

# FARMINGTON CITY COUNCIL MEETING

August 19, 2008

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## CITY COUNCIL WORK SESSION/EAST CONFERENCE ROOM

**PRESENT:** Mayor Scott Harbertson, Council Members Richard Dutson, David Hale, Paula A. Alder, Sidney C. Young, Cory Ritz, City Manager Max Forbush, Assistant Planning Director Glenn Symes, and Recording Secretary Kami Mahan.

**Mayor Harbertson** opened the meeting at 5:40 p.m. and offered the invocation. Upon a motion made by **Rick Dutson** and seconded by **Paula Alder**, the Council recessed to take a field trip to the Village at Old Farm site to consider the developer's sidewalk waiver request.

The Council returned at 6:15 p.m. and reconvened the meeting.

[Others present for the remainder of the work session included Farmington resident Sharon Tru, CenterCal Developer Rich Haws, and Mr. Haws' Attorney Loyal Hulme.]

The following items were reviewed:

**(Agenda Item #4): (Public Hearing): Proposed TOD Zone Text Amendment/Master Planning Amendments (to be continued).**

**Mayor Harbertson** informed the Council that this item needed to be continued by a motion.

**(Agenda Item #5): (Public Hearing): Consideration of Plat Amendment for Shepard Crossing Subdivision (Old Kmart site) to accommodate a "Quick Lube" adjacent to Burt Brothers' properties.**

**Mayor Harbertson** reported that the Quick Lube will face west, and probably the tire store as well. **Glenn Symes** noted that the Planning Commission was favorable to this proposal. Concern was raised about parked cars left around the property for excessive periods of time. If Burt Brothers representatives are present they can be questioned on the matter. The Council discussed whether and how to address this issue. A concern was also raised regarding access to the east side of the property.

**(Agenda Item #6): Consideration of approval of the Village at Old Farm requests.**

- **Consideration of Sidewalk Waiver Request**
- **Consideration of Lot/Dwelling Unit reconfiguration in Phase 2 of the**

**residential portion of the project**

- **Approval of Reimbursement Agreement**

**The Mayor** stated that the sidewalk waiver is not really an issue. **Max Forbush** pointed out that if there is a density change of ten percent or more in the lot reconfiguration, it needs to go back through the approval process. The reconfiguration issue and approval of the reimbursement agreement should be tabled since the development agreement has not yet been signed and UDOT approval is still pending.

**(Agenda Item #7): Consideration of Zion’s Bank Final Plat approval for minor one lot Subdivision.**

**Mayor Harbertson** said there was no option to add conditions to this approval. **Max Forbush** stated that the development and reimbursement agreements involve all parcels, and requirements must be met prior to an occupancy permit being issued.

**(Agenda Item #8): Final Plat approval and Final PUD Master Plan for Meadow View Subdivision approval of related development agreement.**

**The Mayor** explained that although a development agreement is close, only two of the five empty parcels are being landscaped, which presents a maintenance problem. There is still a question on whether there are wetlands in the area. The development agreement cannot be signed until maintenance perpetuity is ensured.

**Glenn Symes** said that a maintenance plan has been submitted, and that there is a Homeowner’s Association to fulfill this responsibility. However, this is not stated in the development agreement.

**(Agenda Item #9): Consideration of a Boundary Line Adjustment west of the City’s Public Works/Parks & Recreation building in connection with City’s/CenterCal Purchase & Sales Agreement Stipulations.**

**Max Forbush** distributed copies of the proposed boundary line revision. Ownership of the right-of-way is still in question. In order to have a sales agreement, the City must make the lot line adjustment. Approval should be subject to a review of the legal description, and verification of title.

**(Agenda Item #12): Road Agreement between Farmington City and Rich Haws.**

Developer **Rich Haws** reviewed the background of the “Road to the North”, and said that they are willing to have conditions imposed on the approval. **Loyal Hulme**, attorney for the

developer, said he and the City Attorney approve the wording of the agreement

CRS will be representing the City in working with UDOT on access from Park Lane and other design issues. **Mr. Haws** said the City has more clout to work with UDOT, so the road needs to be a combined effort of the City and the developer.

