

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 13, 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	Mary M. Fischer Gayla McCulloch Jason Sandel
PRESENT ONLY FOR A PORTION OF THE MEETING BY TELEPHONE PURSUANT TO RESOLUTION NO. 94-772	Dan Darnell, 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:

INVOCATION: The invocation was offered by Pastor David Florez of The Journey Church.

San Juan College Vice President for Student Services David Eppich 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 8, 2011 and the minutes of the Regular Work Sessions of the City Council held November 1, 2011 and November 15, 2011.

\*DECLARATION OF SURPLUS PROPERTY: The Purchasing Officer recommended that worn-out, unusable or obsolete vehicles (Administrative Services, Central Warehouse, General Services and Vehicle Maintenance) 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.

\*COOPERATIVE PROCUREMENT AGREEMENT authorizing the City to become a member of National Purchasing Partners.

\*MEMORANDUM OF UNDERSTANDING between the City and San Juan College for parking and traffic enforcement at San Juan College (three-year term with the option for extension by mutual action).

\*PIPELINE EASEMENT AND RIGHT-OF-WAY between the City and Thompson Engineering and Production Company for use of City-owned right-of-way in Sections 8 and 9, T29N, R13W, N.M.P.M. for the purpose of constructing, repairing, maintaining and operating a natural gas pipeline(s) in, on, over, under, across and through a strip of land 30-feet in width for a distance of approximately 206 rods, more or less. (Glade Park #1 and #2 wells; compensation to the City is \$15,450).

\*ADOPTION OF RESOLUTION NO. 2011-1417 supporting the New Mexico MainStreet Program.

\*WARRANTS PAYABLE for the time period of November 6, 2011 through December 10, 2011, for current and prior years, in the amount of \$15,205,560.37.

Councilor Sandel requested that the Cooperative Procurement Agreement between the City and National Purchasing Partners be removed from the Consent Agenda.

Thereupon, a motion was made by Councilor Sandel, seconded by Councilor Fischer to approve the Consent Agenda, with the exception of the Cooperative Procurement Agreement, and upon voice vote the motion carried unanimously.

RECOMMENDATIONS FROM THE PLANNING AND ZONING COMMISSION:

\*CONSENT AGENDA: Community Development Director Mary Holton requested that those Planning and Zoning Commission recommendations marked with an asterisk (\*) be placed on the Planning and Zoning Commission Consent Agenda and voted on by one motion. She asked that if any item proposed 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 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. PP 11-01 from Mike Degner, represented by Paul Martin, requesting preliminary plan approval for a three-lot commercial subdivision located on East Main Street between Target and The Pet Place, with a waiver to Section 6.4.5(C) of the Unified Development Code concerning flag or panhandle lots.
- \*(2) Adoption of the recommendation from the Planning and Zoning Commission, as contained within the Community Development Department Petition Report, to approve Petition No. SUP 11-10 from Javier Holguin, represented by Paul Martin, requesting a Special Use Permit to allow outdoor storage of scaffolding and other stucco supplies on property located at 1017 and 1021 East Murray Drive in the GC, General Commercial, District, subject to compliance with the residential protection standards in Sections 5.10.6 and 5.10.8 of the Unified Development Code concerning screening and outdoor lighting.

Councilor Sandel requested that Petition No. PP 11-01 (Item No. 1) be removed from the Planning and Zoning Commission Consent Agenda.

Thereupon, a motion was made by Councilor Sandel, seconded by Councilor Fischer to approve the Planning and Zoning Commission Consent Agenda, with the exception of Petition No. PP 11-01, and upon voice vote the motion carried unanimously.

DISCUSSION AND ACTION UPON ITEM REMOVED FROM THE PLANNING AND ZONING COMMISSION CONSENT AGENDA:

- (1) Adoption of the recommendation from the Planning and Zoning Commission, as contained within the Community Development Department Petition Report, to approve Petition No. PP 11-01 from Mike Degner, represented by Paul Martin, requesting preliminary plan approval for a three-lot commercial subdivision located on East Main Street between Target and The Pet Place, with a waiver to Section 6.4.5(C) of the Unified Development Code concerning flag or panhandle lots.

Associate Planner Margaret Ambrosino provided background information relative to the subject petition, noting that the petitioner is proposing to construct a restaurant (Texas Roadhouse) on Lot B of the property and possibly a hotel on Lot C. She noted that if a hotel is constructed, it will have to comply with the maximum height restriction of 45 feet. In closing, she pointed out that the petitioner is requesting a waiver to allow the length of the proposed access to Lot C (the "pole" of the flag lot) to exceed the 150 foot maximum allowed by the Unified Development Code ("UDC").

