

FARMINGTON CITY COUNCIL MEETING

Tuesday, January 20, 2009

CITY COUNCIL WORK SESSION/EAST CONFERENCE ROOM

PRESENT: Mayor Scott Harbertson, Council Members Richard Dutson, David Hale, Paula Alder, Sid Young, Cory Ritz, City Manager Max Forbush, Assistant City Planner Glenn Symes, and Recording Secretary Kami Mahan. America West Developer Ron Martinez was also present.

Mayor Harbertson began discussion at 6:07 p.m. **Rick Dutson** offered the invocation. The following items were reviewed:

(Agenda Item #2): Reading and Approval of Minutes -

The Council reviewed the minutes from the meeting held January 6, 2009, and made one correction.

(Agenda Item #5): Public Hearing: Consideration of Ordinance and Petition for annexation of 20 acres of property east and adjacent to 1525 West Street and north of Glover Lane (A-1-08) - RM & BR Holdings (Symphony Homes).

Mayor Harbertson reviewed this issue and said that staff recommends approving the annexation. **Sid Young** questioned whether the 4,218 elevation line should be re-evaluated in the General Plan, and **Max Forbush** stated that the issue can be assessed when the development application is submitted.

(Agenda Item #6): Final Plat Approval Request for Farmington Greens PUD, Phase 2b - M.C. Green, Inc.

Mayor Harbertson stated that his concern was to address all eventualities. He said that M.C. Green wants to have the development well managed before he leaves the project, and that the development agreement should address this. Staff will consult with Mark Green, who would like to get both phases recorded. **Rick Dutson** suggested that the conditions stated in the January 16, 2009, letter from the City to Mark Green and the March 19, 2007, letter to Chuck Akerlow be included in the approval.

(Agenda Item #7): Minute Motion approving Summary Action List.

- **Ratification of Approvals of Construction Bond Agreement**
- **Approval of Memorandum of Understanding with Utah Division of Forestry, Fire, and State Lands**
- **Approval of Bond Agreement for new Zions Bank**

Mayor Harbertson explained that approval of the Memorandum of Understanding with the Utah Division of Forestry, Fire, and State Lands is necessary so that the City can be reimbursed for fires fought on State land. **Max Forbush** added that this process is the new standard which has been developed. He said Fire Chief Larry Gregory has reviewed the Memorandum and approves of the document.

(Agenda Item #8): Development Agreement for North Main Street Church Subdivision.

Max Forbush made several clarifications on this agreement, and pointed out concerns regarding streets and related improvements, and service lateral cuts in the road.

Mr. Forbush also reviewed the section of the agreement concerning Easements (Page 4, 3e.), and said the storm drain would be put on the capital facilities plan. **Glenn Symes** explained UDOT's requirement for a deceleration lane, and the Council discussed the associated problems with this requirement, particularly the lack of a sidewalk on the south side.

The Council briefly discussed citizen comments concerning the new Zions Bank.

(Agenda Item #9): Resolution amending Community Arts Center Rules and enacting Policy Guidelines related thereto.

Mayor Harbertson reviewed this Agenda item and said that City staff wants to emphasize "Exhibit B" in the Resolution with regard to opening the use of the Community Center to include holidays and Sundays. The Council reviewed the proposed letter in the packet from the City Manager, which is planned to be included in the City newsletter. The Council also discussed a change of wording in one sentence of the letter regarding the Performing Arts Coordinator.

(Agenda Item #10): Resolution amending the Consolidated Fee Schedule to correct conflicting policies and fix deficiencies related to user fees within Parks & Recreation Department.

The Council reviewed this Resolution, and **Paula Alder** pointed out possible typographical errors in the proposed fees for the Scout Swim Merit Badge and Park Picnic Bowery fees. **Mayor Harbertson** also noted that fee reductions for employees' families, which were approved last year, need to be reflected in the document.

(Agenda Item #11): Ordinance amending 10-2-070 of City Code to adopt the 2008 Edition of the National Electrical Code.

