

FARMINGTON CITY COUNCIL MEETING

Tuesday, September 1, 2009

CITY COUNCIL WORK SESSION/EAST CONFERENCE ROOM

PRESENT: Mayor Scott Harbertson, Council Members Paula Alder, Richard Dutson, David Hale, Cory Ritz, Sid Young, and Recording Secretary Cynthia DeCoursey

Mayor Harbertson began the work session at 5:45 p.m. Council Member **Rick Dutson** offered an opening prayer, and the following items were reviewed:

1. **Davis County Constitution Day 2009** – **Gerald Hasty** gave a brief overview of the events and said a birthday party will be held on Thursday, September 17, 2009 at 7:00 p.m. at Northridge High School, 2430 North Hill Field (400 West) Road. He said there are various costs involved, including the rent for the building, refreshments, personal copies of the constitution, etc. He requested that Farmington City donate \$100.00 to help with this celebration. The **Mayor** said they would consider the request in the main session.
2. **Amendment No. 1 to Road Agreements** – **Rich Haws, Scott Harwood, and Ernie Willmore** of Willmore Development joined the meeting at 6:00 p.m., and **Paul Hirst**, City Engineer, joined the meeting at 6:10 p.m. There was a lengthy discussion regarding the Road Agreement. It was determined that the Agreement could not be finalized at tonight's meeting because the City was not able to contact Conoco. City Council approval is required for this Amendment, and it will be reviewed again at the City Council special meeting on Wed., September 9, 2009 at 8:00 a.m.
3. **Review of City Council Agenda Items** –

(Agenda Item #2) - Approval of Minutes of Previous Meeting

Mayor Harbertson requested one change on page 5: the addition of "monthly" to the 12,000 gallons of water use per residence.

(Agenda Item #4) - Planning Commission Report

Mayor Harbertson said Planning Commission **Chairman John Bilton** would give an overview of the agreement with YESCO regarding their two billboards which are located in Farmington.

(Agenda Item #6) - Minute Motion Approving Summary Action List

The **Mayor** said he was concerned about the second item on the list, the Audit Engagement Letter. He said the cost of the audit in 2008 was \$32,000, and this year the total is

\$31,000; however, there is an additional cost of \$5000 for the single audit related to the federal funds making the total \$36,000. After a brief discussion, the Council agreed to review the firm conducting the audit at an earlier date next year—possibly in June—and to authorize the mayor to sign the letter.

REGULAR CITY COUNCIL/CITYCHAMBERS/CALL TO ORDER

PRESENT: Mayor Scott Harbertson, Council Members Paula Alder, Richard Dutson, David Hale, Cory Ritz, Sid Young, City Engineer Paul Hirst, City Recorder Margy Lomax and Recording Secretary Cynthia DeCoursey

Mayor Harbertson opened the meeting at 7:00 p.m. and welcomed those in attendance. **Margy Lomax** offered the invocation, and the Pledge of Allegiance was led by Boy Scout **Andrew King**.

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

Motion

Rick Dutson made a motion that the minutes of the regular City Council meeting held August 18, 2009 be approved with the amendment discussed in the work session. The motion was seconded by **Paula Alder**, and it was approved by Council Members **Hale, Ritz, and Young**.

INTRODUCTION OF MISS FARMINGTON – CIERA PEKARCİK (Agenda Item #3)

Ciera Pekarcik did not attend the meeting. She will be at the September 16th meeting.

PLANNING COMMISSION REPORT (Agenda Item #4)

Chairman John Bilton arrived at 7:15 p.m. and gave an overview of the following items:

1. The request from DAI for nine additional units was tabled for the second time. A letter was received from the original owner, **Bradley Palmer**, and he does not support the request for higher density. The Commission advised DAI to consider three significant issues: (1) a proposal that would be satisfactory to **Bradley Palmer**, (2) a compromise with the concerned residents regarding density, and (3) preservation of the Haight home.
2. YESCO requested that two billboards in Farmington be raised. The Commission, staff, and representatives from YESCO agreed on the following:
 - a. Billboard 2 will be raised to a height of 45 feet and will remain at its present location.
 - b. Billboard 1 is an issue because of its location near school property and private land-owners to the north. The Commission approved a height of 45 feet with a

relocation option (five additional feet will be granted if YESCO moves the Billboard within 500 feet of Billboard 2). If the relocation requirements are satisfied within 90 days, the City shall provide a permit to construct Billboard 1 in an alternative location.

- c. YESCO will never be able to ask for another height adjustment, and all heights shall be measured at the now existing grade.

Chairman Bilton said the City staff and City Attorney were pleased with the compromise, and the Planning Commission approved it unanimously. He also said the Davis School District will benefit from this change and will receive a portion of the proceeds.

PENDING AGREEMENT #1 TO ROAD AGREEMENTS AND CONOCO PIPELINE RELOCATION AGREEMENT (Agenda Item #5)

The **Mayor** stated that this item was discussed and revised during the work session and said the Council would review the final draft at their meeting on Wednesday, September 9 at 8:00 a.m.