[**Cory Ritz** arrived at the meeting at 6:45 p.m.]

The issue of how to pay for the road and the utilities was discussed. **Max Forbush** said road improvements could be paid for by the developer pre-paid impact fee credits but the City would have a difficult time providing for pre-paid road impact fee credits for utilities and landscaping because such were not part of the existing capital facilities plan. Impact fees can only be used for roads and not for landscaping, which the developer should pay for. City Attorney Todd Godfrey needs to be consulted. The City does not want to set a precedent for other developments. The upsizing of the road from the ordinary 55 feet to 80 feet needs to be paid for by the City.

The meeting adjourned at 7:00 p.m.

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### **REGULAR CITY COUNCIL/CITY CHAMBERS/CALL TO ORDER**

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

**Mayor Harbertson** called the meeting to order at 7:08 p.m., and **Cory Ritz** offered the invocation. The Pledge of Allegiance was led by Boy Scout **Preston Palmer**.

**The Mayor** recognized Youth City Council member Marissa Brown, who sat on the Council, and YCC members Elli Slagowski and Haley Harbertson.

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

The Council reviewed the minutes of the City Council meeting held August 5, 2008, and made several corrections.

### **Motion**

**David Hale** moved to approve the minutes of the meeting held August 5, 2008, with changes as noted. **Sid Young** seconded the motion, which passed unanimously.

**PLANNING COMMISSION REPORT (Agenda Item #3)**

**Kevin Poff** reported proceedings of the Planning Commission meeting held August 14, 2008. He covered the following items:

- The Planning Commission recommended approval of the Schematic Plan for the creation of a one lot subdivision for the placement of an LDS church on North Main Street.
- The Planning Commission recommended approval for the expansion of a parking lot for an LDS stake center at 347 South 200 West.
- A presentation was given by the Fire Chief to Commission members during the study session.

**(PUBLIC HEARING): PROPOSED TOD ZONE TEXT AMENDMENT/ MASTER PLANNING AMENDMENTS (TO BE CONTINUED). (Agenda Item #4)**

**Mayor Harbertson** stated that the Planning Commission had not yet given a recommendation on this matter.

**Public Hearing**

**Mayor Harbertson** opened the meeting to a public hearing at 7:20 p.m. There were no comments, and the public hearing was closed.

**Motion**

**David Hale** moved to continue this matter to a later date. The motion was seconded by **Rick Dutson** and passed by a unanimous vote.

**(PUBLIC HEARING): CONSIDERATION OF PLAT AMENDMENT FOR SHEPARD CROSSING SUBDIVISION (OLD KMART SITE) TO ACCOMMODATE A “QUICK LUBE” ADJACENT TO BURT BROTHERS’ PROPERTIES. (Agenda Item #5)**

**Glenn Symes** showed an overhead map of the Quick Lube site, as well as the parking table, and the parcel being modified. There were no representatives present from Burt Brothers.

**Public Hearing**

The public hearing was opened at 7:23 p.m. There were no comments, and **The Mayor** closed the hearing.

**Motion**

A motion was made by **Rick Dutson** to approve the Plat Amendment for a “Quick Lube”, subject to the conditions stated in the letter dated July 21, 2008, from the Planning Department to JSA Properties and Nate Lechtenberg, as follows:

1. The applicant secure and record a cross-parking agreement with the appropriate land owner to facilitate the required number of parking stalls for this use prior to final occupancy.
2. All rooftop mechanical equipment shall be screened from view and shall not be visible from the raised elevations of U.S. Highway 89.
3. The applicant completes all requirements for site plan approvals as well as all on-site and off-site improvement requirements to comply with City Engineer, Public Works, Fire Department, Planning Department, Storm Water Official, Central Davis Sewer District, and Benchland Water District. Any condition of site plan approval also becomes a condition of the conditional use approval.