Rick Dutson noted that codes are regularly upgraded to ensure they stay current.

(Agenda Item #12): Review provisions of Escrow Instructions for Road to the North Right of Way with Rich Haws, et al.

Max Forbush explained that he had just received a phone call from Rich Haws saying that the agreement in the packet was not the correct one, and that the updated agreement should arrive prior to the meeting. **Mr. Forbush** noted two problems in the agreement, one concerning the absence of an exchange with Dean Cook, and the other with regard to the unfairness of the fencing requirement.

The Council discussed the City's responsibility with respect to fencing. Parcels 2,3, and 6 will be fenced privately without City help. **Max Forbush** said it would be better to have a barbed wire fence until the are develops. Eligible costs may be reimbursable to the City by CenterCal or from transportation impact fees. Cost estimates need to be obtained.

Mr. Forbush said that Rich Haws plans to attend the next work session to review the updated agreement with the Council. He said Mr. Haws also has a tentative appraisal on Burke Lane on excess land. He said tonight's discussion should focus on the fencing issue.

(Agenda Item #13): Review of Brown and Mansfield Easements for NRCS projects.

Max Forbush said the City received funds to mitigate flooding issues. He explained that City engineers retained a landscape architect to evaluate the drainage in the Shepherd Heights Subdivision. Meetings with the property owners resulted in their willingness to give easements but they want landscape rights. **Mr. Forbush** displayed a map of the area to Council Members and reviewed the situation and the intent of the owners.

Mr. Forbush also said that the Steven's Circle project needs to be completed by March 14th. He said he has easements from the Browns and the Mansfields. He explained the policy issues on this matter and questioned whether the City was being too generous in agreeing to maintain "associated" landscaping"as contained in the first paragraph of both easement agreements. The Council discussed these issues. **Sid Young** raised the possibility of including a CERCLA clause and a hold harmless clause.

The meeting adjourned at 7:00 p.m.

REGULAR CITY COUNCIL/CITY CHAMBERS/CALL TO ORDER

PRESENT: Mayor Scott C. Harbertson, Council Members Richard Dutson, David Hale, Paula Alder, Sid Young, Cory Ritz, City Manager Max Forbush, City Planner David Petersen, Assistant City Planner Glenn Symes, City Recorder Margy Lomax, and Recording Secretary Kami Mahan.

Mayor Harbertson called the meeting to order at 7:08 p.m. **David Hale** offered the

invocation. The Pledge of Allegiance was led by a Boy Scout.

APPROVAL OF MINUTES OF PREVIOUS MEETING (Agenda Item #2)

The minutes of the January 6, 2009, meeting were reviewed during the work session.

Motion

Rick Dutson moved to approve the minutes of the City Council meeting held January 6, 2009, with changes as noted. **Paula Alder** seconded the motion, which passed unanimously.

ACKNOWLEDGEMENT OF SERVICE AWARDS TO KEVIN POFF, PAUL BARKER AND RICK WYSS. (Agenda Item #3)

The Council handled Agenda item #4 prior to this item.

Mayor Harbertson presented outgoing Planning Commission Chairman Kevin Poff with a Service Award plaque for his service on the Commission.

[Mr. Barker and Mr. Wyss were not present.]

The Council moved to Agenda item #5.

PLANNING COMMISSION REPORT (Agenda Item #4)

Mayor Harbertson asked **David Petersen** to invite John Bilton to attend City Council meetings to provide Planning Commission reports.

Glenn Symes reported on the proceedings from the Planning Commission meeting held January 15, 2009. He reviewed the following items:

- The Planning Commission recommended approval, with conditions, of the Final Plat for Farmington Greens Phase 2b.
- Guy Haskell's request for a Conditional Use Permit for a sales office in a model home was approved.
- To comply with state standards, the Commission considered text changes to the Chapter 5 Zoning Ordinance regarding the Board of Adjustment.
- The Planning Commission considered using a mailing list to notice for the Scenic Byway Overlay zone. This issue will be further evaluated.