MINUTE MOTION APPROVING SUMMARY ACTION LIST (Agenda Item #6)

- 5-1. **Ratify Construction Bond and Storm Water Bond Agreements previously signed by Mayor Harbertson**
- 5-2. **Approval of Audit Engagement Letter**
- 5-3. **Approval of Parks & Recreation Boy Scout “Swim Check” Fee and Volleyball Programming Ideas and Fees**
- 5-4. **Approval of Fire Chief’s Recommendation to write off \$131.00 in EMS Fees**
- 5-5. **Tentative Approval of Parks & Recreation Director’s request to fund rock pillars at Farmington Ranches Park subject to review by the City Manager in the spring of 2010**

Motion

Rick Dutson made a motion that the City Council approve the items on the Summary Action List. **Cory Ritz** seconded the motion, and it was approved by Council Members **Alder, Hale,** and **Young.**

City Manager **Max Forbush** joined the meeting at 7:50 p.m.

UTAH LEAGUE OF CITIES & TOWNS CONVENTION/DELEGATION OF VOTING AUTHORITY (Agenda Item #7)

Motion

David Hale made a minute motion to authorize **Mayor Harbertson, Rick Dutson,** and **Sid Young** to attend the Utah League of Cities & Towns Convention and to vote on behalf of

Farmington City. **Cory Ritz** seconded the motion, and it was approved by Council Members **Alder, Dutson, and Young**.

VERIZON WIRELESS LEASE AGREEMENT PROCESS (Agenda Item #8)

Mayor Harbertson said the City has been negotiating with Verizon to install a cell tower behind the police station. The City has spent a sizable amount of money in the process of preparing the Agreement, and Verizon has now requested that the project be postponed. Because of the money that has been invested in this process, City Manager **Max Forbush** would like to continue working with Verizon in processing their application, and once the application is processed, the City would extend the Agreement and allow them extra time (possibly five years) to install the cell tower.

Motion

Sid Young made a motion that the City Council grant approval for staff to continue working with Verizon Wireless on their Lease Agreement. **Paula Alder** seconded the motion, and it was approved by Council Members **Dutson, Hale, and Ritz**.

AWARD OF BIDS/CONTRACTS (Agenda Item #9)

3C Communications for work on Fire Station Remodel

Mr. Forbush reviewed the projected costs and said staff approves the bid.

Motion

Cory Ritz made a motion that the City Council award the bid for the Fire Station remodel to 3C Communications. **Sid Young** seconded the motion, and it was approved by Council Members **Alder, Dutson, and Hale**.

Purchase of recycling containers

Mayor Harbertson presented several different types of recycling containers. He said he and the committee chose a container made by Rotonics which is the least expensive (\$41.00), and it has a 10-year guarantee. He said the City may purchase these over a 5-year time period, so it is possible the price could be slightly lower. They will be picked up every other week.

Motion

David Hale made a motion that the City Council approve the purchase of recycling containers from Rotonics. **Rick Dutson** seconded the motion, and it was approved by Council Members **Alder, Ritz, and Young**.

Selection of Water Rate Consultant

Mayor Harbertson said there were five different opinions given regarding this issue; his recommendation was neutral. He noted the detail presented by Lewis Young Robertson Burningham, Inc. (LYRB) but also said Bowen Collins & Associates, Inc.'s report was satisfactory. He believes both companies would be honest and fair with both Farmington and Lagoon.

Motion

David Hale made a motion that the City Council recommend Lewis Young Robertson Burningham, Inc. as the Water Rate Consultant for the additional study. **Paula Alder** seconded the motion, and it was approved by Council Members **Dutson, Ritz, and Young**.

City Manager **Max Forbush** joined the meeting at 7:50 p.m.

Authorization for the Mayor to sign the contract with The Tennis Company for construction of a tennis court at Farmington Ranches Neighborhood Park

Motion

David Hale made a motion that the City Council authorize **Mayor Harbertson** to sign the contract with The Tennis Company for the construction of the tennis court at Farmington Ranches Neighborhood Park. **Paula Alder** seconded the motion, and it was approved by Council Members **Dutson, Ritz, and Young**.

