

FARMINGTON CITY
SPECIAL CITY COUNCIL MEETING
February 12, 2013

Present: Mayor Scott Harbertson, Council Members John Bilton, Cory Ritz, Cindy Roybal, Jim Talbot and Jim Young, City Manager Dave Millheim, City Finance Director Keith Johnson, Parks & Recreation Director Neil Miller, Recreation Coordinator Rich Taylor, Parks Superintendent Colby Thackeray, Recreation Coordinator Sylvia Clark, City Development Director David Petersen, Public Works Director Walt Hokanson, Police Chief Wayne Hansen, Fire Chief Guido Smith, and City Recorder Holly Gadd

CLOSED SESSION

Motion:

At 6:00 p.m. **Jim Talbot** made a motion for the Council to go into a closed meeting to discuss the acquisition of real property. The motion was seconded by **Cory Ritz** and approved by Council Members **Bilton, Ritz, Roybal, Talbot** 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

Motion:

Note: The Council failed to make a motion to go out of closed meeting. The regular session began at 8:00 p.m.

REGULAR SESSION

Present: Mayor Scott Harbertson, Council Members John Bilton, Cory Ritz, Cindy Roybal, Jim Talbot and Jim Young, City Manager Dave Millheim, City Development Director David Petersen and City Recorder Holly Gadd

Econowest Associates, Inc.

Mayor Harbertson met with **Doug Macdonald** of Econowest several weeks ago, and he suggested that the City look into receiving a tax reimbursement from the construction costs of the Station Park project. The **Mayor** reviewed the proposal he submitted but is not convinced it is the right proposal. **Dave Millheim** explained that construction costs should be reported, but the City has no way of knowing if that is happening. If the costs are reported, the City benefits; if they are not the City could lose a significant amount of money. **Jim Young** asked why the City could not determine the amounts on its own, and the City Manager replied that he has

never done it and does not know the right people to contact. **Doug Macdonald** is the former economist for the State Tax Commission and knows the process of auditing contractors and determining if sales taxes are being reported correctly. **Cory Ritz** suggested a \$25,000 cap, and **Jim Talbot** and **John Bilton** agreed.

Motion:

Jim Young made a motion to authorize Econowest Associates, Inc. to look into the matter of whether construction sales taxes are being properly reported, and the City will pay Econowest a minimum of \$1,500 or 20% of the savings with a maximum not to exceed \$25,000 for this service. The motion was seconded by **Jim Talbot** and approved by Council Members **Bilton, Ritz, Roybal, Talbot** and **Young**.

First Supplementary Development Agreement in conjunction with the Alternative Review Process for approval of an “Additional Project Master Plan” for Park Lane Commons

The **Mayor** asked each Council Member to share their thoughts.

John Bilton reviewed all of the paperwork which was submitted by staff and the applicant. He also reviewed the City’s General Plan, Ordinance, and form-based code in preparation for this meeting. He found two inconsistencies between the December 4, 2012 staff report and this report. THC was intimately involved in the process of designing and creating the form-based code which comprises Chapter 11. CenterCal requested several variances, and the City Council/Planning realized that an alternative review process would be helpful, so Section 114 was created. Three issues have been dealt with repeatedly: (1) the height of the sign; (2) the treatment and cross section of the street; and (3) the public/private nature of the sidewalk and bringing the buildings to the curb as required by the form based code. He struggles with the idea that every application in this development may require this type of effort because no one is willing to fit within the code. He pointed out that the **Mayor** has been very open and willing to discuss the issues and meet numerous times. Because of the work performed by the SPARC and the Planning Commission and the fact that throughout this entire process a single tenant was driving this proposal, he would not approve the First Supplemental Developmental Agreement for Park Lane Commons.

Jim Talbot said he has been vacillating between the two recommendations which both have validity. He is frustrated that the same issues are being raised again. He would like to hear all of the comments by the Council before he makes a decision, but a 35-foot sign is too low, and 70 feet is too high. He would vote for a 45-foot sign, 10-foot sidewalks, a change in the termination clause from 3 to 5 years and the time period for approval to lapse at least 45 days. He agreed that the Council should seriously consider the conclusions made by the SPARC.

