

FARMINGTON CITY COUNCIL MEETING

Tuesday, May 19, 2009

CITY COUNCIL WORK SESSION/EAST CONFERENCE ROOM

PRESENT: Mayor Scott Harbertson, Council Members Richard Dutson, David Hale, Paula Alder, Sid Young, Cory Ritz, City Manager Max Forbush, Financial Director Keith Johnson, City Planner David Petersen, Assistant City Planner Glen Symes, City Engineer Paul Hirst, and Recording Secretary Kami Mahan.

Mayor Harbertson began discussion at 6:12 p.m. The following items were reviewed:

(Agenda Item #2): Reading and Approval of Minutes

Mayor Harbertson asked that Council members write out any clarifications they wish to make on minutes. These will be added as an addendum at the end of the minutes. He also said that each Council member and his/her vote will be listed individually as yay or nay. Brief absences by Council members need only be included in the minutes when this absence is during a crucial period in the meeting.

The Council reviewed the minutes of the regular City Council meeting held May 5, 2009, and the Special City Council meeting held May 12, 2009, and made clarifications/corrections.

Affordable Housing Discussion

Mayor Harbertson reviewed information received from Randy Feil concerning affordable housing and reported that the median income is \$72,000. The affordable housing percentage should be 80% of the median per household. Those who qualify for affordable housing must fit within that median range. The Council discussed what the range should be, and agreed on 90%. They also discussed the need for this type of housing in Farmington. The **Mayor** requested that **Max Forbush** study the issue to make some proposals.

Max Forbush stated that due to insufficient time for discussion on the impact fee proposal submitted by Rosenthal & Associates and CRS Engineers, as they pertain to the budget this matter should be deferred to a Special City Council meeting on May 26th.

CenterCal Impact Fee Discussion

Max Forbush reported that he and the **Mayor** met with Craig Trotier, and that a development agreement with CenterCal needs revising. He said CenterCal has spent approximately three to three and a half million dollars on the Road to the Station, part of which will be recovered through tax increments. CenterCal is shocked at the cost, and wants a credit of two million dollars on impact fees. The credit must be justifiable. They are also complaining about the cost to serve the commuter rail station as

opposed to their own plan. There is a question about how the City should view these issues, and what the City should further expect from CenterCal. **Mr. Forbush** asked how the Council views this much of an impact fee credit.

The Council discussed the issue. In response to a question by **Sid Young**, City Engineer **Paul Hirst** explained that some engineering work had to be repeated. **Max Forbush** said there are legal requirements from FHWA, which increased costs. **Mr. Hirst** said the inspection process CenterCal used cost \$400,000 and was inefficient. **Mr. Forbush** questioned whether the City was being too generous. He reported that there is an upcoming meeting on this matter. He said it is important to remember that the City is dealing with long term relationships. The **Mayor** said it is best to get the money up front. He added that CenterCal won't want to cheapen their project.

Mr. Forbush stated that the issue of the acquisition of real property needs to be discussed in a closed session.

The Council agreed to meet for a Special City Council meeting on Tuesday, May 26th, at 6:00 p.m., during which a budget work session will be held.

(Agenda Item #4): Public Hearing: Consideration of Ordinance listing Clark Lane Historic District on the City's Historical Landmark Register and designating the Historic District as a Historic resource

Mayor Harbertson said he would recuse himself from this matter because he owns property in the area. **Rick Dutson** stated that there are some discrepancies between the map and the chart in the packet and that the ordinance should be reviewed by attorneys. He noted that there are no rules in the text to clarify what determines non-contributors within the district, and said that even if a home is out of period, they still have to comply with a certificate of historic appropriateness.

Cory Ritz is concerned with the unintended consequences of making mandatory requirements. **Dave Hale** expressed concern about the effects of historic designation on property values. **David Petersen** stated that property values will be positively affected by the implementation of the ordinance. He said this has been the case in other states and the ordinance has a long track record. He noted that this is the first time the City has had a bonafide historical district.

Rick Dutson said now that homeowners would have access to repair or maintain a home, they will have to answer to the Historical Commission, which may be a bitter pill for them to swallow. The Council briefly discussed the appeal process, as well as the benefits and consequences of enacting the ordinance. They discussed the funds, and questioned who made the request. **Rick Dutson** said the original intent should be considered.

(Agenda Item #6): Resolution adopting the Community Fire Plan for the Steed Creek area authorizing the Mayor to sign the same.

Sid Young said that a page of intent is needed in the resolution to give more clarification.

(Agenda Item #9): Consideration of a Resolution authorizing the issuance and sale of not more than \$1,250,000 aggregate principal amount of General Obligation Bonds, Series 2009, of Farmington City, Utah; fixing the maximum aggregate principal amount of the bonds, the maximum number of years over which the bonds may mature, the maximum interest rate which the bonds may bear, and the maximum discount from par at which the bonds may be sold; providing for the publication of a public hearing and notice of bonds to be issued; providing for the running of a contest period and related matters.

