

FARMINGTON CITY COUNCIL

Tuesday, February 7, 2012

JOINT CITY COUNCIL/PLANNING COMMISSION WORK SESSION

Present: Mayor Scott Harbertson, Council Members John Bilton, Nelsen Michaelson, Cory Ritz, and Jim Young, City Manager Dave Millheim, Community Development Director David Petersen, Associate City Planner Christy Alexander, Deputy City Recorder DeAnn Carlile, and Recording Secretary Cynthia DeCoursey. Council Member Jim Talbot was excused.

Mayor Harbertson welcomed the City Council, the Planning Commission, Richard Haws and Scott Harwood of the Haws Companies, and Earl Kemp of Forsgren Associates. Lyndon & LeeAnn Evans and Mark Evans were also in attendance.

Community Development Director **David Petersen** provided background information regarding the Farmington City Transit-Oriented Development Regulating Plan which details the existing and proposed street network in the various mixed-use districts in the Station Park area. There was a discussion of various issues concerning the Plan.

REGULAR SESSION

Present: Mayor Scott Harbertson, Council Members John Bilton, Nelsen Michaelson, Cory Ritz, and Jim Young, City Manager Dave Millheim, Community Development Director David Petersen, Assistant City Planner Christy Alexander, City Engineer Paul Hirst, Deputy City Recorder DeAnn Carlile and Recording Secretary Cynthia DeCoursey. Council Member Jim Talbot was excused.

CALL TO ORDER:

Roll Call (Opening Comments/Invocation/Pledge of Allegiance)

Mayor Harbertson began the meeting at 7:35 p.m. The opening prayer was offered by **Nelsen Michaelson**, and the Pledge of Allegiance was led by Boy Scout **Jacob Frye**.

REPORTS OF COMMITTEES/MUNICIPAL OFFICERS:

Executive Summaries for Planning Commission meetings held January 12 and 26, 2012

The summaries were included in the staff report, and there was no further discussion.

Presentation of 15-year service awards for Police Department

This presentation has been postponed until the meeting on February 21, 2012.

Appointment of Members and Officers of the Farmington Trails Committee

Mayor Harbertson referred to a letter from the Trails Committee which listed the following Farmington residents as nominees:

- Seat #4 – 3-year term: **Brad Jachne**, 479 Island View Circle

- Seat #5 – 3-year term: **Ryan Lueck**, 936 Spring Creek Drive
- Seat #6 – 3-year term: **Scott Ogilvie**, 150 East 615 South
- Seat #7 – 2-year term (remaining): **Greg Tanner**, 11 West 580 South
- Chair – 1-year term: **George G. Chipman**, 433 South 10 West

Motion:

John Bilton made a motion to appoint the new Farmington Trails Committee members as outlined above and to direct staff to send letters of appointment to the new individuals. The motion was seconded by **Nelsen Michaelson** and approved by Council Members **Bilton, Michaelson, Ritz, and Young**.

PUBLIC HEARINGS:

Burke Lane (Red Barn Lane) Street Vacation

David Petersen said the City and Station Park, LLC signed an Agreement in 2008 in which the City agreed to vacate Burke Lane as a public right-of-way from the Union Pacific Railroad to Station Parkway and granted a perpetual easement to the developer. However, the Cook family owns property abutting the right-of-way at the southeast corner of Red Barn Lane and Station Parkway and would like to retain access to their property along the north boundary line. Developer **Rich Haws** agrees with the Cook family, but a resolution has not been finalized, and staff is recommending that the Council table this item.

Public Hearing:

Mayor Harbertson opened the Public Hearing at 7:45 p.m.

Jeff Devashrayee, 280 S. 400 W., Salt Lake City, attorney for the Union Pacific Railroad Company (UP) said they received a letter regarding this proposal the previous Friday and are concerned because the vacation of Burke Lane (Red Barn Lane) would cut off access to their right-of-way.

Mike Stanton, project coordinator for UP's western region, said this has been their emergency response access for decades and allows them to deal with any safety and/or maintenance issues that may occur on or near the Railroad. The nearest access is on Porter Lane in Centerville—five miles away—and most of their access points were lost with the construction of the Legacy Parkway.

