

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, November 24, 2009. 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 William E. Standley

COUNCILORS Dan Darnell  
Mary M. Fischer  
George F. Sharpe

PRESENT AT THE MEETING  
BY TELEPHONE PURSUANT  
TO RESOLUTION NO. 94-772 Jason Sandel

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 Associate Pastor Jeff Moody of Emmanuel Baptist Church.

Korean Veteran Bob Sisson led the Pledge of Allegiance.

New Mexico statutes provide that members of a public body may participate in City Council meetings by telephone in certain situations and the City has adopted Resolution No. 94-772 authorizing telephone participation to allow the City Council to take action on important matters. The Mayor announced that Councilor Sandel is absent from tonight's meeting and directed that he 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.

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 November 10, 2009 and the minutes of the Regular Work Session of the City Council held November 3, 2009.

\*WARRANTS PAYABLE for the time period of November 8, 2009 through November 21, 2009, for current and prior years, in the amount of \$9,047,216.15.

There being no requests to remove any items, a motion was made by Councilor Darnell, seconded by Councilor Sharpe to approve the Consent Agenda, as presented, and upon voice vote the motion carried unanimously.

PROPOSED AMENDMENTS TO THE UNIFIED DEVELOPMENT CODE

Community Development Director Michael Sullivan reported that the Unified Development Code Implementation Committee ("UDC Committee") is recommending approval of 15 amendments to the Unified Development Code that are generally housekeeping items or provide clarification.

In response to inquiry from Councilor Fischer, Mr. Sullivan reported that the UDC Committee did, at the request of the Council, reconsider its original recommendation to allow accessory apartments to be located in single-family zoning districts and announced that the UDC Committee is recommending Council approval as originally proposed. Councilor Fischer maintained her objection to accessory apartments and stated that she would prefer to have that provision eliminated since such uses are becoming more common. She clarified, however, that she is not opposed to family care units.

Councilor Fischer also stated that she has heard that the provisions of the UDC are unenforceable because the City does not have the authority to prosecute UDC violations in Municipal Court. Brief discussion followed and Mayor Standley pointed out that proposed amendments 14 and 15 deal directly with enforcement by clarifying that a Municipal Inspector is a building inspector or a code compliance officer. Councilor Sharpe stated that he has heard the contrary from an individual who was prosecuted in Municipal Court for violating the UDC requirements.

Councilor Sharpe made a motion to direct staff to prepare the ordinance and present it to the Council at a future meeting for authorization to publish an intent to consider said ordinance. Councilor Darnell seconded the motion.

The Mayor called for comments from the members of the audience.

Isa Coleman, 1313 Camina Contenta, reported that, at the request of the City, her husband cut down some weeds that were growing on the back side of her property. However, she stated that the City never came by to pick up the weeds as promised. She asked that staff be directed to follow through on their promises.

There being no further discussion, the Mayor called for the vote upon the motion to direct staff to prepare the ordinance and present it to the Council at a future meeting for authorization to publish an intent to consider said ordinance. The roll was called with the following result:

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

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

RECOMMENDATION TO EXTEND THE TIME LIMIT FOR THE UNIFIED  
DEVELOPMENT CODE IMPLEMENTATION COMMITTEE

Pursuant to Resolution No. 2007-1220, Community Development Director Michael Sullivan announced that the Unified Development Code ("UDC") Implementation Committee and staff from the Community Development Department are recommending a two-year extension of the UDC Implementation Committee to December 31, 2011.

Following brief discussion, a motion was made by Councilor Sharpe, seconded by Councilor Darnell to extend the time limit for the UDC Implementation Committee for an additional two years, ending December 31, 2011, as recommended by the UDC Implementation Committee and the Community Development Department. The roll was called with the following result:

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

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

COUNCIL BUSINESS:

Request for Reconsideration - Petition No. ZC 09-08 - James Anthony

Councilor Darnell made a motion to reconsider the action taken by the Council at the November 10, 2009 regular City Council meeting granting James Anthony a zone change from the MF-L/SMHAO, Multiple-Family Low Density Residential/Special mobile Home Area Overlay, District to the MF-M, Multiple-Family Medium-Density Residential, District for 5 acres located at 1305 S. Carlton Avenue, and requested that the item be placed on the agenda for the January 12, 2010 regular City Council meeting. Councilor Sharpe seconded the motion.

