

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, December 8, 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 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 Father Robert Bailey of St. John's Episcopal Church.

The Mayor 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 November 24, 2009 and the minutes of the Regular Work Session of the City Council held November 17, 2009.

*ACCESS AND UTILITY EASEMENT between the City and John Greaney, Jr. and Cathy Greaney, Jeffrey and Marlene Ring, Jeff Groves, Alysia Greaney and Rick and Priscilla Mace conveying a perpetual easement and right-of-way over, across and through a portion of City-owned property (the former D&RGW Railroad right-of-way) located south of the Old Aztec Highway outside the city limits.

*PROJECT AGREEMENT NO. 10-PT-RF-035 between the City and the New Mexico Department of Transportation Traffic Safety Bureau for Selective Traffic Enforcement Program (S.T.E.P.) grant funding in the amount of \$15,837 for traffic safety enforcement (term to September 30, 2010).

*SUB-GRANT AGREEMENT NO. DPSJAG09REGII between the City and the New Mexico Department of Public Safety for funding in an amount not to exceed \$262,215 from the Edward Byrne Memorial Justice Assistance Grant Program for the Region II Law Enforcement Multi-Jurisdictional Task Force (term to June 30, 2011).

*WARRANTS PAYABLE for the time period of November 22, 2009 through December 5, 2009, for current and prior years, in the amount of 5,974,760.57.

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

BIRTHDAY FOR THE FIRST 10 AMENDMENTS DAY PROCLAMATION

The Mayor presented Jim Krass, Chairman of the 10th Amendment Committee representing the San Juan County 912 Project, with a Proclamation declaring December 15, 2009 as "Birthday for the First 10 Amendments Day."

Mr. Krass contended that the first 10 amendments to the U.S. Constitution are the glue that binds the nation together in freedom, love, peace and unity.

SCHEDULED PRESENTATION/CEREMONIAL CHECK FROM WASTE MANAGEMENT OF NEW MEXICO

Marlene Feuer, Government and Public Affairs Manager for Waste Management of New Mexico ("Waste Management") presented representatives from Esperanza Elementary School with a ceremonial check in the amount of \$500 for winning the Farmington Municipal Schools recycling contest. In addition, Animas Elementary School was awarded a \$175 check for second place and Northeast Elementary School was awarded \$125 for third place.

RECYCLING PROGRAM/RECOGNITION OF GORDON GLASS

Ms. Feuer happily reported that since the inception of the City's recycling program on January 1, 2009, more than 5,200 residents have requested a recycling bin and are participating in the program. She stated that Farmington has had the highest initial participation ever in the roll out of a recycling program.

Mayor Standley proudly presented Gordon Glass with a plaque from the New Mexico Recycling Coalition, the City of Farmington and Waste Management in honor of his countless hours of volunteerism in promoting the City's recycling program and encouraging citizen participation.

Mr. Glass happily reported that all citizens who were asked to participate in the recycling program graciously accepted the offer.

Councilor Sandel thanked Waste Management for their dedication and support of the recycling program. He proudly reported that the City of Farmington is one of seven communities in New Mexico to offer a recycling program that does not require residents to sort the materials prior to placing them in the bin.

UNFINISHED BUSINESS:

- (1) Adoption of the Planning and Zoning Commission Action Summary and approval of Petition No. PD 09-02 from Geltmore LLC, represented by Charles Price, requesting approval of a planned development of 250.97 acres and of the Master Plan for property located north of Piñon Hills Boulevard across from the Sports Complex and east of La Plata Highway, subject to:
 - (a) a Traffic Impact Analysis for the entire Master Plan being submitted to the City Engineer for review and consideration with regard to access and subdivision improvements for on- and off-site infrastructure design, traffic signals, street lighting, etc. prior to the submittal of any preliminary plan to the Community Development Department;
 - (b) the Developer providing a second access onto Piñon Hills Boulevard at the first phase of the development to meet the recommendations that result from the Traffic Impact Analysis and to meet the requirements of the Unified Development Code; and
 - (c) a copy of the New Mexico Department of Transportation permit allowing access to La Plata Highway being provided to the Community Development Department prior to the submittal of any preliminary plan.
- (2) Adoption of the Planning and Zoning Commission Action Summary and approval of Petition No. ANX 09-01 from Geltmore LLC, represented by Charles Price, requesting an annexation of 250.97 acres of property located north of Piñon Hills Boulevard across from the Sports Complex and east of La Plata Highway.

