

SPECIAL FARMINGTON CITY COUNCIL MEETING

June 6, 2007

6:30 p.m.

Farmington City Hall, 130 North Main Street

PRESENT: Mayor Scott C. Harbertson, Council Members Richard Dutson, David Hale, Larry W. Haugen, Sidney C. Young, City Manager Max Forbush, City Planner David Petersen, City Zoning Administrator Ken Klinker, Lisa Romney, City Attorney, and City Recorder Margy Lomax. Present in the audience were residents of the Farmington Ranches Subdivision.

Mayor Harbertson called the meeting to order at 6:30 p.m. and offered an invocation.

The purpose of the special meeting was to discuss with members of the Farmington Ranches Homeowners Association the following items: (1) conservation easement issues; (2) proposed neighborhood park update; (3) Legacy Highway update; (4) commercial corner at 1525 West Clark Lane plans; (5) Buffalo Ranch Trail progress; (6) public safety support for Farmington Ranches Subdivision; and (7) other miscellaneous items.

CONSERVATION EASEMENT ISSUES - FARMINGTON RANCHES SUBDIVISION

Mayor Harbertson introduced Lisa Romney from Mazuran & Hayes, City Attorneys, to speak to the audience regarding the Conservation Easements, regarding their constraints, what has to be dealt with, what can be done, and the process that will need to be followed to accomplish it.

Lisa Romney gave some background regarding the Conservation Easements placed over the different phases of Farmington Ranches Subdivision. The Farmington Ranches Subdivision was recorded in eight phases and each phase had a conservation easement placed over it. At the time of the subdivision's development, the City Council wanted it very clear that the Conservation Easement would be a permanent easement. The Conservation Easement does not have an amendment clause.

The Farmington Ranches Homeowners Association (HOA) has applied for a conditional use permit to change some of the landscape treatments in some of the common areas in the subdivision to provide for more lawn area and to change the natural features of the landscape.

She stated most conservation easements allow for a conditional use permit to be applied for on various uses within the conservation easement area; that includes non-commercial and non-motorized uses such as trails, bike ways, playing fields, playgrounds, and community open spaces.

A lot of the treatments the Homeowners Association would like to do in the easement areas are listed in the Conservation Easement as a conditional use permit. However, the specific language of the easement provides different treatments as designated and shown on Exhibit B" to the Conservation Easement specifically on the use table. Exhibit B is a Master Plan showing the uses that would be allowed in the Conservation Easement areas. Unless the use is shown on Exhibit B, it wouldn't be allowed as a conditional use. The proposed uses have to be listed in the Conservation

Easement, either as a permitted or conditional use. The use has to be in the designated area as shown on Exhibit B.

Lisa reported that she had done some research as to whether or not conservation easements can be amended. Generally conservation easements are perpetual and protect the land. The City is the holder of the easement. The trend across the Country has been to recognize some flexibility in conservation easements and to allow for some kind of amendments, because at the time of development, it is difficult to determine future needs.

The courts that have looked at the amendment process and have looked at two things in determining whether or not to amend the conservation easement. The first issue for the City, as the holder of the easement, is to analyze and determine if the amendment on balance will not harm the conservation values of the property or be in conflict with the conservation purposes of the easement. The second issue is to determine whether any proposed amendment gives financial benefit to the landowner or private party. It cannot do so. A holder of a conservation easement generally holds it in trust for the public, not just for one neighborhood, but for the public. The City has a duty to protect the land.

Lisa suggested that a procedure for amending the Conservation Easement might be, first, to have the HOA apply for an amendment to Exhibit B to allow the things the Homeowners Association wants to do with the property. Exhibit B is similar to the City's General Plan. It is premature for the HOA to ask for a conditional use permit that is in conflict with the existing use map. Ms. Romney suggested the City, the developer, and the homeowners meet and determine, "Do we want to change the Master Plan on what's to be done in conservation area? Does it make sense? Should it be amended?" Also, the public has a right to be involved in the process. Second, a hearing will need to be held before the Planning Commission and the City Council. There will need to be specific findings to support the amendment. Once everyone agrees how the use map should be amended and its approved and recorded, then the HOA could submit their conditional use permit application.

David Petersen, City Planner, stated that he and Ken Klinker, City Zoning Administrator, had driven around the property and saw what exists on it now and have their recommendation. He suggested a meeting be held with representatives from the HOA, a small group, to come to a "meeting of the minds" as to what should be done, determine the findings, then that information would be presented to the Planning Commission and the City Council for consideration.

Gordon Crabtree, President of the HOA, said he is beginning to understand more about the conservation easement as it relates to hazards, fire, water flows, etc. He would like some process to be able to continue to amend the easement into the future as more is understood about the properties, but felt that a good plan is necessary now.

Brent Taylor, a resident of Farmington Ranches Subdivision, addressed the Council stating he chose his building lot next to an open area. He reported he has read the Conservation Easement and feels it is very specific as to how the open areas should be. He believes the open areas could be rehabilitated by spraying, mowing and conservation practices. He spoke of nesting Mallards by his property. He felt residents should be more patient in letting the areas come back to their natural vegetation after the damage they have received through construction. He feels the area should be open and lean toward the side of conservation. He offered to help in anyway he could.

Anita Todd, a resident of Farmington Ranches Subdivision, stated she had worked on a survey a few years ago while working for Centerville City to determine which cities had the best ratio of open space per 1,000 persons. She chose to live in Farmington because from her research it had the best ratio. Her research showed that Farmington City claimed as their own a certain amount of acres per 1,000 persons as open space. She questioned if this information were correct.

