicle fleet.

There being no response to the Mayor's call for comments from the Council or from the public, the public hearing was closed and staff was authorized to proceed with the expenditure as requested.

RECOMMENDATION FROM THE PLANNING AND ZONING COMMISSION:

- (1) Adoption of the recommendation from the Planning and Zoning Commission, as contained within the Community Development Department Petition Report, to deny Petition No. ZC 11-09 from Capital S, LLC, represented by Craig Stoabs, requesting a zone change from the SF-7, Single-Family Residential, District and the OP, Office Professional, District to the MF-M, Multi-Family Medium Density, District for 10.25 acres located on the northeast corner of the intersection of College Boulevard and Victoria Way.

In response to Mayor Roberts' poll of the audience, a majority of the individuals in attendance of tonight's meeting raised their hands to indicate that they are opposed to the subject petition. On the contrary, Craig Stoabs was the only individual to raise his hand in support of the petition. Mayor Roberts established the ground rules for addressing the Council. He asked that all citizens step to the podium and speak through the microphone, announce their name and address for the record and to limit their comments to two minutes in duration. He also asked that only substantive comments be made, noting that threats of any kind will not be tolerated as they do not support the individual case. He also assured the audience members that the Council has read the agenda materials and understands the issue at hand.

In response to inquiry from Councilor Sandel, City Attorney Jay Burnham explained that a supermajority vote of the Council is not required because Mr. Stoabs has decided to exclude Phase 2 of the proposed development. As a result, staff has not received written protest from 20 percent or more of the property owners that are located within 100 feet of the area under consideration.

In response to inquiry from Mayor Roberts, Mr. Stoabs confirmed that he has withdrawn Phase 2 from consideration and stated that he is now amenable to the PD, Planned Development, zoning designation instead of the requested MF-M. He noted that PD is more restrictive than MF-M because it 1) reduces the maximum number of units from 129 to 104; 2) restricts the height of the buildings to 22 feet (or two stories) instead of 45 feet; 3) increases the setbacks from 25 to 65 feet; and 4) requires the dedication of 10 percent of the land for open space. In response to inquiry from Mayor Roberts, City Attorney Jay Burnham stated that he believes that the Council can consider the PD zone designation at tonight's meeting since it is more restrictive than the requested MF-M zone.

Utilizing a PowerPoint presentation, Associate Planner Fran Fillerup provided background information relative to the subject petition. He noted that the petition encompasses 10.25 acres of land

that would accommodate 223 dwelling units, but stated that with the withdrawal of Phase 2, only 5.4 acres are being considered and 129 units. He briefly reviewed the site plan that was submitted by the petitioner, pointing out that access to the proposed development is on Victoria Way. He also noted that the City's Comprehensive Plan indicates that the area should be zoned as single-family residential with lots less than 20,000 square feet, but stated that the plan also identifies the need to provide a variety of housing options, including affordable rental units for elderly, students and low-income residents. Mr. Fillerup reviewed the proposed site plan, as contained on page 6.15 of the agenda materials, noting that staff is recommending that a traffic impact analysis be conducted and that some infrastructure improvements be made if the proposed development is approved. In closing, he announced that staff maintains its recommendation that the subject petition be denied even with the petitioner's withdrawal of Phase 2.

In response to inquiry from Councilor Darnell, Community Development Director Mary Holton stated that she believes that the PD zone designation is inconsistent with the City's Comprehensive Plan. However, she noted that the PD zone designation would give the adjoining property owners an opportunity to review and comment on the master plan prior to construction and would meet the community's need for additional multi-family housing. She recommended that the petitioner be asked to submit a new petition that requests the PD zone designation.

