

Work Session of the City Council, City of Farmington, New Mexico, held Tuesday, October 6, 2009 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 William E. Standley

COUNCILORS Dan Darnell  
Mary M. Fischer  
George F. Sharpe

PRESENT ONLY FOR A  
PORTION OF THE MEETING  
BY TELEPHONE PURSUANT  
TO RESOLUTION NO. 94-772 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  
CITY CLERK Dianne Fuhrman  
DEPUTY CITY CLERK Melody Coyner

PROPOSED RESOLUTION/ARIZONA PUBLIC SERVICE/HAZE RULE

At the request of Councilor Sharpe, City Attorney Jay Burnham announced that he has drafted a resolution that urges the Environmental Protection Agency ("EPA") to balance the need for clean air and good visibility with the need to preserve businesses that contribute to the economic health of the area. He explained that if the EPA were to adopt the proposed Best Available Retrofit Technology ("BART"), also known as the Haze Rule, Arizona Public Service ("APS") would be required to install equipment at Four Corners Power Plant that is so expensive that the partners would no longer be able to operate the plant in an economically viable manner. He briefly reviewed the information included in the agenda packet and noted that the proposed BART regulations will apply to the Four Corners Power Plant and Navajo Generating Station, located near Page, Arizona.

With regard to the eighth "Whereas" statement in the proposed resolution, Councilor Fischer argued that the elevated ozone levels are directly related to the large number of asthma, lung cancer and cardiovascular cases in the area. Referring to the article, "Long-Term Ozone Exposure and Mortality," published in the March 12, 2009 edition of the *New England Journal of Medicine*, Councilor Fischer contended that there is evidence that the risk of death from respiratory failure is higher in areas with increased ozone levels.

Richard Grimes, Environmental Health and Safety Manager for APS, stated that the Haze Rule is intended to address existing visibility impairment that is the result of manmade air pollution in National Parks and Wilderness areas, also known as Class 1 areas. He noted that nitrogen oxide ("NOx") is a contributor to the formation of ozone, but reported that the New Mexico Environmental Department Clean Air Task Force has determined that the proposed Haze Rule will have very little impact on ozone levels. Expressing his support for the subject resolution, he noted that modeling of the proposed emission controls shows that there will be only minimal improvement in visibility in Class 1 areas in spite of the exorbitant amount of money that will be required. In response to inquiry from Councilor Sharpe, Mr. Grimes reported that emission controls installed at the Four Corners Power Plant in the 1990s have reduced NOx emissions by 50 percent; that APS has proposed additional combustion controls that would reduce the remaining NOx emissions by 30 percent; and that the remaining NOx emissions will be

reduced by 75 to 85 percent if the EPA requires the installation of selective catalytic reduction technology, as proposed in the BART.

In response to inquiry from Councilor Fischer, Mr. Grimes explained that it is difficult to control NOx emissions at the Four Corners Power Plant because of the manner in which the facility was constructed. Furthermore, he reported that Four Corners Power Plant is the 19<sup>th</sup> largest coal-fired plant in the country; is approximately 15<sup>th</sup> in the amount of megawatts generated; and is 29<sup>th</sup> in the production of NOx in relation to the megawatts produced. However, he confirmed that Four Corners Power Plant can be the largest NOx producer in the country at certain times, but noted that it is not in the top 50 for sulfur dioxide and mercury emissions. Mr. Grimes also responded to questions from Councilor Darnell concerning the annualized cost per ton of coal for operating the latest technology equipment and noted that the improvements to the air quality will be undetectable to the human eye.

APS Plant Manager David Saliba pointed out that Four Corners Power Plant meets or exceeds all regulatory requirements associated with air emissions. In response to inquiry from Councilor Sharpe, Mr. Saliba explained that APS is willing to install the latest technology of combustion controls, a cost between \$125 to \$200 million, and the equipment necessary to meet the EPA's requirements for particulate removal, an additional \$150 million. However, he noted that if the EPA requires them to install selective catalytic reduction technology for NOx emissions, it could bring the total cost to \$1.3 billion. Furthermore, he stated that if the selective catalytic reduction technology is required in addition to the combustion and particulate controls, APS would be forced to consider closing the first three units of the Four Corners Power Plant because the improvements would be cost prohibitive. If this were to happen, Mr. Saliba stated that between 250 to 300 jobs would be eliminated at Four Corners Power Plant and approximately 100 to 150 jobs would be in jeopardy at BHP Navajo Mine.