**Cory Ritz** seconded the motion, which passed unanimously.

Concerns were raised regarding traffic on the site, and cars awaiting repair parked for extensive periods of time. These issues need to be addressed with the applicant.

**CONSIDERATION OF APPROVAL OF THE VILLAGE AT OLD FARM REQUESTS.  
(Agenda Item #6)**

- **Consideration of Sidewalk Waiver Request**
- **Consideration of Lot/Dwelling Unit reconfiguration in Phase 2 of the residential portion of the project**
- **Approval of Reimbursement Agreement**

**Mayor Harbertson** said that project manager **Jono Gardner** had not been informed that he was on the agenda. **Mr. Gardner** pointed out the section being considered for a sidewalk variance on the overhead map of the area. He explained the problems with the area, and said that the property narrows as it moves to the west, which limits the space for both a sidewalk and park strip.

The Council discussed the options of the configuration of the sidewalk and park strip as it

runs through the property at various locations. The consensus was that sidewalk should take precedence over the park strip.

### **Motion**

**David Hale** moved to deny the waiver for a sidewalk waiver with the instruction that the park strip be next to the curb where possible going west as far as it is feasible, with a sidewalk and where necessary the sidewalk could be placed next to the curb, and that the landscape where possible will stay as generous as possible. **Rick Dutson** seconded the motion, which passed unanimously.

**Mayor Harbertson** repeated that **Mr. Gardner** had only today received a copy of the Consideration of the Lot/Dwelling Unit configuration and the reimbursement agreement. **The Mayor** said he has received communications from citizens which he not yet been able to review. He suggested that since the development agreement had not yet been signed, the two issues should be tabled.

### **Motion**

**Sid Young** made a motion, seconded by **Paula Alder**, to table the Consideration of Lot/Dwelling Unit reconfiguration and table action on the request to approve the Reimbursement Agreement. The Council voted unanimously in favor.

### **CONSIDERATION OF ZION'S BANK FINAL PLAT APPROVAL FOR MINOR ONE LOT SUBDIVISION. (Agenda Item #7)**

**Mayor Harbertson** stated that the Planning Commission has already approved this item, and conditions cannot be added. The Council was shown overhead elevations of the Zion's Bank building, and asked for clarification from **Glenn Symes** on several details.

**The Mayor** pointed out a typographical error on condition #4 of the August 12, 2008, letter from the City to **Mr. Gardner**, and stated that it should read as follows: "the certificate of occupancy shall not be issued until the intersection improvements have been paved, *and signal installed.*"

It was noted that Condition #4 (regarding synergistic traffic connections) and Condition #7 (regarding a round-about) of the City Council Conditions from the August 12, 2008, letter were no longer applicable.

**Sid Young** asked about the status of the UDOT approval, and **Mr. Gardner** explained the difficulties and delays he has experienced with the agency. At present he is waiting for one

signature, after which he can proceed with the project. **Mr. Gardner** acknowledged that UDOT is cooperating on the northern section of the property, and he thanked **Max Forbush** for his instrumental assistance with this matter.

**Sid Young** expressed reluctance to approve without UDOT's signoff because of the precedent it would set. His preference was to table the issue, and **Paula Alder** agreed. **Jono Gardner** noted their tight construction schedule, and said tabling could cause delay on the project.

### Motion

**Sid Young** moved to table the issue until UDOT approval is received, with the understanding that a Special City Council meeting can be convened if approval is received before the next Council meeting. **Paula Alder** seconded the motion.

**Rick Dutson** suggested a telephone meeting and vote.

The motion failed by a vote of 2 to 3, with Council members **Young** and **Alder** voting in favor, and Councilmen **Hale**, **Dutson**, and **Ritz** voting in the negative.

### Motion

**David Hale** moved to approve the Final Plat of the one lot subdivision, subject to (1) the signing of the development agreement and the same conditions as outlined by the Planning Commission, including UDOT approval, and (2) to the review of the Planning Department to remove conditions which no longer apply, and that the matter is then to return before the City Council.