Mayor Standley read an excerpt from a letter submitted by Mr. Anthony requesting that the reconsideration of the issue be scheduled for a City Council meeting that is earlier than February, 2010.

Brief discussion followed concerning the time necessary for staff to adequately notify all of the residents affected by the zone change request.

The Mayor called for the vote upon the motion to reconsider the action previously taken by the Council with regard to Petition No. ZC 09-08 at the January 12, 2010 regular City Council meeting, and upon voice vote the motion carried unanimously.

Request for Clarification - Motions to Reconsider

Councilor Sandel stated that it is his opinion that motions to reconsider items that have been acted upon by the Council do not need to be expressly published on an agenda before such vote can be taken. He asked for a consensus from the Council to direct City Attorney Jay Burnham to provide a clarification on the process for reconsidering motions. Following brief discussion, there were no objections from the Council.

New Energy Economy's Petition to the Environmental Improvement Board

Councilor Sandel announced that New Energy Economy has petitioned the Environmental Improvement Board to adopt new regulations and amend existing regulations to promulgate a statewide cap on greenhouse gas emissions. Contending that these regulations could seriously harm industry operations, he asked the Council for a consensus to direct staff to draft a resolution in opposition of the proposed petition. In response to his comments, Mayor Standley announced that staff will be making a full presentation on the issue at next Tuesday's Work Session.

Councilor Fischer stated that she would prefer to hear more about the proposed petition before she directs staff to draft a resolution in opposition.

Following further discussion, it was the consensus of a majority of the Council to authorize Councilor Sandel to work with the Legal Department to draft a resolution opposing New Energy Economy's petition to the Environmental Improvement Board.

Driver Safety

In light of the upcoming Christmas holiday and the associated increase in traffic, Mayor Standley encouraged all drivers to slow down and be courteous to others.

Hold Harmless Provision - Removal of Gross Receipts Tax on Food and Medical

The Mayor asked for a consensus from the Council to direct staff to draft a resolution urging the New Mexico State Legislature to retain the Hold Harmless Provision for municipalities with regard to the removal of gross receipts tax on medical services and food purchases. There were no objections from the Council.

## 2011 FEDERAL APPROPRIATION PRIORITIES

Assistant City Manager Bob Campbell announced that Senator Tom Udall has requested that all 2011 Federal Appropriation priorities be submitted to his office by November 30, 2009. He directed the Council's attention to the agenda materials outlining the priority projects previously identified and explained that staff is requesting that the Council identify two projects within the \$200,000 to \$300,000 range. In response to inquiry from the Mayor, Mr. Campbell recommended that a portion of the Zone 2P waterline project and infrastructure improvements within the Metropolitan Redevelopment Area be submitted for consideration.

Councilor Sandel reiterated his strong disappointment in the City's federal lobbyist and their apparent lack of effectiveness. He recommended that their contract be terminated since Mr. Campbell has been doing a good job of tracking Federal appropriation opportunities.

Councilor Sharpe stated that he believes that the Piñon Hills Boulevard bridge extension project is a high priority project and a good candidate for federal funding. Councilor Fischer maintained that construction of the proposed regional animal shelter facility is essential for the community. She asked that staff research every funding source available to assist with that project.

Following further discussion, it was the consensus of the Council to identify the Zone 2P waterline project and infrastructure improvements with the Metropolitan Redevelopment Area as priority projects for the 2011 Federal appropriation requests.