Addressing the Council, Mr. Stoabs clarified that the site plan contained on page 6.15 of the agenda materials will serve as the master plan if the PD zone designation is approved. He also explained that he did not construct rental properties in the late 1990's because the rental rates did not justify the construction costs, noting that there has been a 97 percent increase in the rental rates from 2000 to 2009 and a 63 percent decrease in the number of rental units available. He also stated that the national housing market is significantly decreasing due to the downturn in the economy and the inability of potential homeowners to secure financing. Furthermore, Mr. Stoabs reviewed statistical data relative to the future rental housing needs for Farmington and reiterated that the City's Comprehensive Plan supports the construction of affordable housing units. He assured the Council that he intends to construct an upscale apartment complex that is gated, provides an indoor swimming pool and fitness center for the tenants and has outdoor barbecue grills. He contended that the subject location is ideal since it provides a buffer between the single-family residential areas and College Boulevard and coincides with the multi-family condominiums that are located directly east of the subject property. He also noted that the proposed apartment complex will create four additional full-time jobs and will benefit the overall economy. With regard to traffic, Mr. Stoabs stated that he was forced by the City to construct Victoria Way as a condition of approval for one of his prior subdivisions and stated that his calculations indicate that more traffic will be generated with single-family residential zoning than with the proposed apartment complex. He also noted three different instances where the Council approved zone change requests that were not consistent with the City's Land Use Map and suggested that Victoria Way be closed to through traffic in an effort to curb the concerns being expressed by the neighboring residents.

In response to inquiry from Councilor Sandel, Mr. Stoabs stated that he has not had the time to discuss his withdrawal of Phase 2 or the recommended PD zone designation with the adjoining property owners.

Councilor Darnell stated that he is more favorable to the PD zone designation since it will provide the adjoining property owners an opportunity to review the master plan. He also pointed out that Mr. Stoabs has appealed to the District Court the Council's decision on Petition No. CR 11-01 concerning a zone change request for property located at the intersection of Camaron Avenue and Messina Drive and he asked Mr. Stoabs what he intends to do with that piece of property if this petition is approved. In response, Mr. Stoabs stated that he does not intend to construct apartments at that location, but may choose to build townhomes, condominiums or patio homes.

Discussion followed on how to proceed with the subject petition since the petitioner is now requesting a PD zone designation instead of MF-M and has withdrawn from consideration a portion of the property (Phase 2). Senior Planner Cindy Lopez stated that staff would prefer that the Council take action on the subject petition as presented, with

the withdrawal of Phase II, but not to consider zoning the property PD, Planned Development. The petitioner can submit a new petition requesting this action if he desires.

The Mayor called for comments from the audience.

Jeff Gilbertson, 3115 Windsor Drive, questioned whether there has been a significant change in the character of the neighborhood to justify the subject zone change. In response, Ms. Lopez noted that there has been two zone changes that have resulted in multi-family zone designations in the area, but stated that staff is still recommending denial of the subject petition. Mr. Gilbertson asked the Council to deny the subject petition because the property owners were never given any indication that multi-family dwelling units were being considered. He stated that it was his understanding that the subject property was initially earmarked for construction of a senior citizen housing complex and announced that he does not support the proposed PD zone designation due to traffic concerns. He also argued that the Traffic Impact Analysis that was conducted for the surrounding properties was done during the summer hours when school was not in session and showed the Council a map indicating that Mr. Stoabs owns additional property to the north that is more appropriate for the construction of apartments.

Derek Rawson, 3932 Rochester Avenue, contended that Mr. Stoabs' sole purpose is to make money and argued that the zone change will be a win for him but a loss for the adjoining property owners. He stated that he believes that the Council needs to consider both phases of the proposed development because he thinks that Mr. Stoabs withdrew Phase 2 of the proposed development so that a supermajority vote of the Council would not be required. He contended that this approach is an unethical ploy to get the entire development approved without the consent of the neighborhood. He also pointed out that this particular area was severely flooded by last year's flashflood and argued that storm water run-off will only increase if the proposed development is approved. He stated that he believes that a new hydrological study needs to be conducted for the area and contended that the proposed development will not boost the economy because a majority of the materials will be purchased from out-of-town vendors.