The motion was seconded by **Rick Dutson**. The motion passed by a vote of 3 to 2. Councilmen **Hale**, **Dutson**, and **Ritz** voted in favor of the motion, and Council members **Paula Alder** and **Sid Young** voted against.

### FINAL PLAT APPROVAL AND FINAL PUD MASTER PLAN FOR MEADOW VIEW SUBDIVISION/APPROVAL OF RELATED DEVELOPMENT AGREEMENT. (Agenda Item #8)

**Mayor Harbertson** explained that this development has five open space areas, three of which are proposed as "native vegetation." The developer was invited to address the Council.

In response to questions from the Council, **Jared Gardner** said there were no wetland areas in the development. The two parcels being landscaped are what was suggested by the

Planning Department. **The Mayor** emphasized that a maintenance agreement is wanted in perpetuity for the unlandscaped parcels, and **Mr. Gardner** replied that these will be maintained by the Homeowners' Association.

There was a discussion of the Council concerning the City's problem with lack of maintenance on "green space." Maintenance should be tied to the CC&R's and the HOA. The Council discussed the situation with **Mr. Gardner**. He said he would like the road system and utilities installed as soon as possible. **The Mayor** said that landscape issues can be addressed in the next week or so.

### **Motion**

**David Hale** moved to grant PUD Master Plan and Final Plat approval for Meadow View Subdivision, subject to the conditions that the developer sign a mutually acceptable development agreement, and submit acceptable landscape and perpetual maintenance plans for all remnant parcels that are tied in to the CC&R's and the HOA, that all five parcels are to be green space, and that right-of-way ownership and reconfiguration issues need to be resolved. **Sid Young** seconded the motion.

There was further discussion of the motion concerning the detailed trail maintenance requirement in the development agreement, the reconfiguration of the parcel across 1525 West, and the ownership of the right-of-way.

The motion passed by a unanimous vote

### **CONSIDERATION OF A BOUNDARY LINE ADJUSTMENT WEST OF THE CITY'S PUBLIC WORKS/PARKS & RECREATION BUILDING IN CONNECTION WITH CITY'S / CENTERCAL PURCHASE & SALES AGREEMENT STIPULATIONS. (Agenda Item #9)**

**Mayor Harbertson** said there are a few issues remaining that need to be resolved regarding the review of the legal descriptions, and the verification of title.

### **Motion**

**Rick Dutson** moved to approve the boundary line adjustment, subject to review of legal descriptions and verification of title. The motion was seconded by **Dave Hale**, and was approved unanimously.

### **APPROVAL OF REVOCABLE PERMIT WITH KAREN FOSTER TO ALLOW LANDSCAPING OF 200 SOUTH STREET RIGHT OF WAY SLOPE. (Agenda Item #10)**

A poster was displayed to the Council showing photographs of the property. **The Mayor** explained that the applicant received a permit six years ago to install a fence along the right-of-way owned by the City. She now is requesting a permit to install a waterfall, and wants a 25-year agreement with the City.

The Council discussed this request, including the amount of fill that will be removed for the project.

**Motion**

**Sid Young** moved to approve the permit and to authorize its issuance, subject to the applicant removing only sufficient fill material to allow the placement of rock. **Rick Dutson** seconded, the motion, which passed unanimously.

**MINUTE MOTION APPROVING SUMMARY ACTION LIST (Agenda Item #11)**

- **Ratification of Approvals of Construction Bond Agreements**
- **Approval of Change Order #2 with Stapp Construction and approval of final pay request**
- **Approval of Change Order #1 with Morgan Asphalt, Inc.**
- **Approval of request for sale of surplus property as per Public Works Department**

**Mayor Harbertson** briefly reviewed each of these items.

**Motion**

**Rick Dutson** moved to approve the Summary Action List. **Sid Young** seconded the motion, and the Council voted unanimously in favor.

The Council postponed Agenda Item #12 to wait for Rich Haws.

