

# FARMINGTON CITY COUNCIL MEETING

April 17, 2012

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## WORK SESSION

*Present: Mayor Scott Harbertson, Council Members John Bilton, Nelsen Michaelson, Cory Ritz, Jim Talbot, and Jim Young, City Manager Dave Millheim, Community Development Director David Petersen, City Engineer Paul Hirst, City Attorney Todd Godfrey, and Recording Secretary Cynthia DeCoursey*

### Street Master Plan for the Chestnut Farms PUD Subdivision

The meeting began at 6:20 p.m., and **David Petersen** provided background information on this item. He explained that because there are several elements to this Plan, staff provided a "decision tree" which breaks up the motion into levels. The Council discussed important details concerning this proposal, including a possible stub street to the Jung property, whether or not 475 South should be a through street, and if 375 South should be extended to 1525 West as shown on the 2005 Chestnut Farms Master Plan.

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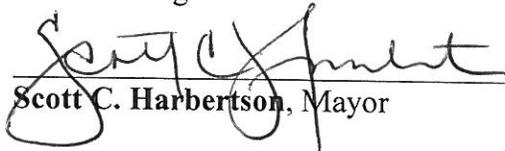
## CLOSED SESSION

### **Motion:**

At 6:45 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 **Nelsen Michaelson** and approved by Council Members **Bilton, Michaelson, Ritz, 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.

  
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**Scott C. Harbertson**, Mayor

### **Motion:**

At 7:05 p.m. a motion to end the closed session was made by **Cory Ritz**, seconded by **John Bilton**, and approved by Council Members **Bilton, Michaelson, Ritz, Talbot** and **Young**.

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## REGULAR SESSION

*Present: Mayor Scott Harbertson, Council Members John Bilton, Nelsen Michaelson, Cory Ritz, Jim Talbot, and Jim Young, City Manager Dave Millheim, Community Development Director David Petersen, Planning Department Secretary Heidi Gordon, and Recording Secretary Cynthia DeCoursey. Youth City Council Members Daniel Montgomery and Steven Swanson were also in attendance.*

### **CALL TO ORDER:**

## Roll Call/Opening Comments/Invocation/Pledge of Allegiance

**Mayor Harbertson** began the meeting at 7:10 p.m. and welcomed those in attendance. The opening prayer was offered by **Dave Millheim**, and the Pledge of Allegiance was led by Boy Scout **Caleb Jeppson** of Troop 1116.

## REPORTS OF COMMITTEES/MUNICIPAL OFFICERS

### Executive Summary for Planning Commission meeting held March 29, 2012

The Summary was included in the staff report.

### Presentation from the Utah National Guard

**Lt. Casey Staheli** informed the Council that the Utah Community Covenant Program is a formal commitment of support by state and local communities to Service Members and their families—Active, Guard, and Reserve. It is designed to foster and sustain effective state and community partnerships and provides community leaders with available education and resource. They would like each city to designate a “military liaison” and to organize a signing ceremony. **John Bilton** agreed to act as the military liaison.

## PUBLIC HEARINGS

### Street Master Plan for the Chestnut Farms PUD Subdivision

**David Petersen** said the City received a great deal of input from residents regarding this Plan. The City Subdivision Ordinance states: “In the event a master street plan does not exist, the subdivider shall prepare such a plan.” He read the main motion, sub-motions 1A, 1B, 2A, 2B, 3A, 3B, and the findings as included in the staff report. He provided information regarding the four utilities which will have spacing requirements and emphasized that inter-connectivity between neighborhoods is a good planning practice.

#### *Public Hearing:*

**Mayor Harbertson** opened the public hearing at 7:50 p.m.

**Chase Bybee**, 1418 West 475 South referred to a petition he sent to the Council with 46 signatures of residents who support leaving 475 S. as a cul de sac. He purchased a 2-acre parcel at the end of 475 S., created a 2-lot subdivision, built his home on the easterly lot, and sold the westerly lot to Symphony. He and other residents on 475 S. paid for the cul de sac. He requested that the City compensate them if they decide to make 475 South a through street.

**Scott Thurgood**, 1364 West 475 South, is upset about this proposal. He and his wife purchased a lot in the cul de sac because they wanted less traffic in their neighborhood. They were told from the beginning that it would remain a cul de sac, and they helped pay for it. He is also concerned about safety.

