

# **SPECIAL FARMINGTON CITY COUNCIL MEETING**

Wednesday, January 24, 2002

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## **SPECIAL CITY COUNCIL/WEST CONFERENCE ROOM/CALL TO ORDER**

**PRESENT:** Mayor David M. Connors, Council Members Bob Hasenyager, Larry W. Haugen, Susan T. Holmes, Edward J. Johnson, City Manager Max Forbush, City Planner David Petersen, and Deputy Recorder Jeane Chipman. Council Member David Hale was excused.

**Mayor Connors** called the meeting to order at 6:40 P.M. The invocation was offered by Larry Haugen.

**Mayor Connors** asked for a consensus to amend the agenda allowing agenda item #2 to be considered first. There were no objections.

## **CONSIDERATION OF ANNUAL CONTRIBUTION AGREEMENT BETWEEN FARMINGTON CITY AND THE REDEVELOPMENT AGENCY OF FARMINGTON CITY RELATED TO THE REDEVELOPMENT AGENCY'S ISSUANCE OF NEIGHBORHOOD REDEVELOPMENT TAX INCREMENT BONDS, SERIES 2002, IN THE PRINCIPAL AMOUNT OF \$717,000 (Agenda Item #2)**

**Max Forbush** reviewed background information regarding the agenda item. As had been discussed in previous meetings, the Redevelopment Agency of the City intended to issue tax increment bonds, the closure of which had been delayed because of concerns raised by the bank. Zion's Bank, purchaser of the bonds, had asked the City to approve a contribution agreement that created a moral obligation on the part of the City to contribute to the RDA any shortfall in tax increment revenues to pay bond redemption payments. This provision was made because of concern that Kmart, a major business within the RDA area, might cease business in the RDA project area. Tax increment funds from Kmart are a partial source for repayment on the bonds issued. Although Farmington City officials felt confident the bond repayments would be secure, it was the concern of Zion's Bank that their investment portfolio may lose some credibility if Kmart were to go out of business. It was not possible at this time to know whether or not Kmart would or would not cease business in the Farmington area, although media reports indicated a possibility. The City Attorney response to the situation indicated that the City should consider the worst-case scenario in making any decisions.

In consideration of the request from Zion's Bank, Mr. Forbush recommended two actions by the City Council. First, that the City Council approve the Annual Contribution Agreement as presented in the packet. And second, that the City Council authorize Mr. Forbush to sign and send the letter dated January 24, 2002 to Stephanie Nicholls, Trustee for Zions Corporate Trust Department wherein Ms. Nichols was asked to redeem a portion of the debt obligation in the amount of \$220,000 from part of the proceeds of the Tax Increment Bonds, Series 2002. Mr.

Forbush discussed some of the details of the Annual Contribution Agreement and also stated that the partial redemption would lower the debt service on the bonds within acceptable limits should Kmart cease to exist. Projects still planned for completion using available RDA funds would include road improvements on west Shepard Lane, storm sewer projects on west Shepard Lane, and the housing initiative proposed by Jerry Preston in downtown Farmington. Mr. Forbush is suggesting that the affordable housing component of the projects valued at \$220,000 be deleted from the project. If approved, the two actions should help reduce risk for the City and the Bank.

The Mayor and City Council members discussed the suggested actions including the following points:

- It was agreed between City officials and Bank officials that no penalty fee would be charged for early redemption of debt obligations. Bank officials stated penalties had been waived for this specific redemption of the excess funds.
- Mr. Forbush explained that if City were required to contribute funds for debt service it would be in the form of a loan to the RDA. The funds loaned would be repaid plus interest in 10 years.
- Section 3 of the Annual Contribution Agreement stated that nothing contained in the agreement would obligate the City Council to budget or appropriate any amounts or to pay any amounts beyond its current fiscal year and that nothing contained in the agreement would be construed to create a general obligation or other pecuniary liability for the City. Council members and the Mayor wanted it clear that the agreement created only a moral obligation and that no legal obligation on the part of the City would be incurred to repay the loan. The repayment of the obligation falls to the City's RDA.
- The Mayor and Council members and the City Manager felt the actions being taken were prudent and conservative and beneficial for the City.

**Susan Holmes** *MOVED* that the City Council approve the Annual Contribution Agreement as presented and authorize the City Manager to sign and send the letter dated January 24, 2002, (as contained in the packet) to Stephanie Nicholls, Trustee of Zions Corporate Trust Department directing her to redeem the debt obligation in the amount of \$220,000 from part of the proceeds of the Tax Increment Bonds, Series 2002. **Larry Haugen** seconded the motion.