Councilor Fischer asked if the costs of the proposed improvements would be passed on to the customers. In response, Mr. Saliba explained that the respective public utility commissions governing the owners of Four Corners Power Plant (Arizona Public Service, El Paso Electric, Public Service Company of New Mexico, Tucson Electric Power, Salt River Project and Southern California Edison) would be tasked with the responsibility of determining how the costs are financed.

Following brief discussion, a motion was made by Councilor Sharpe to delete from the resolution the three "Whereas" paragraphs dealing with asthma. The motion died for lack of a second.

Following discussion concerning the intent of the resolution and the economic impact on the community if a portion of the Four Corners Power Plant were to shut down, Councilors Sharpe and Darnell expressed their support for the resolution as drafted.

The Mayor announced that New Mexico statutes provide that members of a public body may participate in City Council meetings by telephone in certain situations and that the City has adopted Resolution No. 94-772 authorizing telephone participation to allow the City Council to take action on important matters. He announced that Councilor Sandel is absent from today's meeting and directed that Councilor Sandel be contacted by speaker telephone for participation in the meeting, pursuant to paragraph C, Section 10-15-1, NMSA 1978, as amended and City of Farmington Resolution No. 94-772.

Councilor Fischer expressed appreciation to APS for their willingness to install new equipment that will improve the local air quality. She also contended that the proposed Haze Rule could stimulate the local economy because new jobs will be created during the installation of the new technology.

In response to inquiry from Councilor Fischer, Mr. Saliba stated that if sections of the Four Corners Power Plant are closed, APS would replace the lost generation with a natural gas-fired power plant located in Arizona and with renewable energy that APS has committed to build in Arizona.

Discussion followed concerning the need for a cost-benefit analysis as part of the EPA rulemaking process.

Following the discussion, a motion was made by Councilor Sharpe, seconded by Councilor Darnell to table action upon the subject resolution to the October 13, 2009 regular City Council meeting.

Councilor Sandel asked that the Council be provided a summary of the cost-benefit analysis to be conducted by APS prior to the October 13, 2009 regular City Council meeting.

The Mayor called for the vote upon the motion to table action on the subject resolution to the October 13, 2009 regular City Council meeting. The roll was called with the following result:

Those voting aye:	Dan Darnell Mary M. Fischer George F. Sharpe 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.

Mayor Standley contended that any job loss would be devastating to this community. He urged every citizen to submit their comments on the proposed BART analyses by October 28, 2009.

#### LA PLATA RANCH PLANNED UNIT DEVELOPMENT

Utilizing a powerpoint presentation, Community Development Director Michael Sullivan reported that the Planning and Zoning Commission has recommended approval of the planned development (Petition No. PD 09-02), the annexation (Petition No. ANX 09-01) and an amendment to the Major Thoroughfare Plan (Petition No. MTP 09-01) for the proposed La Plata Ranch Planned Development being proposed by La Plata Holdings, LLC. He noted that the Council is also being asked to consider two other items related to the development, the Annexation/Development Agreement and the Application for Preliminary Approval for the La Plata Ranch Public Improvement District ("PID"). He explained that the last two items were not considered by the Planning and Zoning Commission because they primarily deal with methods for funding the proposed on- and off-site infrastructure improvements. Furthermore, he stated that no action can be taken on the PID until staff has had the opportunity to fully analyze the application and determine whether the Council should recommend preliminary approval. He noted that the proposed Annexation/Development Agreement addresses the City's share of the infrastructure costs and stated that there is no reason to discuss the other four items associated with the project until the Annexation/Development Agreement has been approved. He also pointed out that the cost of an additional water line to connect La Plata Ranch to the City's 3C water tank is not included in the cost estimates because the developer feels that a redundant water line is unnecessary. In closing, Mr. Sullivan introduced Paul Silverman of Geltmore LLC, a representative of the petitioner.