Alicia McDonald, 3707 Fairfax Avenue, stated that she and her husband own rental property and agree that such property is in short supply. However, she voiced her objection to the location being considered because the property will not be owned by the tenants. She also confirmed that traffic on Victoria Way and College Boulevard is problematic during school hours and argued that the proposed apartments will increase traffic counts by more than the 64 cars per day, as reported by Mr. Stoabs.

Lura Lindeen, 3751 Country Club Drive, voiced her objection to the subject petition, stating that the neighborhood is nicely landscaped because the property owners have invested their money in their properties. She contended that renters will not take care of their property and will cause the property values to decrease. She also stated that she believes that Mr. Stoabs was threatening the neighbors when he suggested that Victoria Way be closed to through traffic and stated that Mr. Stoabs never advised the property owners of his intent to construct apartments on the subject property. Lastly, she questioned whether an upscale apartment complex with high rents meets the criteria for affordable housing.

Matt Harris, 4100 Darby Lane, stated that he had heard a rumor that a backdoor deal was being negotiated by the Council with Mr. Stoabs, but stated that after attending tonight's meeting and hearing the discussion, he is confident that is not the case.

Bryce Hunter, 4912 Camaron Avenue, argued that Mr. Stoabs should have built the apartment complex first instead of the single-family housing areas so that the property values would not be affected. He stated that he has invested his money in Farmington through the purchase of his business and property and asked the Council to support his endeavors since they positively impact the City's financial stability.

Robert Shumway, 3991 Yorkshire Street, voiced his objections to the subject petition because it will increase both vehicular and pedestrian traffic in the neighborhood and stated that he is worried that vandalism and crime will increase if an apartment complex is constructed. He

speculated that if the subject petition is denied, Mr. Stoabs will eventually construct single-family homes on the property once the economy improves.

Jerry Samter, 3915 Buckingham, voiced his objection to the subject petition due to the already high volumes of traffic on Victoria Way and College Boulevard. He stated that he believes that speed humps would be a good option for slowing down traffic in the neighborhood.

Victoria Lacey, 4104 Abbey Road, directed the Council's attention to page 6.117 of the agenda materials containing a map that shows the number of residents who are opposed to apartments being constructed in the area. She reiterated the concerns regarding traffic and refuted Mr. Stoabs' comments that single-family homes are not selling because potential buyers cannot obtain funding.

Erica Rawson, 3932 Rochester Avenue, questioned whether the neighboring schools can handle a large influx of school-age children.

Justin Anchors, 4005 Abbey Road, stated that his property will be directly affected by the proposed zone change since his backyard abuts the subject property. Furthermore, he noted that he is paying essentially the same amount for his mortgage as he was paying in rent for the townhome located off of 30th Street. He also argued that affordable housing does not secure jobs or new businesses.

ReAnn McManus, 4101 Abbey Road, announced that her backyard also abuts the subject property and urged the Council to deny the petition.

Conrad Henrichsen, 3801 Country Club Drive, attested to the comments being made about the high volumes of traffic on Country Club Drive and agreed that storm water run-off in the area is a significant problem.

Brent Peterson, 3837 Sherwood Street, stated that he also believes that the proposed apartment complex will generate more than the 64 cars per day that Mr. Stoabs previously reported and stated that the apartment complex will negatively change the character of the neighborhood. He asked the Council to deny the subject petition.

In response to the comments, Mr. Stoabs noted that it is in his best interest to construct a development that is aesthetically pleasing and complimentary to the surrounding properties since he owns a large amount of vacant land in the area. He also pointed out that the proposed development would increase the required separation from 25 to 65 feet between the proposed development and the neighboring residents on Abbey Drive if the PD zone designation is approved.

Following further discussion and consideration, a motion was made by Councilor Sandel, seconded by Councilor Darnell to adopt the recommendation from the Planning and Zoning Commission, as contained within the Community Development Department Petition Report, and to deny Petition No. ZC 11-09 requesting a zone change from the SF-7 to the MF-M district for 10.25 acres of land located on the northeast corner of the intersection of College Boulevard and Victoria Way.