- (3) Adoption of the Planning and Zoning Commission Action Summary and denial of Petition No. MTPA 09-01 requesting inclusion of the spine road for La Plata Ranch Subdivision as a minor arterial on the Master Plan, but approval of including the spine road for La Plata Ranch Subdivision as a collector street on the Master Plan, subject to Council approval of the Planned Development Master Plan and completion of the annexation of La Plata Ranch.
- (4) Preliminary approval of La Plata Ranch Public Improvement District (PID).
- (5) Discussion and approval of the revised La Plata Ranch Annexation/Development Agreement (the revised Agreement will be distributed at the meeting)

Due to inclement weather conditions, Mayor Standley announced that Paul Silverman, representative to the petitioner, has requested that the above items pertaining to La Plata Ranch be tabled to the January 5, 2010 City Council Work Session. Furthermore, he stated that the petitioner and staff are still trying to negotiate the issues that were noted in the memorandum dated December 3, 2009 from City Manager Rob Mayes.

Councilor Fischer requested that the following information be provided to the Council prior to the January 5, 2010 City Council Work Session: 1) the names of all the principles involved in the proposed La Plata Ranch project; 2) a letter from San Juan County identifying their involvement in the project; 3) a list of the pros and cons related to annexing the subject property; and 4) a list of the financing options that will be utilized if the proposed project is approved. Furthermore, Councilor Fischer questioned whether the developer could be mandated to purchase all construction items locally if the project is approved.

In response to inquiry from Councilor Sandel, City Attorney Jay Burnham restated his position that all monies obligated by the City to be reimbursed to the developer must be earmarked to be paid from a separate special fund in order to comply with the Bateman Act. City Manager Rob Mayes explained the sources from which the dedicated revenues would be generated, including construction costs, property taxes and gross receipts taxes generated from all retail development that occurs on the subject property.

Councilor Sandel suggested that the La Plata Ranch project be discussed in conjunction with the upcoming FY 2011 budget process since the dedication of gross receipts tax revenues will have a long-term financial impact on the City's budget. Councilor Sharpe stated that it is his opinion that the issue should be decided now so that the developer is not further delayed. Councilor Darnell announced that he is prepared to make a decision at the January 5, 2010 Work Session.

Following further discussion, Councilor Sandel requested a complete review of the financial status of the City, including actual gross receipts tax revenues collected during the current fiscal year and the projected gross receipts tax revenues for Fiscal Year 2011.

Thereupon, a motion was made by Councilor Sharpe, seconded by Councilor Darnell to table action upon Petition No. PD 09-02, Petition NO. ANX 09-01, Petition No. MTPA 09-01, preliminary approval of the La Plata Ranch Public Improvement District and the annexation/development agreement, all related to La Plata Ranch, to the January 5, 2010 City Council Work Session, as requested by the petitioner's representative. The roll was called with the following result:

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

Mayor Standley presented and read by title Resolution No. 2009-1335 concerning the hold harmless provision for local governments. The title of the resolution being:

A RESOLUTION URGING THE GOVERNOR AND STATE LEGISLATURE TO OPPOSE
THE REPEAL OF THE HOLD HARMLESS PROVISION FOR LOCAL GOVERNMENTS FOR
GROSS RECEIPTS TAXES ON FOOD AND MEDICAL SERVICES

Following brief discussion, a motion was made by Councilor Sandel, seconded by Councilor Sharpe to amend the proposed resolution by inserting the word "annual" following the word "Farmington's" in the fourth "whereas" statement, and upon voice vote the motion carried unanimously.

A motion was also made by Councilor Sandel, seconded by Councilor Sharpe to amend the proposed resolution by deleting the words, "representing constituents within San Juan County" in the final resolution paragraph, and upon voice vote the motion carried unanimously.

Following further consideration, a motion was made by Councilor Sharpe, seconded by Councilor Sandel that Resolution No. 2009-1335 be passed and adopted as amended. 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 and Resolution No. 2009-1335 was duly passed and adopted.

COUNCIL BUSINESS

Mayor's Teen Advisory Council/MTAC

The Mayor proudly announced that he recently attended a summit for youth professionals that was primarily held to recognize the efforts of the teen leaders at the Farmington Public Library through the Teen Zone and the Mayor's Teen Advisory Council (MTAC) programs.

Arizona Public Service Company of NM

Mayor Standley also announced that he attended a luncheon today that was sponsored by Arizona Public Service Company of NM regarding the financial implications to San Juan County if the Environmental Protection Agency imposes more stringent environmental regulations on the Four Corners Power Plant. He strongly encouraged the Navajo Nation to step forward and oppose the proposed regulation.

City Attorney Jay Burnham presented and read by title Resolution No. 2009-1336 opposing New Energy Economy's Petition to the New Mexico Environment Improvement Board. The title of the resolution being:

A RESOLUTION OPPOSING NEW ENERGY ECONOMY'S PETITION TO THE NEW
MEXICO ENVIRONMENT IMPROVEMENT BOARD

Directing the Council's attention to page 7.2 of the agenda materials, Mr. Burnham pointed out that Councilor Sharpe has recommended three additional "Whereas" statements.