**Dan Wight**, 267 South 1400 West, said the burden of expanding the Chestnut Farms Subdivision should not fall on the homeowners who live in the 475 South cul de sac. He asked the City to rethink the project and change the street plan.

**Candace Daly**, 1296 West 475 South, said they chose their lot because of the cul de sac and the rural feel of the area. They have a great deal of empathy for the **Bybees**, and she asked the Council to deny the request for removal of the cul de sac.

**Jared Gilmann**, 1212 West 280 South, lives on Lot #5 in the Symphony development and said it would be great if everyone could live on cul de sacs and be surrounded by acres of property, but it is a fact of life that development and changes will happen. He urged the Council to use perspective as they consider plans which will provide connectivity.

**Steve Bouck**, 1392 West 475 South, is concerned about safety and purchased his lot because it was on a cul de sac. He said there are as many reasons why 475 S. should remain a cul de sac as there are reasons why it should be a through street, and he encouraged the Council to look at other options.

**Jake Barker**, 517 South 1250 West, was unable to attend, but **Mr. Bouck** read a letter he wrote which stated that the City did not communicate with residents regarding the possible removal of their cul de sac. He does not think it is fair to eliminate a cul de sac in their neighborhood but allow many more cul de sacs in an adjacent subdivision.

**Valerie Bybee**, 1418 West 475 South, said they gave up 20% of their lot and a significant amount of money to construct the cul de sac, yet this was not included as a reason why the connection should not be approved. She said there is nothing ethical about the proposal to remove the cul de sac.

**John Wheatley**, Symphony Homes, said they feel like they are on approval quicksand because their 2005 Master Plan is no longer valid. It is difficult to plan a subdivision when things are constantly changing. The most economical plan for a developer is not to have any stubs, but they understand the need for street connectivity and have worked with staff to meet the City's standards. They also added the Bangerter stub which is a great connection and will spread the traffic flow.

**Stacey Glossner**, 494 South 1250 West, purchased her home 4 years ago and was told that 475 S. would not be a through street. She is concerned about the safety of her children, the bus route, and the value of her home. She is in favor of 60-foot walking path which would connect 475 S. to the new street and offer access to the utilities without additional traffic. She asked the Council to vote against this proposal and look for other alternatives.

**Brian Gates**, 256 South 1275 West, lives directly across from the Chestnut Farms community pool and park, and if traffic is increased on 250 South, there will be a direct impact on the children in the area. He is dismayed that the **Bybees** could be so negatively impacted by this decision. If 475 South is allowed to go through, a City like Farmington should do as much as possible to make this right for them.

**Calvin Squires**, 1244 West 475 South, opposes 475 S. as a through street and believes there are other feasible options. He pointed out that there is a farm access road on the north side of the church and asked if it could be used. He is an avid user of the City's trails and would like to see trails woven throughout all of these neighborhoods.

**Andrew Hiller** purchased the rear portion of the **Williams** property. He is concerned about the homeowners in the 475 South cul de sac because they were promised that it would never be a through street. The Planning Commission and City Council need to look beyond the rules and do what makes sense.

The Public Hearing was closed at 8:45 p.m.

**Mayor/City Council comments:**

**Nelsen Michaelson** said it is difficult to make a decision when his friends and neighbors are involved. He feels that it is important to adhere to development standards which will ensure connectivity

between neighborhoods. Some residents are in favor of a connection to 1525 West, but others are not, and he would like to review other possibilities.

**Cory Ritz** listed the following concerns: (1) He respects the DRC but discounted several of their points due to the lack of logic; (2) He is concerned about the Schematic Plan as it relates to open space, density, and wetlands; (3) The City must provide protection for residential streets, and if the cul de sac is removed, each resident on the street should be fairly compensated; (4) He questioned the reason for the north/south connection between the two Symphony parcels; (5) The 375 S. connection makes more sense and would preserve open space and two cul de sacs; (6) There are multiple ways to provide connectivity in this area, to deal with the 1000-foot issue, and to preserve neighborhoods as they currently exist.

