

SPECIAL FARMINGTON CITY COUNCIL MEETING

Tuesday, December 29, 2009 - 4:00 p.m.

CITY COUNCIL WORK SESSION/EAST CONFERENCE ROOM

PRESENT: Mayor Scott Harbertson, Council Members Rick Dutson, David Hale, Cory Ritz and Paula Alder; City Manager Max Forbush, David Petersen, City Planner, and City Recorder Margy Lomax. Council Member Sid Young arrived at 4:15 p.m.

The meeting was called to order by Mayor Harbertson at 4:05 p.m.

MOTION TO GO INTO CLOSED SESSION TO DISCUSS PENDING LITIGATION

Mayor Harbertson reported there was nothing new to discuss on the item for the closed session so therefore there was no need to hold one.

CONSIDERATION OF RECYCLING OPT-OUT REQUESTS

Max Forbush reported seven additional residents had sent in requests to opt out of the City's recycling program. He said the percent of residents opting out is now around 19%. He reported one of the seven requests is from Breck Brown who owns a duplex at 1178 North 200 West and lives in one side of it. Mr. Brown is requesting that the City to allow him to only have one regular garbage container and one recycling container for the duplex. Mr. Brown owns a business which has a dumpster where any excess garbage could be taken. Under Title 7 of the City code the Council is authorized to do this.

Motion

Rick Dutson moved to authorize the opting out of the City's recycling program the seven residents who had petitioned the City to do so and to authorize City staff to pick up the black garbage container from Mr. Brown's duplex. The motion was seconded by **Cory Ritz**. The motion passed with an affirmative vote by all Council Members.

Those receiving permission to opt out are:

Mecall Hill	-	1026 North Shepard Creek Parkway
Dean Godfrey	-	909 Ibis Crossing
Mark Cummings	-	1817 North Compton Road
Alicia Peterson	-	948 North Shepard Creek Parkway
Breck Brown	-	1178 North 200 West
Ludwing Parra	-	373 North Stampede Drive
Kent Hinckley	-	1876 North Summer Wood Drive

Mr. Forbush asked for authorization for him or the Mayor to be able to grant permission to any further requests which might come to the City from residents not wanting to be in the curbside recycling program through the end of the year.

MOTION

A motion was made by **Rick Dutson** and seconded by **David Hale** to authorize the City Manager and/or the Mayor to be able to grant permission until the end of the year to any residents who do not want to participate in the curbside recycling program for any reason. The motion passed with all Council Members voting in favor.

CONSIDERATION OF COMMON AREA AGREEMENT WITH FARMINGTON PRESERVE RESIDENTIAL ZONE OWNERS ASSOCIATION REGARDING MAINTENANCE OF OPEN SPACE

Mayor Harbertson reported he had participated in a phone conference with Mark Nielson, the attorney for Farmington Preserve Residential Zone Owners Association, to discuss the proposed agreement and the budget. At first they were only offering the City \$21,000 for maintenance of the open space area in the Farmington Preserve, but revised the budget to \$30,000 after being told the City needed more funds for maintenance.

The open space or common area parcel was previously sold at a tax sale by Davis County. There was \$42,000 in excess of the taxes owed which went to the Association. Restrictive covenants were recorded with the plat placed this parcel of property as an open space common area and to remain so in perpetuity. Therefore, the parcel can never be built on. The highest bidder at the tax sale, Mr. Brown, owns the parcel, but has not maintained it. By the City entering into a “Common Area Agreement” with the Residential Zone Owners Association, it will give the City “teeth” to be able to enforce maintenance and clean up of the property. In paragraph 6 of the Agreement it gives the City the authority to go onto Mr. Brown’s property to do the maintenance if he doesn’t. By the terms of the Agreement the City would take the place of the Association in enforcing the restrictive covenants for this open space parcel. The Association is open to the idea of having the open space landscaped.

David Petersen, City Planner, reported a letter had been sent to Davis County Tax Assessor stating that the parcel of property is unbuildable so the tax rate on the property should go down.

MOTION

David Hale moved to accept the agreement as had been amended stating in paragraph 2 that the compensation to go to the City shall be \$30,000. The motion was seconded by **Rick Dutson** with all Council Members voting in favor the motion passed.

CONSIDERATION OF INTER-LOCAL AGREEMENT WITH BENCHLAND WATER DISTRICT PERTAINING TO SHARING COSTS ON DISPOSITION OF SURPLUS EARTHEN MATERIAL ASSOCIATED WITH PROPOSED CONSTRUCTION OF NEW IRRIGATION RESERVOIR