- The Commission considered changes for the Site Plan and Architectural Review Committee (SPARC).
- The Planning Commission will be changing to an electronic packet.
- **Mr. Symes** noted that a Board of Adjustment meeting would be held on Thursday, January 22, 2009.

The Council moved to Agenda item #3.

PUBLIC HEARING: CONSIDERATION OF ORDINANCE AND PETITION FOR ANNEXATION OF 20 ACRES OF PROPERTY EAST AND ADJACENT TO 1525 WEST STREET AND NORTH OF GLOVER LANE (A-1-08) - RM & BR HOLDINGS (SYMPHONY HOMES. (Agenda Item #5)

Mayor Harbertson introduced this Agenda item, and **David Petersen** pointed out the property on an overhead aerial map. He explained that the LDS Church wants to annex property for a future church building, and that the Planning Commission is recommending approval. No protests have been received.

Public Hearing

Mayor Harbertson opened the meeting to a public hearing at 7:17 p.m. There were no public comments, and the hearing was closed.

Sid Young commented that the ordinance is consistent with the General Plan.

Motion

David Hale moved to approve the Ordinance and Petition for annexation of 20 acres of property east of and adjacent to 1525 West and North of Glover Lane. **Cory Ritz** seconded the motion, which was unanimously approved.

FINAL PLAT APPROVAL REQUEST FOR FARMINGTON GREENS PUD, PHASE 2B - M.C. GREEN, INC. (Agenda Item #6)

Glenn Symes reported that this request is the same as was approved two years ago. He added the developer is committed to building a park.

Motion

Rick Dutson moved to approve the Final Plat for the Farmington Greens PUD, Phase 2b, with the conditions stated in the January 16, 2009, letter from the City to Mark Green, and the March 19, 2007, letter to Chuck Akerlow. The motion was seconded by **Sid Young**, and passed by a unanimous vote.

MINUTE MOTION APPROVING SUMMARY ACTION LIST (Agenda Item #7)

- **Ratification of Approvals of Construction Bond Agreement**
- **Approval of Memorandum of Understanding with Utah Division of Forestry, Fire, and State Lands**
- **Approval of Bond Agreement for new Zions Bank**

Mayor Harbertson briefly reviewed these items.

Motion

Sid Young moved to approve the Summary Action List. **Paula Alder** seconded the motion, which was unanimously approved.

DEVELOPMENT AGREEMENT FOR NORTH MAIN STREET CHURCH SUBDIVISION. (Agenda Item #8)

David Petersen displayed the property on the overhead aerial map and pointed out the subdivision access. He said the area is owned by the Hess family, and that a storm drainage reimbursement is still at issue and won't be settled until the church brings an application. He also said the Larsens have a concept plan which has not been approved. They have requested laterals through the lots, which will be at their expense, as will repaving the street.

Mr. Petersen said the City Council needs to consider site improvement drawings. He said the church has worked with UDOT, which is requiring a 350 foot deceleration lane with striping. This area will widen significantly, and may require the removal of some landscaping from property owners along the road. The situation is likely to cause citizen comments. The church has tried unsuccessfully to dissuade UDOT from this requirement. The deceleration lane will be used primarily on Sundays.

Mayor Harbertson stated that there would not be room for a sidewalk. It was suggested that citizens who complain be provided with UDOT's contact information. The timing of the construction was discussed.

Motion

A motion was made by **Cory Ritz** to approve the final plat for the North Main Street Church Subdivision, pending final review by both City and LDS Church legal counsel. The motion was

seconded by **David Hale** and passed by a unanimous vote.

David Hale suggested letting City staff handle the issue from there.

RESOLUTION AMENDING COMMUNITY ARTS CENTER RULES AND ENACTING POLICY GUIDELINES RELATED THERETO. (Agenda Item #9)

Mayor Harbertson stated that this matter was reviewed during the work session. He noted that changes in Exhibit A and Exhibit B of the Resolution reflect the intent to expand the use of the Community Arts Center to include holidays and Sundays, provided that site supervisors can be hired at these times.