In discussion of the motion, **Bob Hasenyager** wanted to reconfirm that the City was under no legal obligation beyond that which had been negotiated between the RDA and Zion's in the original bond issuance. The representative from Zion's Bank confirmed that was true.

**Mr. Forbush** reported the City Attorney had reviewed the documents and was satisfied with all documents.

Voting on the motion was unanimous in the affirmative.

**AN ORDINANCE AMENDING AND ENACTING PROVISIONS OF TITLE 11 OF THE FARMINGTON MUNICIPAL CODE REGARDING ■ACCESSORY DWELLINGS.**  
**(Agenda Item #1)**

**David Petersen** distributed an updated ordinance draft and reviewed changes pertinent to the agenda item. Some discussion had transpired regarding the definition of family. However, the definition of family is not before the City Council at this time. Mr. Petersen said that the definition was a complicated issue impacted by federal and state laws. If the definition was to be rewritten, it would have to undergo a great deal of study and deliberation. Mr. Petersen said the City Attorney had reviewed the ordinance and had made some suggestions. The suggestions had been included in the new draft.

**Mayor Connors** opened the meeting to a *PUBLIC HEARING* and invited Gary Packer to address the Council if he wished.

**Mr. Packer** asked permission to summarize his case at the end of public comment.

**John Erickson** (neighbor to Mr. Packer) asked questions regarding enforcement of the ordinance and whether or not the property in question could be subdivided.

**Mr. Packer** responded that the neighborhood was under local conditions, covenants and restrictions (CC&R~~s~~) which prohibited the subdivision of the property. The CC&R~~s~~ provided a City-approved process wherein 75 percent of the neighbors would have to approve an amendment to that policy.

**Susan Holmes** said also that the ordinance gave permission to use accessory buildings as dwellings under conditional use provisions. Such use would be discontinued at sale of the property.

**Mayor Connors** explained that any use of the accessory building as a dwelling must meet all City requirements for dwellings. The ordinance does not effect subdivision of property .

**Mr. Erickson** asked if the accessory building could be used as an apartment-type, divided dwelling.

**Mr. Petersen** stated accessory dwellings could only be used as one unit, not a multi-family dwelling.

With no further comments, **Mayor Connors** *CLOSED* the public hearing.

The Mayor and Council discussed the issues, including the following points:

- Mr. Hasenyager felt strongly that the ordinance could allow two dwelling units on a single lot and that it may be an unfortunate circumstance if allowed especially in the downtown area. The ordinance made such action legal and provided the opportunity to erase the unique, rural character of the old downtown residential area. He felt the community at large was against using accessory buildings as dwelling units.
- Some members of the Council felt that the conditional use provision would ensure the Planning Commission could review all applications on a case by case basis and protect against abuse.
- The need to review the definition of the family was discussed. Some Council Members said the amended ordinance hinged on the definition.
- The ordinance expressly prohibited the rental of accessory dwellings.
- Susan Holmes felt the ordinance addressed two important issues: 1) the provision of care of aging family members, and 2) an economic tool to care for the financial stability of family members of any age.
- If neighbors feel there is abuse of a conditional use permit once approved, they can make their claim to the Planning Commission at which time the Planning Commission may consider action to revoke the Conditional Use Permit.

**Susan Holmes** *MOVED* to approve an ordinance amending and enacting provisions of Title 11 of the Farmington City Municipal Code regarding accessory dwellings. **Ed Johnson** seconded the motion. **Mayor Connors** directed a call for the vote resulting in the following: Susan Holmes, in favor; Ed Johnson, in favor; Larry Haugen, in favor; Bob Hasenyager, in opposition. The motion passed 3 to 1.

### **MISCELLANEOUS**

**Mayor Connors** reported the Utah Department of Transportation (UDOT) was considering quick action on the Shepard Lane interchange. They are currently reviewing designs.

Mayor Connors briefly discussed design options and said that Paul Hirst, City Engineer, would be present at the next City Council meeting to report on options that could be presented to UDOT. It is possible that work could begin in March or April. The Mayor said, however, that if work on the Legacy Highway begins again, the interchange could be bumped back and resumed after Legacy is completed.

The Mayor reported a conflict with the scheduled meeting for February 20, 2002 which had to do with the up-coming Olympics.

**Larry Haugen** *MOVED* to reschedule the February 20<sup>th</sup> meeting on February 27, 2002, beginning at 6:30 P.M. **Susan Holmes** seconded the motion, which passed by unanimous approval.

### **ADJOURNMENT**

**Susan Holmes** *MOVED* to adjourn at 7:30 P.M.

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Margy Lomax, City Recorder  
Farmington City