Max Forbush, City Manager, responded that a few years ago the City adopted a Parks Master Plan and in that plan the City had done an assessment of National standards for recreation land per 1,000 residents. The City did count some existing schools, or church playfields as meeting the recreation needs. He stated the only analysis he is aware of that the City has done was in conjunction with the Parks Master Plan. He said Farmington is short on meeting the National standards for open space, but far ahead of a lot of cities.

Mayor Harbertson pointed out that discussion had been held with the HOA regarding the possibility of them selling five lots that are part of the open space in the Farmington Ranches Subdivision and are located in the easement area to help pay for the cost of construction of a park. As had been pointed out by Lisa Romney, the HOA cannot sell the lots, because it would violate the terms of the Conservation Easement. He also stated the City is not trying to move or change wetlands in the area, only construct a park as has been requested by the HOA.

Max Forbush reported some homeowners have violated the provisions of the Conservation Easement by encroaching on it with structures, sprinklers, lot line issues, planting of grass, etc. There have been 30-35 violations. He suggested it would be beneficial to homeowners to read the Conservation Easement so they will know what can and can't be done.

FARMINGTON RANCHES PROPOSED NEIGHBORHOOD PARK UPDATE

_____The Farmington Ranches Homeowners Association had previously approached the City requesting a neighborhood park be constructed on 11 acres of the open space located in their Subdivision. Mayor Harbertson stated the park would be a multi-use park with part of it landscaped, part wetland areas, with a trail through it, plus possibly water features, etc. He said there are different alternatives to consider in developing the park. The City Council would like to move forward with their request. The City will welcome suggestions for design of the park.

It will be necessary for the City to amend its Parks Master Plan in order to construct the neighborhood park. It is not currently in the Plan. Funds in the amount of \$500,000 have been allocated in the City budget to go towards construction costs. Also, the City has applied for a grant for \$150,000 which will require matching funds. The 11 acres would need to be deeded to the City in order for the City to receive the Grant. The HOA has 80 acres of open space that needs to be maintained.

Mayor Harbertson questioned the possibility of the homeowners helping the City with the cost of the park due to the fact this is an unusually large park for a neighborhood park. A neighborhood park is generally only 1-2 acres. The City already has purchased 17 acres of ground near the Fairgrounds for construction of a park in west Farmington.

Gordon Crabtree stated another vote would need to be taken of the homeowners in the Farmington Ranches Subdivision to determine if they are in agreement with the plans for the park and deeding the 11 acres to the City because the scenario has changed from when a previous vote was taken.

Steve Petersen, Farmington Ranches resident, stated the City did not ask for the park property, it was the Homeowners Association who approached the City with the idea of building a park, and the City is interested in helping them out. He feels there should be an amendment so the City would own and maintain the 11 acres. He said the HOA is coming up with a design plan, but it ultimately will be the City's decision as to what goes in there.

The City Manager encouraged the Homeowners Association to move quickly on the dedication of the land to the City, because in order to receive the \$150,000 Grant the City must own the land.

Cathy Hoage, a resident of Farmington Ranches, suggested residents could donate funds to the City to help with the park construction. It is tax free if donations are made to the City.

The issue of the Conservation Easement not being recorded on one or two phases of the Farmington Ranches Subdivision where the neighborhood park will be located was brought up. It was pointed out that possibly the situation would allow for more flexibility in what can be constructed at that site. Brent Taylor, however, was quite surprised the Conservation Easement had not been recorded and wanted to know why it hadn't.

ROAD TO COMMUTER RAIL STATION

_____ The question was raised regarding the status of the road into the commuter rail station site. It was explained there are three major hurdles to it. First, a re-striping plan had to be approved by UDOT which coincidentally had been signed today. Second, where the access road will be located. A Weber Basin water line runs under the preferred location. The line will need to be moved, but

work cannot be done until October 15 when the water is turned off. Third, the City doesn't have access approval from the landowner and can't go ahead with design of the road until that is given. It is hoped the road will be completed in time for the opening of the commuter rail by April 30 of next year.

MOSQUITO ABATEMENT

David Hale reported to the residents that the Davis County Mosquito Abatement District will come to their area or homes and "fog" to kill mosquitos on request. The fogging provides an 80% kill. They will normally respond to the request within 48 hours. He also reported if they have ornamental ponds, the District will provide fish that eat mosquitos.

BUFFALO RANCHES TRAIL

_____The City Manager reported the loop for the Buffalo Ranches Trail will be finished by the end of the year. The City Public Works crew will cap the trail with crusher fines to make the trail better for biking.

CROSS PROJECT TRAIL

Cathy Hoage asked who is to maintain the cross project trail located in the Farmington Ranches Subdivision.

The City Manager replied that the City owns a 20-foot strip. The plan is for the City to put in the sprinkler system, landscape on the sides, and then turn it over to the Homeowners Association to maintain. Presently no one is doing the maintenance. He stated it is hard to get 100% compliance from homeowners. The agreement with the HOA for the Park calls for the City to landscape the 20' strip including irrigation sprinklers, then to deed the strip to the HOA for perpetual maintenance except for the sidewalk itself.

CLARK LANE SAFETY ISSUE

_____A resident living on Clark Lane in the Farmington Ranches Subdivision reported there is a problem with motorists speeding along that street. Mayor Harbertson responded to him stating that installing speed bumps is not a good option. It creates liability for the City. He said there are other options available to use in conjunction with the Police Department to enforce the speed limit. It was suggested the speed limit be painted on the roadway as a reminder to motorists.

ADJOURNMENT

_____At 8:40 p.m. a motion was made by **David Hale** and seconded by **Larry Haugen** to adjourn the meeting. There being no further business to conduct, the meeting was so adjourned.

Margy L. Lomax, City Recorder