Rick Dutson proposed changes to Use Regulations regarding subsection (d) the removal of attached wall items, and subsection (k) types of liquids and beverages allowed.

In response to an issue raised by **Paula Alder**, the Council discussed the proposed fees and site supervisor pay for holidays and Sundays, as well as site supervisor duties during events.

Motion

David Hale made a motion to approve the Resolution Amending the Community Arts Center Rules and Enacting Policy Guidelines, with the proposed changes regarding Use Regulations. **Rick Dutson** seconded the motion, which passed by a unanimous vote.

The Council agreed that one line should be reworded in the proposed letter from **Max Forbush** that will be included in the City newsletter.

Motion

Rick Dutson moved to approve the letter from the City Manager for inclusion in the City newsletter, with the wording change as noted. **Dave Hale** seconded the motion, which was unanimously approved.

RESOLUTION AMENDING THE CONSOLIDATED FEE SCHEDULE TO CORRECT CONFLICTING POLICIES AND FIX DEFICIENCIES RELATED TO USER FEES WITHIN PARKS & RECREATION DEPARTMENT. (Agenda Item #10)

Mayor Harbertson introduced this Agenda item, and **Max Forbush** asked the Council to consider the proposed fees. The Council discussed whether the fees for holidays and Sundays should be increased, as well as pay for site supervisors on these days. **Mayor Harbertson** suggested having the Parks and Recreation Director consult with staff and site supervisors and then contact the City Manager to review these issues. The Council proposed changes/corrections for Park Picnic Bowery

fees, Swim Merit Badge fees, and a change of wording under “Recreation Classes.”

Motion

Rick Dutson made a motion to approve the Resolution Amending the Consolidated Fee Schedule of the Parks & Recreation Department, with changes as noted. **David Hale** seconded the motion, which was passed by a unanimous vote.

Mr. Hale suggested that staff should review the printed resident and non-resident fees for any typographical errors.

ORDINANCE AMENDING 10-2-070 OF CITY CODE TO ADOPT THE 2008 EDITION OF THE NATIONAL ELECTRICAL CODE. (Agenda Item #11)

Mayor Harbertson stated that this update is mandatory.

Motion

Sid Young moved to adopt the Ordinance Amending 10-2-070 of the City Code Adopting the 2008 Edition of the National Electrical Code. The motion was seconded by **Paula Alder**, and passed unanimously.

REVIEW PROVISIONS OF ESCROW INSTRUCTIONS FOR ROAD TO THE NORTH RIGHT OF WAY WITH RICH HAWS, ET AL. (Agenda Item #12)

Max Forbush distributed copies of the updated agreement, which included letters and correspondence. He read a portion of a letter from Rich Haws concerning the fairness of proposed City-paid fencing. The Council and **Mr. Forbush** agreed to review the new agreement between now and the next meeting.

REVIEW OF BROWN AND MANSFIELD EASEMENTS FOR NRCS PROJECTS. (Agenda Item #13)

Mayor Harbertson stated that this issue was discussed in the work session. He said an item of concern is the City’s proposed responsibility to maintain “associated” landscaping as stated in the easement agreements. **Sid Young** raised the issue of including a CERCLA clause. **Max Forbush** said a worst case scenario would be that if the City improves property that is destroyed by debris flow, it would have to restore landscaping. He asked if the Council wanted this language included in the document.

The Council discussed the removal of the phrase regarding maintenance and replacement of associated landscaping. **Mr. Forbush** raised the possibility that the property owners will not be

agreeable to this proposal. The Council agreed to move forward step by step as circumstances dictate.

Motion

David Hale moved to approve the Easement Agreements, with the exception of the wording concerning maintenance and replacement of “associated” landscape. **Paula Alder** seconded the motion, which passed by a unanimous vote.