Jeff Devashrayee emphasized that this access point is a crucial location for both track maintenance and emergency response. Their request for an easement across the vacated property is not without the support of legal authority, and he cited a Utah Supreme Court case in which the abutting landowner had access to his land on a public highway since 1953, and the ruling stated: "Except where change by statutes pertaining to limited access highways, an abutting land owner has a private easement of ingress and egress to existing public highways. This private easement of access has been held to survive the abandonment or vacation of the public highway." Two other Supreme Court cases supported the right of ingress and egress to land in the event of an abandonment or vacation of a public road and for these reasons, UP is requesting an easement to access their right-of-way.

Ron Benson, deputy general manager of rail systems infrastructure with the Utah Transit Authority (UTA), said UTA shares the corridor with UP and will also be affected by this action. Any hindrance to UP's access also blocks UTA's access. They have a good working relationship with UP, their dispatcher communicate frequently, and they both rely on this access point.

Jerry Cook, 631 N. Pheasant Way, Centerville, said his family did not receive a notice regarding the Planning Commission public hearing, so due process was not followed. He questioned why the vacation is necessary—the access has been open for decades. There also seems to be contradictory language in the proposed ordinance: “the street is hereby vacated as a public right-of-way” and in section 2: “nothing herein shall be construed to vacate.” According to Utah State code: “if a public highway is vacated, that property reverts back to the owners to the middle boundary line,” and the Davis County survey shows the **Cook** property line to the center of the street. These easements have been in place for many years and should be honored.

Jeff Cook, 582 N. 340 E., Centerville, said their preference is that Burke Lane and their east property line be left unchanged. They do not want to give up their 66-foot easement.

Marianne Cook Jenks, 457 W. Hidden Meadow Way, Farmington, agreed with the comments made by her two brothers. They have met with developer **Rich Haws** who has been open and supportive of their concerns about retaining the easements.

Dave Millheim said the concerns of UP and the UTA need to be addressed, and the Cook family and **Rich Haws** are close to an agreement. There is no existing easements of record, but there are historical access rights, and the developer seems to be agreeable to honoring those access rights. The City and the abutting property owner of Park Lane Village are concerned about safety in this area by the railroad tracks. The current easements on the trail access on the east side of Park Lane Village are close to each other and overlap, and this area will be heavily impacted when 324 homes in Park Lane Village are occupied. The City wants to ensure that UP and the UTA are sensitive to future impacts and address issues such as maintenance, fencing, and safety, etc. The City will receive a monetary benefit for surrendering its rights to a portion of this street.

Motion:

Cory Ritz made a motion to table the request for an ordinance vacating Burke Lane (Red Barn Lane) to allow Farmington Square LLC and C Limited Partnership to settle access issues and to address the easement concerns of Union Pacific and the UTA. The motion was seconded by **Jim Young** and approved by Council Members **Bilton, Michaelson, Ritz, and Young**.

Schematic Plan for Meadow View Conservation Subdivision

Christy Alexander said Northstar homes received preliminary and final plat approvals for this subdivision in 2007, but those approvals expired so they must repeat the approval process. The Schematic Plan has 19 lots on 10.601 acres in an AE zone. Staff has several concerns and is working with the developer to mitigate those concerns.

Jared Darger, 15757 South Pack Saddle Drive, Bluffdale, said this has been a long process. The new road will improve the traffic in the area and benefit residents in west Farmington. He is excited for the development to move forward and believes it will be an asset to the City.

Public Hearing:

Mayor Harbertson opened the Public Hearing at 8:05 p.m.

George Chipman, 433 S. 10 W., Chairman of the Farmington Trails Committee, said this is a great location for a trail, and it will connect to the Farmington Ranches Park trail and extend east to the Rails to Trails and the Legacy Trail. It will be located on open space within this Subdivision. The 20-year master

plan does not show the trail stubs—they work with the developer to determine the best location for the trail and the best access for the adjoining neighborhoods. He requested that the trail be positioned to avoid excess water from the detention basin and to satisfy homeowners in the area. He realizes that the topography of that area will need to be considered, but he is confident there will be a way to locate the trail across the corner of the conservation lot and further away from the residents.