Addressing the Council, Mr. Silverman reported that the proposed development consists of approximately 251 acres, of which 20.6 acres will be designated for commercial use with 92.36 acres being maintained for improved and unimproved open space. He also noted that 562 residential lots are being planned with 480 of those lots being constructed to work-force housing standards. He reviewed the proposed infrastructure cost-sharing plan for construction of the proposed sewer line, spine road and the intersection of the spine road with Piñon Hills Boulevard. He noted that the estimated total cost of improvements is \$22,396,904, of which the City will be required to pay between \$9,006,229 and \$9,499,254.

With regard to the requested amendment to the Major Thoroughfare Plan to include a 5,100-foot spine road through the development as a minor arterial, Mr. Silverman pointed out that there are roads within the development that will connect to other properties and cause the spine road to meet or exceed the threshold of 25,000 vehicles per day. Mr. Silverman contended that all risks associated with the planned project lie with the developer because the obligation for the City to commence reimbursement will commence as the City actually receives gross receipts and property taxes in amounts sufficient to fund any such reimbursement obligation. He stated that he is amenable to an amendment to the Annexation/Development Agreement to clarify that the City will reimburse 60 percent of its portion of the proposed infrastructure cost-sharing

plan (\$9,006,229 to \$9,499,254) for construction costs of the proposed sewer line, spine road and the intersection of the spine road with Piñon Hills Boulevard and that San Juan County will reimburse the remaining 40 percent.

Councilor Darnell expressed overall support for the project, but voiced concern for the lack of a redundant water line to the development and the developer's contention that the cost of the spine road is the City's responsibility. Following discussion, Councilor Darnell stated that he would support the City cost-sharing in the construction of a "high water" crossing at the intersection of the La Plata River and the spine road. Councilor Sharpe concurred and added that he would support paying 100 percent of the incremental costs associated with upgrading the spine road from a local or collector street to a minor arterial. In response to inquiry from Councilor Fischer, Mr. Price stated that the developer will reevaluate the situation in the event that the County chooses not to participate in the proposed cost-sharing agreement.

In response to inquiry from Councilor Sandel concerning the Council's ability to incur costs that impact future Council members, City Attorney Jay Burnham noted that the obligations of the City created by the PID are authorized by State statute and stated that there is precedent that allows the City to participate in the proposed Annexation/Development Agreement. However, he assured Councilor Sandel that he will do further research on the matter before the proposed Annexation/Development Agreement is finalized.

In response to inquiry from Councilor Fischer, Charles Price, attorney for the developer, stated that they are proposing an amendment to the proposed Annexation/Development Agreement to allow the City to retain 25 percent of the tax stream revenues for the purpose of funding additional operational costs that are associated with the development. At the time that the developer is repaid its share of the infrastructure costs, the City will retain 100 percent of the tax stream revenues.

Following brief discussion, Mr. Price stated that he will provide the Council with a copy of the tax stream analyses for construction activities and property taxes, as prepared by financial analyst D.A. Davidson.

Lengthy discussion followed concerning the issues identified by staff in the "Community Development Staff Report", the conditions of approval being recommended for Petition Nos. ANX 09-01 and PD 09-02 and the options for funding the City's portion of the proposed infrastructure improvements.

Representing the San Juan County Homebuilders Association, Derald Polston agreed with Mr. Silverman that the proposed spine road will mostly benefit the City since there is no direct access to any residential lot.

Craig Stoabs of Silver Ridge Development stated that he has no issue with the proposed development, but questioned whether small developers can take advantage of the same funding and reimbursement options being requested through the PID. Tim McNaney, President of Twilight Homes and residential developer for La Plata Ranch, stated that the lots being proposed within the development will be available for purchase by any and all developers.

Dennis Ivie, member of the Planning and Zoning Commission, contended that the proposed project is an opportunity to expand development on the west side of Farmington.

Councilor Sharpe announced that, philosophically, he supports the development. However, he stated that he would prefer to have additional discussion concerning the cost-sharing agreement associated with the construction of the spine road.