**Jim Young** said he respects and appreciates City staff for their thorough work and dedication, but he does not agree with all of their points on this issue. He expressed concern that there were 10 findings in favor of the proposal and only 3 against it. The residents on 475 S. have had a reasonable expectation for many years and took the initiative to pay for the street and create a quiet, secure neighborhood. He studied the issues and does not think the City's reasons are compelling. There are some creative and excellent alternatives for Symphony and for connectivity in the area, and he will vote against the current proposal.

**John Bilton** referred to a section in the Ordinance regarding the number of dwelling units allowed on cul de sacs and asked how many units exist on 475 South. He would like to see different alternatives.

**David Petersen** did not know the number of units on 475 S. but said it existed as a private street in the county and predates the Ordinance. The Commission and the Council approved the 2005 Master Plan which showed both 375 S. and 475 S. as through streets but no stub to the Jung property. The proposal by **Cory Ritz** has some merit, but there would be 34 lots on the 300 S. extension—ten more than the Ordinance allows. That would be inverse condemnation, and the City would be open to litigation. He stressed that six City Departments, governmental entities and the City's Traffic Engineer put a great deal of thought and time into this proposal.

**Jim Talbot** commented that although they do not always agree, **David Petersen** is a fine City Planner. After looking at this area in west Farmington, and listening to public comments, he believes there are other alternatives that could work. He approves of the 375 South to 1525 West extension and the Jung stub and realizes that traffic patterns are important, but he would not approve the extension of 475 South.

**Mayor Harbertson** appreciated the comments of each Council member and the public comments. He pointed out that nothing remains constant, and no one knows the future. He does not have all of the answers, but he would like to postpone a final decision until all options have been researched.

***Motion:***

**Nelsen Michaelson** made a motion to table this item to allow staff to research different options. There was no second to the motion, and it died.

***Motion:***

**Cory Ritz** made a motion to approve the Chestnut Farm/475 South street master plan incorporating the results and findings of the sub-motions as follows.

1. The westerly connection extending 475 South (the "Extension") to a north to south street proposed by the Symphony Homes shall be removed from the master plan and the westerly end of 475 South Street shall remain a cul-de-sac subject to the following:

- a. No lot in the Symphony Home project may have double frontage on the 475 South cul-de-sac and the proposed north to south street. In lieu of lots, the property owner may develop open space in this area.
  - b. Residents on 300 South and 250 South must understand that additional traffic may occur in their neighborhoods.
  - c. It may be necessary for the City to amend its street and block standards in the Subdivision Ordinance.
2. The developer shall stub a street to the Jung property (the “Jung Stub Street”).
  3. The present street master plan proposal shall be updated to show a 375 South Street connecting a proposed north to south street to 1525 West Street (“375 South”).

### Findings

- a. The Subdivision Ordinance requires a master street plan prior to consideration of a subdivision application (12-7-040(4)).
- b. The plan provides inter-connectivity within the neighborhood evenly dispersing local traffic north to south and east to west .
- c. The plan demonstrates how the neighborhood may connect to the Bangerter property enhancing neighborhood inter-connectivity and local traffic dispersion.
- d. The City Traffic Engineer, Tim Taylor, provided a positive recommendation regarding the plan.
- e. The amount of traffic that will be diverted to 300 South and 250 South is negligible.
- f. Section 12-7-040(4)(b) states, “Proposed streets shall be extended to the boundary lines of the land to be subdivided, unless prevented by topography or other physical conditions, or unless, in the opinion of the Planning Commission, such extension is not desirable for the coordination of the subdivision with the existing layout or the most advantageous future development of adjacent tracts.
- g. Topography or other physical conditions do not prevent the developer from stubbing a street to the Jung property.
- h. The Jung Stub Street provides the most advantageous future development of adjacent tracts. Wetlands running north to south divide the Jung property east to west. The east portion of the property is developable, and in the event the US Army Corp of Engineers prevents any encroachment of the wetlands in the future, the property may still be fully developed from the east from the stub street and the west from 1525 West.
- i. The Jung’s desire not to develop now or in the future. But in the event that years from now Jung heirs or assigns desire to develop, the option is available. In the meantime, the Jung’s will continue to have full use and enjoyment of all of their property as they deem appropriate as owners.
- j. The first sentence of Section 12-7-020(3) states, “The maximum length of blocks shall be one

thousand (1000) feet and the minimum length of blocks shall be four hundred (400) feet". The distance from Citation Drive to the proposed street south of the existing LDS Stake Center is approximately 2900 feet. Although, wetlands in the area dictate that the eventual distances between blocks in this area may never comply with the ordinance, a possible extension of the Jung Stub Street to 1525 West will result in a block face distance from Citation Drive to this street of approximately 900 feet, which is consistent with the ordinance.