Sherry Ellis, 1722 W. Country Bend Lane, Lot 313, said her home is located next to the proposed trail. The area is very steep, and the HOA has not been allowed to develop this area because of the wetlands. She referred to a City map which shows the trail across the wetlands, but she purchased her lot because of the wetlands. Conservation and maintenance plans from the City clearly state that upland and wetland space cannot be developed—it can only be used to maintain weeds or as a fire break. She and her neighbors are not in favor of having a trail in this location because they enjoy their privacy. She is also concerned about excess water issues in the area.

The Public Hearing was closed at 8:15 p.m.

David Petersen reviewed the planning process from schematic plan through preliminary plat and final plat and said two public hearings (Planning Commission and City Council) are held in conjunction with schematic plan approval. There are no public hearings at the preliminary or final plat levels. **Dave Millheim** said the main purpose of schematic plan approval is to get a general idea of what the developer is planning and to hear the concerns of the public regarding the plan. There was discussion regarding the road, the proposed open space, the detention basin, and the trail.

Motion:

Jim Young made a motion to approve the Schematic Plan for the Meadow View Conservation Subdivision (19 lots), located at approximately 425 North 1525 West, subject to the same conditions and findings established by the Planning Commission on Jan. 26, 2012 as set forth in the attached supplemental information. This Plan is conceptual, and there is ample interest and opportunity to address the concerns which have been raised. A public hearing will be held at the Planning Commission meeting when a request for preliminary plat approval is submitted. **Cory Ritz** seconded the motion which was approved by Council Members **Bilton, Michaelson, Ritz, and Young**.

PRESENTATION OF PETITIONS AND REQUESTS:

Street Improvements on 650 West in the Miller Meadows Subdivision

David Petersen explained that the City signed a development agreement with RRR Ranch LLC for this Subdivision wherein the developer is required to improve 650 West Street the entire north to south length of the project. However, timing for this was unclear because the agreement does not specify whether or not the road can be completed on an incremental basis or if it must be completed all at once. The Council agreed to allow the developer to improve 650 West Street in increments as each phase is completed.

Motion:

John Bilton made a motion to authorize the **Mayor** to sign the letter regarding the improvement of 650 West Street as it relates to the development of the Miller Meadows Subdivision. **Nelsen Michaelson** seconded the motion which was approved by Council Members **Bilton, Michaelson, Ritz, and Young**.

Final Plat for Tuscany Cove Phase 2 Subdivision

Christy Alexander said Rainey Homes is requesting final plat approval for this 3-lot Subdivision. It is in an LRF zone, and the lot sizes must be a minimum of 20,000 sq. feet. This minimum was met with a 6-foot sidewalk to back of curb and no park strip; however, the lot sizes were slightly under 20,000 sq. feet which required the developer to have 10% open space. They are requesting a waiver of the open space. **Cory Ritz** asked if the wall was engineered and constructed in such a way that it can handle having a road built next to it, and the Council also discussed the amount of the fee-in-lieu.

Phil Hunter, 1605 South 200 East, owns property just north of the subject property, and this is the first time he has seen the proposal. Several weeks ago he agreed to allow Rainey Homes to use his property for the turn around space, but he needs time to think about it and discuss it with his wife.

Brock Johnston, 1284 W. Flint Meadows Dr., said **Mr. Hunter** attended one of the public hearings when this idea was discussed, and he agreed to the plan. Because the property has a large drop off, material will need to be brought in, and it increases the value to his property. **Dave Millheim** recommended that the Council table this item to allow additional time obtain an easement which can be done at the same time as final plat approval. It is not wise to grant a final plat approval when there are significant concerns.

Motion:

John Bilton made a motion to table this request to allow staff additional time to address the issues which were raised. The motion was seconded by **Nelsen Michaelson** and approved by Council Members **Bilton, Michaelson, Ritz, and Young**.

Purchase of Street Lights from Rocky Mountain Power

Dave Millheim reported that it took a long time to get this survey from Rocky Mountain Power, and there are several dates which need to be updated. Also, the inventory was done prior to the wind storm, so there may be light poles which are not currently working.