Cindy Roybal expressed appreciation for the work that was performed during this entire process. She showed photos of sidewalks and high end shops in Scottsdale, Arizona as examples. She was disappointed that an asphalt trail, trees and side treatments, and a portion of the Country Club on Shepard Lane were all removed for the purpose of “calming traffic”. It was a mistake and removed the feeling of beauty in the area. She does not think a 10-foot wide sidewalk in this area would ever be necessary and does not want that much concrete. She asked what the standard width for side treatments is and said she would compromise with an 8-foot sidewalk and a 55-foot sign.

David Peterson said the City’s standard for many years was a 4-foot sidewalk and 4-foot park strip, but in 1999 the City Council made a strategic move and increased the width for both to 7-½ feet. Two examples in Farmington are the parking strips on Main Street (15 feet), and the sidewalk in front of the theatres in Station Park which is 6 feet wide at its most narrow point. There may be a much higher density in this area in years to come as some predictions foresee five million residents on the Wasatch Front in 30 years.

Doug Thimm, Architectural Nexus, explained that pathways are set up for people to pass in opposite directions. Four-foot sidewalks are too narrow; six-foot sidewalks allow people to pass comfortably. When there are events or seating, more width is recommended. Side treatments used to be 3-4 feet wide, but most landscape architects refer to those as “tree coffins” because there are not wide enough for the root ball of a tree to remain vigorous and healthy. Six to eight feet is considered a realistic and reasonable width.

Cory Ritz has also vacillated on these issues. He thanked **Cindy** for the photos showing what other cities have done. He agreed that the Council needs to honor and respect the effort that has been put into this process thus far. A sign height of 35 feet is too low, 70 feet is too high, and he does not want a forest of pylon signs scattered throughout this project. He prefers a 10-foot sidewalk and does not want the approval time frame to go beyond 60 days.

Jim Young said Section 114 has become the bane of the Council’s existence—it would be much easier to stick to the form-based code. He agreed that the Council should make a final decision and would approve a 65-foot sign, 5 years and 45 days on Items d and g and suggested that staff, THC and the City Attorney work out the other loose ends.

Scott Harwood said “project” is not clearly defined, and it was determined that a condition could be added stating that “project” is defined by Exhibits F and G. He pointed out that the market will drive the development—they cannot construct buildings and let them sit empty. He is concerned about the City Attorney’s comments and the fact that there was no dialog regarding the elements that were removed. THC has tried to make the Agreement as simple as possible, but the language is critical. The Exhibits are key pieces because they set the standards for this development. THC thought the screen wall for the drive through was agreed upon during the December 4, 2012 meeting. The Agreement states that the private streets must meet City standards, but the streets in Park Lane Village do not. The **Mayor** said the City encounters too many problems when private streets do not meet City standards. THC has worked through most of the other issues, but they were confused by the comment that they should incorporate all of the SPARC recommendations into their “MDGs”.

Mayor Harbertson stated that he would like the sign to be an icon or landmark which represents the entire 70 acres rather than a single tenant and asked if other tenants in the 4-acre area would be included on the sign. A phrase in the Agreement states: “four large project signs”, and he asked what those signs would be advertising and how large they would be. THC said the phrase matches the language in CenterCal’s Agreement exactly. The **Mayor** would be okay with a 45-50 height, and he would like a 10-foot sidewalk with planters and benches that would welcome pedestrians.

David Petersen said the Associate City Planner added the comments regarding MDGs, and there were very few comments from the SPARC because there were no clear guidelines.

They received one comment about the parking which questioned the wisdom of locking into 4 spaces per 1000 square feet. Staff is fine with more flexibility on the parking.

Dave Millheim advised the Council to be very clear with the motion and said approving the Agreement with a condition to work out the details with the City Attorney at a later time is a course of action destined for failure. Also, the Agreement should not be left open ended as to when the obligations are supposed to be fulfilled. There was additional discussion of all of the issues previously mentioned. **John Bilton** said that if conditions d, e, and f could be solved equitably and with precision and the cloud that sits upon this now could be removed, he may be consider approval of staff’s recommendation #2.

Motion:

John Bilton made a motion to follow staff’s recommendation #1 and not approve the First Supplemental Development Agreement for Park Lane Commons for the supplementary “additional project master plan” as submitted for Park Lane Commons, subject to findings established previously by the Planning Commission on November 1, 2012, as well as by the SPARC, and by Staff as set forth in the attached supplemental information. There was no second to the motion and it died.