Addressing the Council on behalf of the petitioner, Paul Martin stated that he does not have a developer that is interested in constructing a hotel on Lot C at this time, but stated that it may be necessary to request a waiver to the height requirement if a proposal is submitted in the future. He also noted that he has submitted the Traffic Impact Analysis to the State and the City for review. He also acknowledged that there is a problem with drainage on the subject property, but stated that he is working with the City to resolve the issue.

In response to inquiry from Councilor Sandel, Senior Planner Cindy Lopez explained that the reason the length of access roads in flag lots is limited is to prevent long driveways in residential areas. She assured him that the proposed "pole" road will be wide enough to accommodate emergency vehicles.

Councilor Sandel voiced concerns related to site distance on East Main Street for drivers traveling from the south and the west. In response to his concerns, City Engineer Nica Westerling announced that Sierra Vista at its intersection with East Main Street will have to be realigned and the median opening will need to be shifted.

Councilor Fischer noted the potential for noise complaints if a hotel is constructed next to The Pet Place, currently located adjacent to the subject property on the east. In response, Mr. Martin assured her that the issue will be mitigated with strategically-placed landscaping. Answering her question, he also advised her that the Halford Independent Ditch has been piped behind the existing Target store.

Councilor Sandel asked staff to research whether there have been any policy changes with regard to the use of flag lots in commercial developments.

Following further consideration, a motion was made by Councilor McCulloch, seconded by Councilor Fischer to adopt the recommendation from the Planning and Zoning Commission and to grant preliminary plan approval for a three-lot commercial subdivision located on East Main Street between Target and The Pet Place, with a waiver to Section 6.4.5(C) of the Unified Development Code concerning flag or panhandle lots. The roll was called with the following result:

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

The presiding officer thereupon declared that a majority of the Councilors present having voted in favor thereof, the said motion carried.

REQUEST FROM CRAIG STOABS/PERMISSION TO REAPPLY FOR A ZONE CHANGE/VICTORIA WAY & COLLEGE BOULEVARD

Referring to an e-mail that was sent to staff this afternoon, Mayor Roberts announced that Craig Stoabs has withdrawn his request for permission to reapply for a zone change for approximately six acres of land located north of Victoria Way and east of College Boulevard. He explained that the Unified Development Code prohibits the resubmission of a zone change application for the same piece of property within 365 days from the date of denial, except with the permission of the City Council.

PUBLIC HEARING/RESOLUTION NO. 2011-1418/COMMUNITY DEVELOPMENT BLOCK GRANT 2010 CONSOLIDATED ANNUAL PERFORMANCE EVALUATION REPORT (CAPER)

The public hearing was convened by the Mayor.

Directing the Council's attention to the information provided in the Second Program Year Consolidated Annual Performance Report ("CAPER"), Associate Planner Jay Peterman reported that all of the projects contained within the 2010 Annual Action Plan for October 1, 2010 to September 30, 2011 have been completed or are nearing completion. He reviewed the scope of the projects that were funded and requested

adoption of Resolution No. 2011-1418 approving the Community Development Block Grant 2010 CAPER. Noting an error on page 13, Table 4, Mr. Peterman explained that the funding amount granted to San Juan Safe Communities Initiative was \$40,000, not \$80,000.

There was no response to the Mayor's call for public comment and the Mayor declared the public hearing to be closed.

Mayor Roberts expressed concern with regard to the Discrimination Impediments contained on Page 11 of the CAPER. He reported that the 2011 Analysis of Impediments to Fair Housing indicates that there were only two documented cases of discrimination between January 2005 and September 2010. He stated that he believes that the reader of the CAPER could make an assumption that Farmington is discriminatory in its lending practices because not all of the information is being presented. He suggested that a footnote be added to the CAPER to explain the findings.

Contending that she does not believe that lending institutions or real estate companies are allowed to ask the race of the applicant, Councilor Fischer questioned the accuracy of the data documented in the 2011 Analysis of Impediments to Fair Housing. She announced that she will vote against the proposed resolution because she believes that the CAPER has erroneous information.

Thereupon, the Mayor announced that Councilor Darnell is absent from this 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, and City of Farmington Resolution No. 94-772.