Max Forbush will have the City attorney review the agreement.

DISCUSSION PERTAINING TO THE DRAFT BYLAWS AND POLICIES RELATED TO THE PROPOSED “SITE PLAN ARCHITECTURAL REVIEW COMMITTEE” (SPARC). (Agenda Item #14)

Glenn Symes reviewed the January 16, 2009, Memorandum from David Petersen to the Mayor and City Council regarding the Site Plan Architectural Review Committee. He said the Bylaw recommendations were modeled after the Planning Commission Bylaws, and he briefly reviewed the member appointment process and duties of the SPARC Committee. He said the City attorney is being consulted regarding open public meetings and proper notice.

Mr. Symes also reviewed the “Recommendations” and “Amendments” sections of the document. He explained that a Planning Commission member can be assigned to a project for one year, and if necessary can receive a term extension until the project is finished, which creates consistency and efficiency. The issue was raised for the need to clarify criteria and text to address the responsibility for removal and filling of vacancies on the committee. **Mr. Symes** addressed compensation for serving on the committee, which is \$35.00 per meeting. He invited the Council to offer feedback.

The Council discussed the makeup of the SPARC and how projects should be manned. It was agreed that issues such as the number of members who can make decisions or work on particular projects need further consideration.

[**David Petersen** and **Glenn Symes** left the meeting at 8:10 p.m.]

PRELIMINARY DISCUSSION/REVIEW OF ISSUES PERTAINING TO THE “ROAD TO THE NORTH” CROSS SECTION ALTERNATIVES. (Agenda Item #15)

Max Forbush said the width of the “Road to the North” was the issue of consideration. He said there is a question of whether to have on-street parking, and that most of the staff agrees that bike lanes do not make sense. Bulb-outs are a possibility and would require maintenance. The dedicated part of the public street would be curb and gutter, and developers would build and

maintain sidewalks. These issues will require more review.

The Council discussed the possible traffic pattern, and **Mr. Forbush** pointed out that this issue will impact everything else. He said traffic engineers will meet with staff and report back to the Council. **Rick Dutson** expressed concern about a bike lane in relation to roadway speed. **Max Forbush** said that since pedestrian and bike use will be discouraged on Park Lane, a proposed alternative is the Legacy Highway Trail underneath Park Lane extending to Shepherd Lane. **Mayor Harbertson** theorized that Rich Haws would propose that the trail system provides adequate access.

Max Forbush summarized that issues of street width, parking, and landscaping need to be considered. In response to a question by **Rick Dutson**, **Mr. Forbush** said the parking situation is still being evaluated.

CREEKSIDE AGREEMENT DISCUSSION. (Agenda Item #16)

Mayor Harbertson said emails from Creekside homeowners have been received indicating their reluctance to do anything with the trail between the two properties unless one or the other of the property owners would relinquish everything. **Max Forbush** said the latest email he reviewed indicated that they were concerned about holding the City harmless. He said the City attorney will review the situation, but that the HOA would probably need to buy liability insurance. He pointed out that the City has removed the biggest liability by maintaining the sidewalk.

In response to a comment by **David Hale**, **Max Forbush** explained that the north adjacent property owner has a lot bisected by the stream channel. The south adjacent lot owner uses the sidewalk as a line of demarcation and maintains only one side.

David Hale suggested that the Barkers be given the entire width of the trail since they have indicated a willingness to maintain it. He said this gives them all the liability. **Mr. Forbush** replied that there may be legal problems in doing this. He said that the last email from the Barkers proposed letting the HOA maintain it, but having the City assume all liability, which does not make sense.

Max Forbush said if the other owner objects, a public hearing can be held. In answer to a question by **Sid Young**, **Mr. Forbush** said there is a substantial question of whether the trail stays within the dedicated property line. It was suggested that Mr. Barker tell the other property owner that the City is agreeable to conveying the land to the Barkers if he (the other property owner) agrees.