Motion:

Cory Ritz made a motion to follow staff’s recommendation #1 as stated in the staff report with the cloud removed so that the City Council can approve it in one week. **Dave Millheim** said he did not know what that meant. **Cory Ritz** withdrew his first motion and made a motion to adopt recommendation #1 with the stipulation that the Council will remove the cloud and give direction to staff so that in one week the Agreement will be ready for approval. **John Bilton** seconded the motion but asked if it could be amended to state that the “cloud” is recommendation #2, items a-h, and another “cloud” may be **Scott Harwood’s** response to **David Petersen’s** letter dated Feb. 11, 2013. **Dave Millheim** asked if he could restate the motion: The Council will deny the First Supplemental Development Agreement as drafted but will review Items a-h and the “four large project signs” reference on p. 6 (3.5.2.2) will be deleted. Council Member **Bilton** approved the motion, Council Members **Ritz, Roybal, Talbot** and **Young** did not approve, and the motion died.

Motion:

Jim Talbot made a motion to approve the First Supplemental Development Agreement for Park Lane Commons subject to conditions a – h as outlined in the staff report and the following amendments:

- a. The sign, including the cap, will not exceed 50 feet in height;
- b. Remains the same;
- c. Remains the same;
- d. Exhibits f and g define “project”, and the termination clause will be changed to 5 years;
- e. Remains the same;
- f. Is eliminated;
- g. The approval time will be 45 days, and Section 3.5.2.2 (p. 6) will be eliminated.

Jim Young seconded the motion. **Dave Millheim** expressed concern about Item 3 and asked the City Planner if the SPARC recommendations were included. **David Petersen** said the comments were included in a memo he sent to THC on Jan. 30, 2013. The Council discussed the comments and concluded that 1, 4, 5, 6, and 7 were editorial comments only and that comments 2 and 3 should be added as conditions. **Jim Talbot** amended his motion to state that Item e will include Items 2 and 3 from the memo. **David Petersen** said THC initiated the Agreement which staff responded with several red line changes by them and the City Attorney. The response from THC came two days after the deadline, so they still have some concerns. The **Mayor** asked for a vote on **Jim Talbot's** original motion, and Council Member **Young** approved it. Council Members **Bilton, Ritz, Roybal, and Talbot** did not approve, and the motion failed 4-1.

Motion:

Jim Talbot made a motion to follow staff's recommendation not to approve the First Supplemental Development Agreement for Park Lane Commons for the supplementary "additional project master plan" as submitted for Park Lane Commons, subject to findings established previously by the Planning Commission on November 1, 2012, as well as by the SPARC, and by Staff as set forth in the attached supplemental information and with the following conditions:

- a. The sign, including the cap, will not exceed 50 feet in height;
- b. The sidewalks along Station Parkway shall be 10' wide-outside the public right-of-way and the landscape buffer shall be 9'6" wide the length of the project from Grand Avenue going north towards Burk Lane;
- c. The City must enter into a Public Improvements Extension Agreement with the Developer to allow for a future sidewalk to be installed as deemed necessary by the City along the east side of Station Parkway from Grand Avenue going south to Park Lane;
- d. The termination clause will change to 5 years;
- e. THC and staff will work out Items #2 and #3 in the Jan. 30, 2013 memo;
- f. The Agreement will be updated to include the City Attorney's revisions as constituted following discussion with THC;
- g. Extended from 30 days to 45 days;
- h. The definition of "project" is in Exhibits f and g of the staff report;
- i. Section 3.5.2.2 on p. 6 of the Agreement will be eliminated.

Cory Ritz seconded the motion which was approved by Council Members **Bilton, Ritz, Talbot** and **Young**. Council Member **Cindy Roybal** did not approve the motion.

ADJOURNMENT

Motion:

Cory Ritz made a motion to adjourn the meeting. The motion was seconded by **Jim Talbot** and approved by Council Members **Bilton, Ritz, Roybal, Talbot** and **Young**. The meeting was adjourned at 11:00 p.m.

Holly Gadd

Holly Gadd, City Recorder
Farmington City Corporation