In response to some of the comments that were made by the adjoining property owners, Councilor Sandel assured the residents that the Council has no intention of bartering one piece of property for another. He also voiced frustration for the fact that the petitioner has not made any effort to resolve the concerns of the residents prior to the issue being presented to the Council and stated that there is a necessity to curb urban sprawl and to promote infill development within the city. However, he stated that he believes that there are options available that encourage smart growth, walkable neighborhoods and the meshing of commercial and residential zone designations. Councilor Sandel also stated that he agrees that drainage in the area is a problem and he suggested that the neighbors petition the City for traffic control measures (such as speed humps) to slow down and/or discourage traffic on Victoria Way and Country Club Drive.

Councilor Darnell also assured the residents that the Council has not, and will not, barter or enter into a deal with Mr. Stoabs despite his appeal in District Court.

Thereupon, the Mayor called for the vote upon the motion to adopt the recommendation from the Planning and Zoning Commission, as contained within the Community Development Department Petition Report, and to deny Petition No. ZC 11-09 requesting a zone change from the SF-7 to the MF-M district for land located on the northeast corner of the intersection of College Boulevard and Victoria Way, and upon voice vote the motion carried unanimously.

COUNCIL BUSINESS:

Dial-A-Ride

Councilor Darnell relayed concerns that he has heard from constituents regarding the current Red Apple Transit routes and First Transit's decision to reduce the number of buses available for Dial-A-Ride from four to one. In response, Assistant City Manager Bob Campbell assured him that staff is aware of the problems associated with the new Red Apple Transit routes. Furthermore, he stated that staff will be asking First Transit to consider operating a second bus for Dial-A-Ride.

San Juan Generating Station

In light of the recent ruling from the Environmental Protection Agency that San Juan Generating Station will be required to install expensive pollution controls to dramatically reduce emissions from the coal-burning power plant, Councilor Sandel asked that staff provide the Council with an update on PNM's (Public Service Company of New Mexico) announcement that it plans to appeal the ruling.

Resolution No. 2011-1403 Approving the Fourth and Final Revision to the FY11 Budget, Including Two Cash Loans, and Requesting State Approval

Noting that Resolution No. 2011-1403 was split into two separate resolutions that were adopted by the Council at the August 2, 2011 Work Session, Councilor Sandel questioned whether Resolution No. 2011-1403 is still on the table for consideration. In response, Mayor Roberts explained that the subject resolution was simply not adopted since it was replaced with Resolution Nos. 2011-1404 and 2011-1405.

Special Police Badge Honoring New Mexico Centennial

Police Chief Kyle Westall proudly announced that the Farmington Police Department has designed a special badge that resembles the one used in the 1940's to honor New Mexico's Centennial celebration. He explained that each officer (except for two) will be purchasing their own badge at a cost between \$49 and \$69 and will wear the badge in honor of New Mexico during 2012.

DISCUSSION AND ACTION UPON ITEM REMOVED FROM THE CONSENT AGENDA:

- (1) Adoption of Resolution No. 2011-1406 commemorating changes to the official Municipal Election District Map of the City of Farmington.

Councilor Sandel explained that he requested that this item be removed from the Consent Agenda because he intends to vote against it.

A motion was made by Councilor Darnell, seconded by Councilor McCulloch to adopt Resolution No. 2011-1406, as presented. The roll was called with the following result:

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

The presiding officer thereupon declared that only two Councilors having voted in favor thereof, the said motion failed because state law requires three affirmative votes for passage of a resolution.

Thereupon, a motion was made by Councilor Sandel, seconded by Councilor Darnell to table Resolution No. 2011-1406 to a meeting where

all members of the Council are present, and upon voice vote the motion carried unanimously.

There being no further business to come before the Council, the meeting was adjourned at 9:43 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 23rd day of August, 2011.

Entered in the permanent record book this 24th day of August, 2011.

Tommy Roberts, Mayor

SEAL

ATTEST:

Dianne Fuhrman, City Clerk