Motion:

Cory Ritz made a motion to approve the agreement with Rocky Mountain Power for the purchase of the street lights they still own in Farmington for a purchase price of \$157,686. The purchase will be made through the General Fund Balance and will be contingent upon the light poles being in good repair and operating. If Rocky Mountain Power does not want to replace the poles, the purchase amount will be adjusted, and several dates in the agreement also need to be adjusted. The motion was seconded by **John Bilton** and approved by Council Members **Bilton, Michaelson, Ritz, and Young**.

SUMMARY ACTION:

Minute Motion Approving Summary Action List

1. Approval of Minutes from the January 17, 2012 City Council Meeting
2. Ratification of Approvals of Construction & Storm Water Bond Logs
3. Sewer Easement for pipe within Red Barn Lane
4. Questar Easement for pipe within Red Barn Lane
5. Renewal of Contract with Davis County Animal Care and Control
6. Tuition Reimbursement for Officer Brandon Erickson
7. Agreement with LDS Church for storm drainage located at 549 South 1525 West

There was a brief discussion regarding the 30% increase in frequency and costs of animal control calls over the past year. **Dave Millheim** said the majority of calls relate to barking dogs, and he agreed to contact the new animal control director and ask him to report to the Council on the nature of the calls.

Motion:

Jim Young made a motion to approve the items on the Summary Action List. The motion was seconded by **Cory Ritz** and approved by Council Members **Bilton, Michaelson, Ritz, and Young**.

NEW BUSINESS:

Vacation Order for a portion of Parcel E of the Village at Old Farm PUD Phase 3

Motion:

Nelsen Michaelson made a motion to approve the attached Ordinance and Vacation Order vacating the portion of Parcel E, attached herein as Exhibit “A”, of the Village at Old Farm PUD Phase 3 subdivision plat, to be recorded with the Village at Old Farm PUD Phase 1 Amended Plat, and subject to the findings established previously by the Planning Commission on September 15, 2011 as set forth in the attached supplemental information. The motion was seconded by **John Bilton** and approved by Council Members **Bilton, Michaelson, Ritz, and Young**.

GOVERNING BODY REPORTS:

City Manager Report

- **Audit Follow-up**

The Council voted 3-2 several months ago to continue with the auditing firm they have used in the past. Staff is very happy with the current audit services and recommends using them for the next few years. Nevertheless, because of the split vote, the Council asked that the issue be discussed again. They decided to continue with the current firm and review the issue again in several years.

- **Monthly Police & Fire Department Reports**

He referred to reports submitted by the Police and Fire Chiefs and said these will be provided on a monthly basis. He also asked both Chiefs to address trends which the Council may need to know about. The Council and the **Mayor** said they would like to see the information in spreadsheet form with more detailed categories included.

- **Fire Break Road & Future Water Tank**

He expressed frustration regarding two issues: (1) the location of a future water tank; and (2) two connection points on the fire break road. A significant amount of effort has gone into the decision of where to place a new water tank, and the best option would be next to the small water tank which is on US Forest Service property. The City expected some resistance from the USFS even though the impact would be minor. The fire break road runs along the foothills east of the City below the water tank, and there are two spots where the road does not connect—one is on **Jerry Stevenson’s** property (he has given permission to connect), and the other is below the water tank. The head Forest Service Ranger called and said they will not do it because it is a “roadless” area. **Mr. Millheim** asked what was driving the refusal, and she said that because this is an election year, they do not want to offend anyone with environmental issues by impacting

Forest Service lands. Former U.S. Congressman **Jim Hansen** is a Farmington resident and has a huge interest in seeing the fire break road resolved because one of the plans with the new water tank is to install a new water line and fix the street he lives on. He was not happy with the USFS response and is very willing to help. Congressman **Rob Bishop** (who chairs the Public Lands Appropriations Committee) also agreed to assist. The USFS has since asked to meet, so he is optimistic that a solution may be forthcoming.