GOVERNING BODY REPORTS (Agenda Item #10)

Mayor Harbertson's Report

1. Envision Utah brochure concerning 3% strategy principles
2. Update on the legislative policy committee meeting:
 - a. State retirement fund—\$140-150 million shortfall is predicted
 - b. Water issues: Cities have the preferential water rights during times of scarcity; no city regulations in the state of Utah on canals--all owned and operated by private independent special districts; average age of people serving on the canal district boards is 84.2 years.
 - c. Budget gaps: AZ 2.4 billion, UT 875 million; CA 19.6 billion; OR 785 million; several states (ex.: MN and CA) have provisions to take money from the cities.
 - d. Waste management: construction of a recycling plant next spring at the Wasatch Waste property; a \$1.3 million project. Part of the recycling debate is that \$1.3 million would purchase many recycling cans throughout the cities.
5. Reminder of the annual shoot on Thursday, September 10 at 5:00 p.m.
6. Reminder of the special City Council meeting September 9 at 8:00 a.m.
7. He told the Council about a dispute between two brothers, **John** and **Doug Asay**, concerning an easement for an electrical box which is located in **Doug's** section of the

old K-Mart building. The agreement the City approved two years ago said, “The applicant must demonstrate that reciprocal access and parking easements are recorded on the two parcels as well as utility easements, if necessary.” This has not been done, and **Mr. Asay** has asked the City to approve a 45-day extension to allow them time to resolve the easement agreement. The **Mayor** suggested that this item be on the agenda at next week’s special City Council meeting.

City Council Reports

Sid Young said there were no outstanding issues from the contractor’s point of view at the new police station. He reminded those in attendance of a memorial hike on September 11, 2009 to Flag Rock which is exactly the height of the twin towers in New York City. He said the announcement would be included in the newsletter. He also made suggestions of possible volunteer opportunities for **Sherm Hoskins**.

Rick Dutson reviewed the following items:

Town Hall meeting tomorrow with the **Mayor**

Youth City Council Thursday night, September 3, 2009 at the regular time

Lunch at Zions on Friday, September 4, 2009 at 12:00 p.m.

On Wednesday, September 3, 2009 bids open for subcontractors on City Hall.

An email was received, and a resident expressed appreciation to **Max Forbush** and **Neil Miller** for fixing a flagpole problem near the cemetery within a short period of time.

Update on Rose Cove: a “for sale” sign on the property and a hose that runs water continuously. **Mr. Dutson** said the person who listed the property is asking \$150,000 for two acres and said the owner is looking for some type of loophole so he could build on the property; however, **Mr. Dutson** told him that Farmington City would never allow anything to be built on that property.

Cory Ritz referred to the Verizon Wireless item and suggested the initiation of a clause which would establish an escrow fund for the payment of expenses. This would allow the process to move forward and would offer additional protection to the City. He also mentioned the pasture on 500 South (previously Roger Eggett’s property) where culinary water had been left running continuously. The Council agreed with Council Member **Ritz** that an attempt should be made to lease the property.

The Council discussed the requested contribution for the Davis County Constitution Day 2009.

Motion

David Hale made a motion that the City contribute \$100 to be used for the Davis County Constitution Day 2009 which will bring increased attention to our heritage and additional respect for the Constitution. **Rick Dutson** seconded the motion, and it was approved by Council Members **Alder**, **Ritz**, and **Young**.

MISCELLANEOUS (Agenda Item #11)

Mr. Forbush discussed the Farmington Preserve Perimeter Trail Release & Indemnification Agreement (Draft) and said the City has been trying for several months to get these escrow funds released. He said the fund was established by three groups of developers in 1996 as part of the Farmington Preserve development to make sure there would be sufficient funds to build the trail. However, Aspen Title will not release the funds until there are amended escrow instructions because they were not the original escrow company. He said if the City signs this agreement, the three original developers will no longer have any responsibility with the trail, and the City also indemnifies them against any third party. He said this must be completed by October 2009, and he recommended that the City approve the Agreement and authorize the mayor to sign it. The amount the City will receive will be approximately \$40,000 which will not be enough to complete the trail, but it will be beneficial to the project.

Motion

David Hale made a motion that the City Council authorize **Mayor Harbertson** to sign the Farmington Preserve Perimeter Trail Release & Indemnification Agreement. **Rick Dutson** seconded the motion, and it was approved by Council Members **Alder, Ritz,** and **Young**.

The Council was reminded of the Annual Public Official's Conference on emergency management presented by the Utah Department of Public Safety, Division of Homeland Security. The Conference will be held on October 26-27, 2009 at the Zermatt Resort in Midway, Utah.

Closed Session

At 8:45 p.m. **Cory Ritz** made a motion to adjourn to a closed session to discuss strategy as it relates to pending litigation. The motion was seconded by **Paula Alder**, and it was approved by Council Members **Dutson, Hale,** and **Young**.

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 9:00 p.m. **Rick Dutson** moved to go back into open session. The motion passed with a second by **David Hale** and with all Council Members voting in favor.

F.J. Parker Litigation

A motion was then made by **David Hale** and seconded by **Paula Alder** to authorize Jody K. Burnett of Williams & Hunt, Attorneys representing the City on litigation with F.J. Parker, to investigate the possibility of using a Property Rights Ombudsman to act as a mediator in trying to settle this lawsuit. The motion passed with a unanimous vote.

Adjournment

There being no further business and upon motion to adjourn by **Rick Dutson** with a second by **Paula Alder**, the meeting was adjourned at 9:05 p.m.

Margy Lomax, City Recorder
Farmington City