Councilor Sandel stated that he does not necessarily agree with the conclusions of the CAPER or the Analysis of Impediments to Fair Housing and thinks that credit counseling could be the answer in addressing the perceived discrimination claims. However, he explained that there is no reason to delay action upon the proposed resolution since the 2011 Analysis of Impediments to Fair Housing has been adopted by the Council.

Councilors McCulloch and Darnell agreed that the section on Discrimination Impediments could have negative implications if the circumstances are not documented in a footnote.

Thereupon, a motion was made by Councilor Sandel, seconded by Councilor Darnell that Resolution No. 2011-1418 be passed and adopted, subject to the section on Discrimination Impediments, as contained within the Second Program Year Consolidated Annual Performance and Evaluation Report, being amended to more accurately reflect the findings of the 2011 Analysis of Impediments to Fair Housing. The roll was called with the following result:

Those voting aye:	Dan Darnell Gayla McCulloch Jason Sandel
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Those voting nay:	Mary M. Fischer
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The presiding officer thereupon declared that three Councilors having voted in favor thereof, the said motion carried and Resolution No. 2011-1418 was duly passed and adopted.

The telephone call with Councilor Darnell was terminated at 8:04 p.m.

#### PROPOSED AMENDMENTS TO THE RED APPLE TRANSIT SYSTEM

Assistant City Manager Bob Campbell reported that since May 2011, he and MPO Planner Joe Delmagori have been assessing various aspects of the Red Apple Transit System. He explained that routes, ridership trends and other services, such as paratransit, have been thoroughly analyzed in an effort to improve the system. Mr. Campbell announced that staff is recommending that 1) the Council approve the propose route changes; 2) authorize the operation of a second Dial-A-Ride (paratransit) bus at a cost to the City of \$11,000 for the remainder of the fiscal year; 3) approve the proposed fare rate changes; and 4) authorize staff to employ an advertising campaign on the buses to increase revenue. Utilizing a powerpoint presentation, Mr. Campbell thoroughly reviewed the proposed amendments to the route changes; explained the problems that have been experienced with regard to noncertified paratransit riders utilizing the

"Dial-A-Ride" system; noted the reasons why staff is recommending that the out-of-town monthly pass be reduced from \$120 to \$60 and the Dial-A-Ride services for non-paratransit riders be increased from \$2 to \$5; updated the Council on the status of the transit fleet; reviewed ridership trends; and recommended that businesses be allowed to advertise on the buses for a fee, which will generate between \$10,000 and \$15,000 annually. He noted that a draft advertising policy is included in the agenda materials for the Council's review and consideration. In closing, Mr. Campbell reported that between 700-1100 unique riders utilize the transit system per year, but stated that the federal transit system has indicated that this number should not be used to gauge the success of the system since the Red Apple Transit has consistently seen an increase in ridership over the past few years.

Councilor Sandel stated that he only supports advertising community activities on the buses, such as Festival of Trees, San Juan Symphony, etc.

Daisy Swadesh, 1001 Walnut Drive, expressed concerns with regard to the operation of the Red Apple Transit by First Transit, Inc. and for the unreliability of the trolley's to operate within the confines of the city. She contended that First Transit, Inc. does not have a commitment to the citizens of Farmington and urged the Council to reconsider their contract.

With regard to Mr. Campbell's statement that the trolley buses will be transferred to the longer-distance county routes in an effort to increase their efficiency, Councilor Fischer questioned whether it is wise for them to carry passengers at high rates of speed since there are no seat belts. In response, Mr. Campbell assured her that they are operated in accordance with federal law.

Mr. Campbell explained that First Transit has a new regional vice president who seems committed to making the Red Apple Transit successful and stated that he is optimistic that they will be able to improve the services being offered and make the buses more reliable in the near future.

Thereupon, a motion was made by Councilor Sandel, seconded by Councilor Fischer to approve the recommendations made by staff with regard to route changes, paratransit Dial-A-Ride services and the transit fare rates, and upon voice vote the motion carried unanimously.

Following further discussion concerning the proposed advertising policy, a motion was made by Councilor Sandel, seconded by Councilor Fischer to table the proposed advertising policy to a date where all members of the Council can be present, and upon voice vote the motion carried unanimously.

City Attorney Jay Burnham presented a proposed ordinance pertaining to the appointment of the city clerk 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 2011-1252. The title of the ordinance being:

AN ORDINANCE AMENDING SECTION 2-3-96 OF THE FARMINGTON CITY CODE PERTAINING TO THE APPOINTMENT OF THE CITY CLERK.

Councilor Sandel asked that staff review the City Code with regard to the appointment of the City Treasurer to determine whether that position is an officer of the City and whether it should be treated the same as the City Manager, City Attorney and the City Clerk.