**LEGACY HIGHWAY BETTERMENTS AGREEMENT WITH UDOT AND WITH CENTERCAL PROPERTIES, INC., RELATED TO RE-STRIPING OF PARK LANE. (Agenda Item #13)**

**Max Forbush** said no action could be taken on this item because the cost is not set. The second part of the agreement needs to be modified to ensure that CenterCal pays at the

beginning, and not on completion, of the project.

**UPCOMING SPECIAL CITY COUNCIL MEETING TRIP TO DENVER, COLORADO, TO EVALUATE FORMED BASE ZONING DEVELOPMENTS. (Agenda Item #14)**

**Mayor Harbertson** named those who will be going on the trip to the Denver Stapleton area, and details of the trip were discussed. The group will visit form-based, zoning-type sites the first day, and will discuss the ordinance the following day. **Rick Dutson** said he would like to have a thorough discussion with Mark Johnson of Civitas concerning the pros and cons of doing a form base development. Notice of the meeting will need to be publicized.

The Council discussed the date for the first City Council meeting in November. Margy Lomax will verify this and get back to the Council members. They also discussed the town hall meeting scheduled in November.

**REPORT ON FENCE/MASONRY WALL ISSUE ON NORTH MAIN STREET. (Agenda Item #15)**

**Mayor Harbertson** reported that nothing had changed since the last Council meeting, and that the wall will be finished in the fall.

**BOARD OF ADJUSTMENT VACANCY/APPOINTMENT. (Agenda Item #16)**

**Mayor Harbertson** stated that David Kershisnik's term on the Board of Adjustment has expired, and Keith Hicks has moved out of the City. He suggested appointing Nathan Hardy to the Board, and that two alternates be appointed.

**Motion**

A motion was made by **Rick Dutson** to appoint Nathan Hardy to serve a new term on the Board of Adjustment. **David Hale** seconded the motion, which passed by a unanimous vote.

**ROAD AGREEMENT BETWEEN FARMINGTON CITY AND RICH HAWS. (Agenda Item #12)**

**Mayor Harbertson** said this matter was discussed during the work session. **Max Forbush** attempted to contact City Attorney Todd Godfrey, but was unable to do so.

**Rich Haws** stated that the remaining issues to be resolved are the patent, and the right-of-way on Burke Lane. **The Mayor** said that if it is a patented right of way, then there is no problem. **Max Forbush** described what is included in the reimbursement (or credit) to be given

for the construction of the road. **Rich Haws** wants reimbursement for landscaping, lighting, and utility costs. He will pay for a water line to come into Station Park Lane.

There was a discussion with respect to utilities. **Mr. Haws** wants utilities to be designed into the road, and the manner of payment can be left open for now. The current road design only includes asphalt and the water line.

**Max Forbush** said the issue of compensation for utilities will be determined later in a separate agreement. **Mr. Haws** said they will pay for an 8 inch line, and an upgrade is to be paid for by the City, which is normal policy.

### **Motion**

**Rick Dutson** moved to approve the road agreement between Rich Haws and the City, with the understanding that Item 4.2 reimbursement would be decided at a later date, that the amount the developer will spend for installing the larger water line in Station Park Lane will constitute a credit toward acquiring the perpetual easement, and the agreement will be reviewed by legal counsel for both the City and CenterCal. **Cory Ritz** seconded the motion, which passed unanimously.

**Mr. Ritz** commented that constructing the road to the north is vitally important before other development can occur. **Sid Young** added that it is a major milestone.

**Rich Haws** said he wants to begin working with City engineers and other city people as soon as possible.

### **LEGACY PARKWAY CONSTRUCTION/TRAIL MAINTENANCE ISSUES. (Agenda Item #17)**

**Max Forbush** said that Farmington, West Bountiful, Woods Cross, North Salt Lake, Centerville, and an unincorporated County area will all be responsible for maintenance of the trail area if all local jurisdictions chose to do so.