Mayor Harbertson & City Council Reports

- He attended a meeting regarding transit options in south Davis County and whether or not Bus Rapid Transit (BRT) would be an option. The past BRT attempt did not make it past the public hearing level. Residents want improvements to the on and off ramps of the freeway—not transit options, and south Davis County does not have the numbers to support transit.
- He toured the Safe Harbor facility in Kaysville which assists abused women. Farmington does not have a facility, but nearly 900 cases from Farmington residents went to the Kaysville facility for assistance in the past two years. Safe Harbor is constantly looking for funding, and he suggested that the Council consider a \$5,000 donation or the purchase of a tree during their annual Evergreen fundraiser.
- He and **Neil Miller** attended a Utah Community Forest Council meeting in which Farmington received a “Community of the Year” award—because of **Matt McCullough’s** work with the tree inventory program.
- There was an error regarding the reimbursement from FEMA on hauls to the landfill. The bill for that purchase was \$6322.18, and he asked **Dave Millheim** to make sure the correct bill is submitted.
- The Somerset HOA has not been able to collect insurance money for the damaged trees in their subdivision—they were \$21,000 short and asked if the City would be able to assist.
- **Doug McDonald** worked 70 hours more than the City agreed to pay and would like an additional \$10,000 for his time. **Dave Millheim** received an invoice from him but said he could not recommend it to the City Council. He will call **McDonald** and explain our agreement.
- **Dave Millheim** is meeting with **Glen Leonard** on Feb. 8th regarding the City’s history.

Nelsen Michaelson

- He thanked staff for organizing the meeting with residents near 475 S. and to alleviate concerns. Regarding the future road, **Cory Ritz** said a resident asked him about promises the City made in the past regarding the road—that 475 S. would end in a cul de sac. **Nelsen** said he would prefer to keep the existing cul de sac at the end of 475 South.

John Bilton

- He asked if the **Rigbys** had reacted to the Miller Meadows bond calling issue, and **Dave Millheim** said Rainey Homes is complying, which is the important thing.
- A Davis County UDOT meeting will be held on March 29th, and he asked if the Council should attend. The City Manager said they do not need to attend.

- He appreciated the letter to **Dave Freed** at Lagoon, and **Mr. Millheim** said he is meeting with the entire Lagoon management staff on Wed., February 8th.
- He does not understand why the City has to be the broker/arbitrator for the Haws Companies road issue—a road does not have to be part of their application. He suggested that the City push back on this issue. **Dave Millheim** will ask CenterCal to submit a letter of what they want and why, and the City can evaluate it.

Cory Ritz

- He received a call from former Council Member **Rick Dutson** who said the general feeling among Garbett Homes residents is gratitude for the Council and their efforts regarding the lawsuit.
- He is repeatedly approached by a resident who wants to know about the paving of 650 West.
- He asked for an update of the proposed girls' softball program—the resident who offered to run the program has not been contacted. The City Manager will follow through on the issue.

Jim Young

- He attended a Historical Preservation Commission meeting, and their most important issue is the **Hector Haight** home which continues to deteriorate—it has been vandalized, and there may be a broken water line. It was built in 1862 and is included in Utah's top 10 historic cabins. They also want to know if the new well house will use the existing Community Center driveway, and they would also like to purchase computers.
- He appreciated the legislative review sent by the City Manager and is concerned about the billboard issue. **Dave Millheim** reported that the bill passed unanimously in today's committee meeting and has a high possibility of passing. This issue is not just billboards—it is the whole eminent domain and local control issue. Reagan Outdoor Signs contributed \$455,000 to legislative campaigns. He has never seen the Utah League of Cities & Towns more united against an issue. He suggested that the **Mayor** and Council contact any legislators they may know to vote against SB136.

CLOSED SESSION

Motion:

At 10:00 p.m. **Cory Ritz** made a motion to go into a closed meeting to discuss strategy as it relates to pending litigation. The motion was seconded by **John Bilton** and approved by Council Members **Bilton, Michaelson, Ritz,** 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 10:15 p.m. **Nelsen Michaelson** made a motion to reconvene into an open meeting. The motion was seconded by **Cory Ritz** and approved by Council Members **Bilton, Michaelson, Ritz, and Young**.

ADJOURNMENT

Motion:

John Bilton made a motion to adjourn the meeting which was approved by Council Members **Bilton, Michaelson, Ritz, and Young**. The meeting was adjourned at 10:15 p.m.



DeAnn Carlile, Deputy City Recorder
Farmington City Corporation