SOMERSET HOA LIGHTING COST REPORT. (Agenda Item #17)

Max Forbush stated that a solution to this issue is clear cut, and the City needs to have an amended agreement prepared so both parties can sign. **Mr Forbush** will contact the attorneys. He said the goal is to resolve the issue within a couple of months.

CENTERCAL MEETING REPORT. (Agenda Item #18)

Max Forbush reported on a discussion with CenterCal about the Todd Jones property and the swoop, but CenterCal did not make any commitments. He said they received a visit from Todd Jones and Scott Hirschi, who were concerned that CenterCal is backing out of the project. He said everyone in that area is concerned about being treated fairly concerning roads, etc. **Mr. Forbush** said that CenterCal is agreeable to working with the City to create a favorable road pattern, but beyond that they were non-committal about proposals.

Mr. Forbush also reported that they discussed a federal aid project for the road into the Station, and are working through issues. He said CenterCal decided to defer that money to be at the end of the project for betterments, rather than building the road. **Mr. Forbush** said they also discussed using some of the funds to install the signal, but it is questionable whether UDOT will agree.

MAYOR HARBERTSON'S REPORT (Agenda Item # 19)

Mayor Harbertson reported on a meeting held with Bryson Garbett concerning the renting of units as opposed to selling them. **The Mayor** told him that this was not the City's responsibility.

There was a brief discussion on the Jono Gardner development.

Paula Alder will replace **Rick Dutson** at the next Town Hall meeting. **The Mayor** reported that he would attend the annual Youth City Council Senior Dinner. **Sid Young** said he would also try to attend.

Mayor Harbertson noted that attendance at Town Hall meetings has significantly declined. The Council discussed this issue, and proposed holding each meeting focused on a particular geographical area.

The Mayor announced that the grand opening for the new Zions Bank will be held February 26, 2009, from 5:30 to 7:30 p.m., with the ribbon cutting ceremony scheduled for 6:00 p.m.

CITY COUNCIL REPORTS (Agenda Item #20)

Cory Ritz complimented the Public Works department on their work repairing roads, but added that 1100 West Street is deteriorating badly. **Max Forbush** said this is a drainage issue, and he would meet with the County to address this matter.

Sid Young reported on the latest meeting of the League of Cities and Towns, and said that the League is opposed to the elimination of the sales tax on food. **Mr. Young** also reported on a citizen complaint regarding the closure of the road to the pond during the winter. This was briefly

discussed by the Council, and **Max Forbush** said he would consult with the Public Works Director about keeping the road open. He said he would place this issue on the February 3, 2009 City Council agenda.

[**Rick Dutson** left the meeting momentarily.]

Paula Alder mentioned Legislative Day which is scheduled for next week.

MISCELLANEOUS Agenda Item #21)

- a. **Miscellaneous items**
- b. **Minute motion adjourning to closed session to discuss strategy as it pertains to pending litigation.**

Closed Session

At 8:48 p.m., a motion to go into closed session to discuss strategy as it pertains to pending litigation and for the acquisition of real property was made by **Paula Alder** and seconded by **Rick Dutson**. A roll call vote was taken and Council Members **Alder, Dutson, Hale, Young, and Ritz** all voted in favor of the motion.

SWORN STATEMENT

I, Scott C. Harbertson, Mayor of Farmington City, do hereby affirm that the items discussed in the closed meeting were as stated in the motion to go into closed session and that no other business was conducted while the Council was so convened in a closed meeting.

Scott C. Harbertson, Mayor

At 9:15 p.m., a motion was made by **Dave Hale** and seconded by **Rick Dutson** to go out of closed session. The motion passed with all Council Members voting affirmatively.

ITEMS OF GENERAL CORRESPONDENCE (Agenda Item #22)

No items were discussed.

ADJOURNMENT

Upon a motion made by **Paula Alder**, the meeting adjourned at 9:15 p.m.

Margy Lomax, City Recorder
Farmington City