City Attorney Jay Burnham presented for discussion a proposed ordinance amending Chapter 19 of the Farmington City Code dealing with oil and gas wells. The title of such proposed ordinance being:

AN ORDINANCE AMENDING CERTAIN SECTIONS IN CHAPTER 19 OF THE FARMINGTON CITY CODE DEALING WITH OIL AND GAS WELLS

With regard to proposed Section 19-2-3(d), Councilor Fischer stated that she would prefer that the criteria for granting a waiver be explicitly outlined in the ordinance. There being no objections from the Council, Mr. Burnham stated that he will draft an amendment to the proposed ordinance to address standards for granting a waiver.

In closing, Mr. Burnham announced that the proposed ordinance will be presented for final action at the December 8, 2009 regular City Council meeting.

Mr. Burnham also presented for discussion a proposed ordinance dealing with a subsidized loan for improvements to the City's water utility system. The title of such proposed ordinance being:

AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AND SUBSIDY AGREEMENT ("LOAN AGREEMENT") BY AND BETWEEN THE CITY OF FARMINGTON, NEW MEXICO (THE "GOVERNMENTAL UNIT") AND THE NEW MEXICO FINANCE AUTHORITY, EVIDENCING A SPECIAL LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY A PRINCIPAL AMOUNT OF NO MORE THAN ONE MILLION FIFTY-FOUR THOUSAND EIGHT HUNDRED FORTY-FOUR DOLLARS (\$1,054,844), TOGETHER WITH INTEREST, COSTS OF ISSUANCE AND ADMINISTRATIVE FEES THEREON, AND TO ACCEPT A LOAN SUBSIDY OF NO MORE THAN ONE MILLION FIFTY-FOUR THOUSAND EIGHT HUNDRED FORTY-FOUR DOLLARS (\$1,054,844), FOR THE PURPOSE OF FINANCING THE COSTS OF IMPROVEMENTS TO THE GOVERNMENTAL UNIT'S WATER UTILITY SYSTEM ; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF, ADMINISTRATIVE FEES AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM THE PLEDGED REVENUES; SETTING A MAXIMUM INTEREST RATE FOR THE LOAN; APPROVING THE FORM OF AND OTHER DETAILS CONCERNING THE LOAN AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN AGREEMENT.

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 December 8, 2009 regular City Council meeting.

Lastly, Mr. Burnham presented a proposed ordinance authorizing the sale of City-owned property 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. He recommended the ordinance, if adopted, be given the number 2009-1218. The title of the ordinance being:

AN ORDINANCE AUTHORIZING AND APPROVING THE SALE OF CITY-OWNED LAND TO SPARE RIB BBQ COMPANY.

After consideration of Ordinance No. 2009-1218, a motion was made by Councilor Fischer, seconded by Councilor Darnell that said ordinance be passed and adopted as presented. The roll was called with the following result:

Those voting aye:	Dan Darnell Mary M. Fischer 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 was carried and Ordinance No. 2009-1218 was duly passed and adopted.

City Clerk Dianne Fuhrman presented and read by title Resolution No. 2009-1334 establishing a regular municipal election. The title of the resolution being:

A RESOLUTION ESTABLISHING A REGULAR MUNICIPAL ELECTION FOR THE CITY OF FARMINGTON TO BE HELD TUESDAY, MARCH 2, 2010.

After consideration of Resolution No. 2009-1334, a motion was made by Councilor Sharpe, seconded by Councilor Darnell 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 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 was carried and Resolution No. 2009-1334 was duly passed and adopted.

There being no further business to come before the Council, a motion was made by Councilor Sharpe, seconded by Councilor Darnell to adjourn the meeting at 8:24 p.m., and upon voice vote the motion carried unanimously.

The telephone call with Councilor Sandel was terminated.

The City Clerk certified that notice of the foregoing meeting was given by posting pursuant to Resolution No. 96-844, et seq.

Approved this 8<sup>th</sup> day of December, 2009.

Entered in the permanent record book this 9<sup>th</sup> day of December, 2009.

SEAL

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William E. Standley, Mayor

ATTEST:

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Dianne Fuhrman, City Clerk