Following further discussion, a motion was made by Councilor Sandel, seconded by Councilor Fischer to table action upon Petition Nos. PD 09-02, ANX 09-01, MTP 09-01 and the Annexation/Development Agreement to the November 3, 2009 Work Session to afford staff the opportunity to further negotiate an agreement on the proposed Annexation/Development Agreement, including the cost-sharing for construction of the spine road, and upon voice vote the motion carried unanimously.

Staff was also directed to provide the Council with options for financing the City's portion of the infrastructure improvements.

PROPOSED AMENDMENTS TO CHAPTER 19 DEALING WITH OIL AND GAS WELLS

Announcing that she needs to leave the meeting early, Councilor Fischer made a motion to table action upon the proposed amendments to Chapter 19 of the City Code to the October 20, 2009 City Council Work Session. The motion died for lack of a second.

Councilor Fischer left the meeting at 12:05 P.M.

The telephone call with Councilor Sandel was terminated at 12:06 p.m.

Following brief discussion, a motion was made by Councilor Sharpe, seconded by Councilor Darnell to direct staff to draft an ordinance incorporating the proposed amendments to Chapter 19 of the City Code dealing with oil and gas wells for consideration at an upcoming City Council Work Session. The roll was called with the following result:

Those voting aye:	Dan Darnell George F. Sharpe
Those voting nay:	None
Those absent:	Mary M. Fischer Jason Sandel

The presiding officer thereupon declared that two Councilors having voted in favor thereof, the said motion carried.

REAPPOINTMENTS TO THE ELECTRICAL CODE ADVISORY COMMITTEE

Mayor Standley asked the Council's consideration of the reappointments of Dave Christensen (term to December 2010) and Herbert Gephardt (term to December 2011) to the Electrical Code Advisory Committee.

A motion was made by Councilor Darnell, seconded by Councilor Sharpe to confirm the reappointments of Dave Christensen and Herbert Gephardt to the Electrical Code Advisory Committee, as recommended by the Mayor. The roll was called with the following result:

Those voting aye:	Dan Darnell George Sharpe
Those voting nay:	None
Those absent:	Mary M. Fischer Jason Sandel

The presiding officer thereupon declared that two Councilors having voted in favor thereof, the said motion carried.

APPOINTMENT TO THE AIRPORT ADVISORY COMMISSION

Mayor Standley asked the Council's consideration of the appointment of Wayne Mangum as an alternate to the Airport Advisory Commission (term to December 2010).

Thereupon, a motion was made by Councilor Darnell, seconded by Councilor Sharpe to confirm the appointment of Wayne Mangum as an alternate to the Airport Advisory Commission, as recommended by the Mayor. The roll was called with the following result:

Those voting aye:	Dan Darnell George Sharpe
Those voting nay:	None
Those absent:	Mary M. Fischer Jason Sandel

The presiding officer thereupon declared that two Councilors having voted in favor thereof, the said motion carried.

NATIONAL BREAST CANCER AWARENESS MONTH/NATIONAL MAMMOGRAPHY DAY  
PROCLAMATION

The Mayor presented a Proclamation declaring the month of October 2009 as "National Breast Cancer Awareness Month" and October 16, 2009 as "National Mammography Day".

Domestic Violence Awareness

Mayor Standley announced that a proclamation is being drafted for "Wear Purple Day" to bring awareness to domestic violence.

Revocation of Business Licenses and Registrations

In response to an editorial that was published in today's edition of the *Daily Times*, Mayor Standley explained that staff is in the process of drafting amendments to the Business Registration ordinance to clarify that a business license or registration can be revoked if a business fails to comply with State law.

There being no further business to come before the Council, a motion was made by Councilor Darnell, seconded by Councilor Sharpe to adjourn the meeting at 12:10 p.m. The roll was called with the following result:

Those voting aye:	Dan Darnell George Sharpe
Those voting nay:	None
Those absent:	Mary M. Fischer Jason Sandel

The presiding officer thereupon declared that two Councilors having voted in favor thereof, the said motion carried.

APPROVED this 27<sup>th</sup> day of October, 2009.

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William E. Standley, Mayor

SEAL

ATTEST:

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Dianne Fuhrman, City Clerk