- k. The City's Traffic Engineer maintains that a possible Jung Stub Street connection will result in better local traffic circulation in the area.
- l. The Jung Stub Street may become an important connection if a 375 South Street is not extended as discussed in another sub motion set forth herein.
- m. A home now exists on parcel 08-074-0032 (1 acre) which is centered/surrounded by parcel 08-074-0033 (4 acres). Both parcels are owned by the Jung family. If the Jung Stub Street is extended to 1525 West Street in the future, the extension can be designed to veer north and miss the home while still allowing development of reasonable sized lots on both sides of said extension without involving another property owner because the Jung family also owns the adjacent 5 acre parcel (08-074-0022) on the north side of 08-074-0033.
- n. 375 South will increase and improve inter-connectivity to 1525 West.
- o. 375 South was shown on the 2005 Chestnut Farms master plan previously approved by the City.
- p. Wetlands may exist in the area, but the developer previously planned to mitigate these wetlands

The motion was seconded by **Jim Talbot** and approved by Council Members **Bilton, Michaelson, Ritz, Talbot and Young**.

The City Council took a 10-minute recess, and the meeting was resumed at 10:15 p.m.

### **Historic Landmark Designation**

**Annette Tidwell**, Executive Director of the Farmington Historic Preservation Commission, introduced Chairperson **Alyssa Revell** and President of the Davis/Farmington DUP Company, **Diane Williams**. The Commission recommended that three properties be added to the Farmington Historic Landmarks Register. She gave a brief history of each site.

### ***Public Hearing:***

The Public Hearing opened at 10:15 p.m.—there were no public comments, and it was closed. The **Mayor** suggested that the City consider allocating funds for the placement of historical plaques at historic sites throughout the City.

### ***Motion:***

**Jim Talbot** made a motion to approve the Ordinance designating the Farmington City Cemetery, the Farmington Historical Museum, and the Charles Penrose Cabin as historic resources on the Farmington Historic Landmarks Register. The motion was seconded by **Jim Young** and approved by Council Members **Bilton, Michaelson, Ritz, Talbot and Young**.

**Local Consent for Sushi Monster LLC Limited Service Restaurant License**

***Public Hearing:***

The Public Hearing opened at 10:20 p.m. There were no public comments, and it was closed.

***Motion:***

**John Bilton** made a motion to approve the Local Consent form for the Sushi Monster LLC Limited Service Restaurant License, conditional upon compliance of all conditions of Title 32B of the Utah State Code and City Ordinances. **Nelsen Michaelson** seconded the motion which was approved by Council Members **Bilton, Michaelson, Ritz, Talbot and Young**.

**SUMMARY ACTION:**

**Minute Motion Approving Summary Action List**

1. Approval of Minutes from March 6<sup>th</sup> and March 20<sup>th</sup>
2. Ratification of Approvals of Storm Water Bond Logs
3. Arbor Day Proclamation
4. Arendal Manor Subdivision
5. Professional Service Fee Deposit
6. 10.5-acre Expansion at Bus Park
7. Appointment of Ron Robinson to the Farmington Trails Committee
8. Union Pacific Railroad Easement for Pipe within Red Barn Lane
9. UTA Easement for Pipe within Red Barn Lane
10. Easement to the Weber Basin Water Conservancy District

***Motion:***

**Jim Talbot** made a motion to approve Items 1-10 on the Summary Action List. The motion was seconded by **John Bilton** and approved by Council Members **Bilton, Michaelson, Ritz, Talbot and Young**.

**11. Farmington Greens Open Space Acquisition**

**Mayor Harbertson** explained that this open space was to be purchased using money from the Parks fund, but upon further review, the City decided to use funds from the Storm Drain Fund.