**Rich Haws** stated that CenterCal would match what the City does on its section of the trail. He said this can be included as part of the scope of work, but he will need the City's help within an easement area CenterCal doesn't control. He asked that the City work with them on how improvements will be constructed and maintained. A perpetual maintenance agreement is needed that allows them to enter the property for work. No decision on these comments were made by the City Council.

**Mr. Forbush** said he had been exchanging emails with a citizen in the Miller Meadows Subdivision. It appears that the berm near this area will probably not be raised. He said a landscape plan is available for Council members to examine.

Farmington resident **Karl Asay** was invited to comment, and he expressed his belief that the residents have been misled about the trail. If the City exchanged land for the wetlands, some consideration ought to be given to the Corps of Engineers. **Mayor Harbertson** responded that the Corps of Engineers doesn't care what happens to this particular land.

**Mr. Asay** also complained about debris being dumped on the high school property. **Max Forbush** asked him to send an email describing the situation which he will forward to the School District for action.

There was discussion about the cost of maintaining the trail. **Mr. Forbush** described the logistical problems of five different cities maintaining these areas, and said an interlocal agreement is the best solution. A meeting will be scheduled to discuss the issue with the Mayors of all five cities, and UDOT representatives will be invited. The maintenance costs compete with essential City services. UDOT is estimating the cost of annual maintenance to be \$27,000, but it is believed to actually be much higher. The City does not have to accept this mandate.

#### **MAYOR HARBERTSON 'S REPORT (Agenda Item # 18)**

**The Mayor** proposed sending a letter to Davis County stating the City's intention to purchase County property for the construction of a new City Hall. The proposal was briefly discussed by the Council.

#### **Motion**

**Rick Dutson** made a motion to send a letter to the County stating the City's intent to negotiate for the purchase of County property. The motion was seconded by **Sid Young**, and the Council voted unanimously in favor.

**Mayor Harbertson** reported on a meeting held with Ron Martinez and Craig Cummings of America West. Mr. Martinez was invited to participate on the field trip to Denver. The Council discussed the reasons for the recent denial of the America West proposal, and the likelihood of resolving problematic issues.

#### **CITY COUNCIL REPORTS (Agenda Item #19)**

**Cory Ritz** reported on neighbor concerns about the proposed "Park Place" development. They want a project that benefits the surrounding neighborhoods, such as a medical arts facility

or upscale condominiums. The Council discussed how to go about developing this area properly for the community's needs.

**Sid Young** reported on the League of Cities and Towns policy committee meeting. He said Roger Tew has offered to do a presentation on truth and taxation, and the Council discussed the timing of such an event. **Mr. Young** also said he would back out of the nomination for a position on the board of the League of Cities and Towns in favor of **The Mayor**, who will be nominated by the League. **Mr. Young** proposed holding the Trails committee meeting semi-annually rather than quarterly.

**Paula Alder** reported on a problem finding a meeting location for Youth City Council. The City Manager will look into this issue. **Ms. Alder** also suggested that the Council stay at one of the Stapleton developments while they are in Denver to get a feel for the area.

#### **MISCELLANEOUS Agenda Item #20)**

- **Miscellaneous item.**
- **Minute motion adjourning to closed session, if necessary, for reasons permitted by law.**

**Max Forbush** distributed a Parks and Recreation amended fee list. A Resolution authorizing the fee change will be on the Council Agenda on September 2<sup>nd</sup>.

#### **ITEMS OF GENERAL CORRESPONDENCE (Agenda Item #21)**

There were no items to discuss.

#### **Closed Session**

At 9:32 p.m. a motion to go into closed session to discuss pending litigation was made by **Sid Young** and seconded by **Paula Alder**. The motion passed with a unanimous vote.

#### **SWORN STATEMENT**

I, Scott 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.

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Scott C. Harbertson, Mayor

A motion to go back into an open meeting was made at 9:55 p.m. by David Hale and Paula Alder seconded the motion and all Council Members voted in favor.

A motion was then made by David Hale and Rick Dutson seconded the motion and the meeting adjourned at 9:55 p.m.

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Margy Lomax, City Recorder  
Farmington City