After consideration of Ordinance No. 2011-1252, a motion was made by Councilor Fischer, 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 Gayla McCulloch Jason Sandel
Those voting nay:	None
Those absent:	Dan Darnell

The presiding officer thereupon declared that three Councilors having voted in favor thereof, the said motion carried and ordinance No. 2011-1252 was duly passed and adopted.

Mr. Burnham also presented a proposed ordinance authorizing the sale of City-owned land 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 2011-1253. The title of the ordinance being:

AN ORDINANCE AUTHORIZING AND APPROVING THE SALE OF CITY-OWNED LAND TO FOUR CORNERS FOUNDATION, INC.

After consideration of Ordinance No. 2011-1253, a motion was made by Councilor McCulloch, seconded by Councilor Sandel that said ordinance be passed and adopted as presented. The roll was called with the following result:

Those voting aye:	Mary M. Fischer Gayla McCulloch Jason Sandel
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Those voting nay:	None
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Those absent:	Dan Darnell
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The presiding officer thereupon declared that three Councilors having voted in favor thereof, the said motion carried and ordinance No. 2011-1253 was duly passed and adopted.

DISCUSSION AND ACTION UPON ITEM REMOVED FROM THE COSENT AGENDA:

- (1) COOPERATIVE PROCUREMENT authorizing the City to become a member of National Purchasing Partners.

Following a brief explanation of the proposed item by Purchasing Officer Eddie Smylie, Councilor Sandel stated that he is opposed to cooperative procurement agreements because they discourage the purchase of local materials and services.

Thereupon, a motion was made by Councilor McCulloch, seconded by Councilor Fischer to approve a Cooperative Procurement authorizing the City to become a member of National Purchasing Partners. The roll was called with the following result:

Those voting aye:	Mary M. Fischer Gayla McCulloch
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Those voting nay:	Jason Sandel
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Those absent:	Dan Darnell
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The presiding officer there upon declared that a majority of the Councilors present at tonight's meeting having voted in favor thereof, the motion carried.

BUSINESS FROM THE FLOOR:

Airport Noise

In response to an article that was published in the *Daily Times* regarding the City's plan to extend the airport runway in an effort to accommodate jet aircraft, Chris Whitney, 831 Echo Lane, voiced his concern that such activity will greatly disrupt the quality of life for those residents living near the Four Corners Regional Airport. He suggested that the Council consider operating a shuttle to and from the Durango-La Plata County airport since jet aircraft generate excessive amounts of noise.

Also in response to an article in the *Daily Times*, Mr. Whitney stated that he does not believe that it is fiscally responsible for the City to bond \$15 million for the construction of a new animal shelter.

In response, Mayor Roberts clarified that the proposed animal shelter will cost between \$3.5 and \$4 million. He explained that the

article was talking about options the Council has for extending the City's current debt obligations in an effort to secure funding for the construction of several capital improvement projects. He also explained that the Council is simply considering ways to improve air service at the Four Corners Regional Airport and assured Mr. Whitney that the public will be allowed to offer their comments and concerns at the time the proposed runway extension is given serious consideration.

Councilor Fischer also assured Mr. Whitney that she reiterates the noise concerns of the neighboring residents during discussions concerning the airport.

Donal Key announced that he is a user of the Four Corners Regional Airport and questioned why the opinions of the Airport Advisory Commission are only requested on certain issues. He stated that he believes that the commission is being underutilized.

In response, Mayor Roberts announced that he values the input the Council receives from the Airport Advisory Commission and stated that he has not received any complaints from the commission members with regard to their role in the airport operations. However, he assured Mr. Key that he will fairly investigate any concerns or complaints that he receives.

Councilor Sandel stated that he is vehemently opposed to sending airport business to the Durango-La Plata County Airport, explaining that he believes that there are missed opportunities within our community to increase air travel to Houston, Texas. He announced that he supports the expansion of the services at the airport in order to sustain and grow local business activity. In closing, he stated that he agrees that any decisions regarding the operation of the airport should be fully vetted by the Airport Advisory Commission and that a recommendation should be forwarded to the Council for consideration.

There being no further business to come before the Council, the meeting was adjourned at 9:16 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 10<sup>th</sup> day of January, 2012.

Entered in the permanent record book this 11<sup>th</sup> day of January, 2012.

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Tommy Roberts, Mayor

SEAL

ATTEST:

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Dianne Fuhrman, City Clerk