***Motion:***

**Cory Ritz** made a motion to authorize the Mayor to execute the purchase agreement between the Farmington Greens HOA and the City for the acquisition of open space. The parcel will be purchased for an amount not to exceed \$20,000 in back taxes from the storm drain fund. The motion was seconded by **Nelsen Michaelson** and approved by Council Members **Bilton, Michaelson, Ritz, Talbot and Young**.

**PRESENTATION OF PETITIONS AND REQUESTS**

**Final Plat for Hunters Creek Phase 4A**

**David Petersen** explained that the Council approved this Final Plat several years ago, but the approval expired. Woodside Homes lost the property with the downturn in the economy but recently regained control of the property and would like to finish the project. It is consistent with the Development Agreement and Master Plan. The Council discussed the yield plan and conservation easements.

*Mayor/City Council comments:*

**Jim Talbot** expressed concern regarding the viability of Woodside Homes and their ability to finish this project. **David Petersen** said Woodside has a strong partner who is purchasing the land, and staff feels confident that they will be able to see the project through.

**Garrett Sealy** was employed by Woodside in 2004 when this property was purchased. He left the company for six years but was recently hired to assist in finishing Hunters Creek. He cannot speak to the actions of Woodside during the time he was not employed by the company but said they are now financially viable and have the ability to complete the project.

*Motion:*

**Nelsen Michaelson** made a motion to approve the Final Plat for the Hunters Creek Phase 4 Subdivision (26 lots), located at approximately 2250 West 700 North, subject to the same conditions and findings established previously by the City Council at schematic plan and preliminary plat approvals as set forth in the supplemental information. The motion was seconded by **Cory Ritz** and approved by Council Members **Bilton, Michaelson, Ritz, Talbot** and **Young**.

**Easement within Red Barn Lane for The Haws Companies (THC)**

**Jason Nelson**, attorney for THC, said the origin of this easement was the Sept. 2008 “Road to the North” agreement executed between the City and Station Park LLC. Both parties agreed that a portion of Burke Lane would no longer be necessary once Station Park connected into the old existing Burke Lane alignment and that a small stub would remain. The contractual obligation of the City was to vacate the existing public right-of-way across that stub and grant an easement to THC. However, the easement could not be recorded with the Agreement because both parties were waiting on the alignment of Station Park. Once the alignment was decided, the City’s obligation was to immediately grant the easement, but it was never granted. THC could take a hard-line approach but prefer to work with the City towards a resolution.

He addressed three concerns outlined in the staff report and suggested a solution which would meet the needs of THC, the City, and the **Cook** family. Their first proposal: (a) both parties will abandon the Agreement; (b) the City will allow THC to leave the improvements which are there—subject to the rights of third parties; and (c) The City will allow THC to pave the driveway area out to the public road. THC will agree to maintain the road, the fence, and the landscaping. Their second proposal: The City will vacate the property—50% would go to the **Cooks** and 50% to THC as the adjoining landowners.

**Jeff Cook** said they have serious issues with the “Road to the North” Agreement. They were never contacted by the City, and as a result, they question the validity of the Agreement. They do not understand how the City could grant an easement on property they do not own and reminded the Council that their property line is the center of Burke Lane. The current alignment of the road takes a large swipe through their property, leaving them with a small triangle of land that is difficult to utilize.

City Manager **Dave Millheim** said there is no argument that the 2008 Agreement was flawed for a variety of reasons, and the easement issue needs to be resolved. There is no logical reason that the City would not allow THC to address the paving of Burke Lane, and no one wants to take away the **Cook’s**

rights. He advised the Council to vote on the motion and direct City staff and THC to further negotiate the issues. **Mr. Nelson** expressed concern regarding the ability of City staff and his client to reach a resolution because they have tried multiple times over several years to reach a resolution and have not been successful. **Dave Millheim** said that is because THC's definition of "negotiation" is to get exactly what they want. He did not appreciate the fact that **Mr. Nelson** personally attacked his integrity in a letter to the Farmington City Attorney. He explained that he has no reason to punish THC, but he has every desire to clean up the 2008 issue and stop arguing about it. However, it is bad public policy for the Council to make this decision without sufficient information and proper documentation. **Mayor Harbertson** agreed with the City Manager's advice and volunteered to participate in the negotiations. **Jerry Cook** said they would like to be involved with the discussions as well.