In response to inquiry from Councilor Fischer, Generation Manager Mike Sims stated that the New Energy Economy ("NEE") is a group of people who have banded together to promote an initiative to reduce greenhouse gas emissions to 25 percent below the 1990 levels by the year 2020. Furthermore, he reported that there is reason to believe that the New Mexico Environmental Improvement Board is starting to give some credence to the NEE's petition.

Discussion followed concerning the dire economic impacts that will occur if the proposed NEE petition is approved.

Councilor Fischer voiced her objection to the proposed resolution, explaining that she would prefer a resolution that actually states the City's position on the issue and provides options for reducing greenhouse gas emissions, instead of just opposing the proposed petition.

Following brief discussion, a motion was made by Councilor Sharpe, seconded by Councilor Sandel to amend the proposed resolution to include the three "whereas" statements drafted by Councilor Sharpe and to add a fourth statement at the end of the resolution that directs the City Manager to send copies of the resolution to Governor Bill Richardson and all members of the Legislature. 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.

Rich Corcoran thanked the Council for taking this matter seriously and for considering the proposed resolution.

Dennis Ivie, 201 Taylor Drive, stated that he believes that it is imperative that the Council take an active stance on the matter in an effort to sustain the construction industry in New Mexico.

Following further consideration, a motion was made by Councilor Sharpe, seconded by Councilor Sandel to pass and adopt Resolution No. 2009-1336 as amended. 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 and Resolution No. 2009-1336 was duly passed and adopted.

Mr. Burnham also presented for discussion a proposed ordinance amending Chapter 8, Articles 3 and 8 of the Farmington City Code dealing with business licenses, business registrations and peddlers and solicitors. The title of such proposed ordinance being:

AN ORDINANCE CLARIFYING THAT A BUSINESS LICENSE OR BUSINESS REGISTRATION MAY BE REVOKED FOR FAILURE OF THE BUSINESS TO COMPLY WITH STATE LAW; MAKING IT A VIOLATION OF THE PEDDLERS AND SOLICITORS ORDINANCE TO FAIL TO LEAVE PROMPTLY OR TO SOLICIT OUTSIDE OF PERMITTED HOURS

At the suggestion of Councilor Sandel, it was the consensus of the Council to direct staff to draft another ordinance that provides for an increase in the penalties and/or the revocation of a business registration or license for repeated violations of City Code.

Councilor Fischer questioned whether soliciting could be limited to only those households that are posted with a "Solicitor's Welcome" sign.

In closing, Mr. Burnham announced that the proposed ordinance will be presented for final action at the January 12, 2010 regular City Council meeting.

Mr. Burnham also presented a proposed ordinance dealing with a subsidized loan for improvements to the City's water utility system 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 2009-1219. The title of the 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.

After consideration of Ordinance No. 2009-1219, a motion was made by Councilor Sharpe, 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. 2009-1219 duly passed and adopted.

Lastly, Mr. Burnham presented a proposed ordinance amending Chapter 19 of the City Code dealing with oil and gas wells 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 2009-1220. The title of the ordinance being:

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

Mr. Burnham announced that, at the request of Councilor Fischer, staff is proposing a new Section 19-2-3(d) that sets out the criteria for the Council in considering whether a waiver should be granted.

A motion was made by Councilor Sharpe, seconded by Councilor Fischer to amend the proposed ordinance to include Section 19-2-3(d), as recommended by staff, and upon voice vote the motion carried unanimously.

A motion was made by Councilor Sandel, seconded by Councilor Sharpe to amend Sec.19-1-8 of the proposed ordinance to state, "The City strongly encourages multiple wells to be co-located on a single well site. Well site size may be increased where there are multiple wells co-located on a single site, but only to the extent required to accommodate safe operation of multiple oil and gas wells", and upon voice vote, the motion carried unanimously.

After consideration of Ordinance No. 2009-1220, a motion was made by Councilor Sharpe, seconded by Councilor Sandel that said ordinance be passed and adopted as amended. 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. 2009-1220 duly passed and adopted.

ANNEXATION/HARPER HILL AREA

City Clerk Dianne Fuhrman requested authorization to direct staff to draft an annexation ordinance clarifying the city limit boundary for the Harper Hill area (south of County Road 6100 and west of Boyle Road).

Following consideration, a motion was made by Councilor Sharpe, seconded by Councilor Darnell to direct staff to draft an annexation ordinance clarifying the city limit boundary, as recommended by the City Clerk, and upon voice vote the motion carried unanimously.

There being no further business to come before the Council, a motion was made by Councilor Sandel, seconded by Councilor Sharpe to adjourn the meeting at 8:25 p.m., and upon voice vote the motion carried unanimously.

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 January, 2010.

Entered in the permanent record book this 13th day of January, 2010.

William E. Standley, Mayor

SEAL

ATTEST:

Dianne Fuhrman, City Clerk