**Motion:**

**Jim Young** made a motion to authorize staff to create an easement for the use of Red Barn Lane for THC subject to the following conditions:

1. The legal description will be from the **Cook/Haws** property line on the west to the track area on the east. It will not go all the way out to Burke Lane so as to not restrict the **Cooks** in any way from their historical access rights.
2. The cost of the easement will be adjusted proportional to the square footage involved and will not be signed and recorded until that payment is received by the City and escrowed.
3. If THC does not accept the terms and conditions outlined herein, in writing, within 30 days of Council approval, this approval will lapse, and no further actions will be taken.
4. Should THC agree to the terms and conditions outlined herein within 30 days, the City Council will require the final easement agreement to be drafted and placed upon a future City Council agenda no later than June 30, 2012 for formal review and possible approval.
5. **Mayor Harbertson** will participate in the negotiations to act as a mediator between THC and staff.

The motion was seconded by **John Bilton** and approved by Council Members **Bilton, Michaelson, Ritz, Talbot** and **Young**.

**Earl Kemp**, 1383 Fairway Circle, Farmington, said THC is only asking for permission to pave the road to the trail at their cost. He watched a man in a wheel chair ride on the muddy road today and said it is used frequently as a trail access and will be of great value to the City.

**Dave Millheim** asked THC's attorney to prepare a draft for a completely new agreement which addresses the landscaping, fencing, and road issues. He asked that the draft include a mutual release clause and be made available prior to the meeting so the discussion can be more productive.

**Cory Ritz** left the meeting at 11:00 p.m.

## **GOVERNING BODY REPORTS**

### **City Manager – Dave Millheim**

1. Upcoming Agenda Items
2. To Do Lists
3. He spoke with Davis County regarding several power poles the County has paid for since 1976. The City will now pay the bills, and the County will not pursue reimbursement.
4. City staff met with residents concerning the south Main Street project which will begin on April 18<sup>th</sup> and should be finished in the fall.

5. He informed the Council that the Station Parkway bond has been paid off.
6. According to state code, the Council is required to adopt a draft budget by May 1<sup>st</sup>. Next week's work meeting has been cancelled—it has been rescheduled for Tues., May 1<sup>st</sup> from 4-6:00 p.m. Department heads will not attend, and areas of focus will include the general fund balance, \$500,000 earmarked for parks, a road repair budget, and staffing requests.
7. City Council pictures will be taken on May 1<sup>st</sup>.
8. He attended a meeting regarding the 2040 Transportation Plan for the Wasatch Front which is a very detailed, comprehensive look at future transportation needs.
9. The City held its EOC ShakeOut today, and staff compiled a hard copy of an emergency plan for the City which includes 80% of its GIS information. A copy has been placed in every City vehicle. He complimented **Matt McCullough** on his efforts.

### Mayor Harbertson

- He asked for an update on the fire break road issue, and the City Manager reported that he is hoping for a resolution within 30-60 days.
- The City sent a formal request to **Judge Jensen** regarding receiving a monthly report on cases and is waiting for a response.
- The clean-up effort at Lagoon was significant—65 loads of debris were removed, and Lagoon was very appreciative of the City's assistance.
- The Easter Egg Hunt was sponsored by the Youth City Council and was a success.
- He and **John Bilton** will attend the Town Hall Meeting on Wed., April 18<sup>th</sup>.
- **Andrew Tolman's** accident/death has prompted resident **Becky Hale** and her sons to work on an Eagle Scout project to increase safety in several City crosswalks by installing brightly colored flags for pedestrian use. She will make a proposal at a future City Council meeting.

### City Council

#### *Jim Young*

- **Jim Hansen** asked if ATVs have been made street legal yet. The Council discussed the issue a year and decided against it.

#### *Nelsen Michaelson*

- There is a street light on the corner of 250 S. 1275 W. which has not worked since the wind storm, and **Dave Millheim** said he will address the issue with Utah Power in the near future.

### ADJOURNMENT

#### *Motion:*

**John Bilton** made a motion to adjourn the meeting. **Nelsen Michaelson** seconded the motion which was approved by Council Members **Bilton, Michaelson, Ritz, Talbot** and **Young**. The meeting was adjourned at 11:30 p.m.

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**Heidi Gordon**, Planning Department Secretary  
Farmington City Corporation