Max Forbush stated that increasing the authorized interest rates is being proposed because of the market for variable rates. He said Zions' Bank thinks they will get more bidders if the bond parameters are extended. **Keith Johnson** said that in the last three or four bonds Zions' Bank has done, they have had variable rates, and had only one bank bid on the bonds. They had to accept a variable rate or couldn't sell the bonds. It is a difficult bond market.

The meeting adjourned at 6:59 p.m.

REGULAR CITY COUNCIL/CITY CHAMBERS/CALL TO ORDER

PRESENT: Mayor Scott C. Harbertson, Council Members Richard Dutson, David Hale, Paula Alder, Sid Young, Cory Ritz, City Manager Max Forbush, Finance Director Keith Johnson, City Planner David Petersen, City Recorder Margy Lomax, and Recording Secretary Kami Mahan.

Mayor Harbertson called the meeting to order at 7:11 p.m. **Paula Alder** offered the invocation, and **Max Forbush** led the Pledge of Allegiance.

APPROVAL OF MINUTES OF PREVIOUS MEETING (Agenda Item #2)

The minutes of the regular City Council meeting held May 5, 2009, and the Special City Council meeting of May 12, 2009, were reviewed during the work session.

Motions

Rick Dutson moved to approve the minutes of the Special City Council meeting held May 12, 2009, with changes as noted. **Paula Alder** seconded the motion, which passed by a unanimous vote.

A motion was made by **Sid Young** to approve the minutes of the May 5, 2009, regular City Council meeting, with the noted revisions. The motion was seconded by **Paula Alder**, and passed unanimously.

PLANNING COMMISSION REPORT (Agenda Item #3)

Chairman **John Bilton** reported on the proceedings of the Planning Commission meeting held May , 2009. He reviewed the following items:

- The Planning Commission recommended approval of a request by Butler Harris Davey Architects for a metes and bounds two parcel subdivision at 550 South 1525 West, with an added condition requiring that the road along the property be dedicated to the City.
- The Planning Commission granted approval for a conditional use permit by D.R. Horton, Inc., for the placement and operation of a sales office in a model home in the Farmington Greens PUD. This approval was granted with conditions.
- The Planning Commission granted conditional use and site plan approval for the placement of an LDS church on property at 550 South 1525 West, with an added condition that there be open chain link coated fencing on three sides.
- The Planning Commission granted conditional use and site plan approval for the placement of an LDS Church on property located at 601 West 1015 North, with the condition of coated chain link fencing along the right of way.

PUBLIC HEARING: CONSIDERATION OF ORDINANCE LISTING CLARK LANE HISTORIC DISTRICT ON THE CITY'S HISTORIC LANDMARK REGISTER AND DESIGNATING THE HISTORIC DISTRICT AS A HISTORIC RESOURCE. (Agenda Item #4)

Mayor Harbertson introduced this Agenda item, and recused himself because he owns property in the area. **Rick Dutson** conducted for this item. **David Petersen** reviewed the background of the Historic District ordinance, and said concerns about homes not considered as historic but which are in historic districts, were discussed in the work session. The Council did not have the entire ordinance, but **Mr. Petersen** read from portions of the ordinance regarding the definition of an historic resource, the criteria for a certificate of historic appropriateness, and about alterations, additions, relocations, demolition, and proposed repairs. He said some issues concerning homes in an historic district are not specifically spelled out in the ordinance. **Mr. Dutson** invited Historic Preservation Commission Chairman **Alysa Revell** to address the Council.

Ms. Revell explained that the Commission's ultimate goal is to maintain and attract long-term residents. She does not think obtaining a certificate of historic appropriateness for a non-contributing building would be needed since the entire area is under the OTR zone. They have patterned the setup of the historic districts after the national register pattern. **Ms. Revell** clarified that contributing buildings must be at least fifty years old and contribute to the historic nature of the district, whereas non-contributing buildings are the same age but have been remodeled in such a way that they do not contribute to the historic nature. Out of period buildings do not have to have the same standards.

David Petersen pointed out the subject area on an overhead aerial map for the audience.

Public Hearing Opened

Although no one signed up to speak at the public hearing, **Mr. Dutson** invited members of the audience to speak if they wished. The hearing opened at 7:29.

Garn Carrol, 382 West State Street, believes there is already adequate regulation. He thinks the direction of the Historic District has gone afoul of what was originally intended. He is concerned about people being coerced into fixing up property. He feels fortunate to live on the north side of the street because this is property Lagoon is interested in. He said as development, I-15 projects, and the State Street overpass have proceeded, this will significantly affect his and the Mayor's properties. He feels Lagoon has done a good job of maintaining its properties, which he says is not the case with other properties in the vicinity. He understands the intent of the ordinance is to have property maintained, but believes the City should enforce existing ordinances, which are sufficient.

Public Hearing Closed

Rick Dutson closed the hearing at 7:34 p.m.

David Petersen read a portion of the ordinance regarding maintenance. He said some buildings in both the County and City have been purchased by government entities, and that these are never demolished without waiting years. The ordinance is intended only for homes that are listed on the register. He agrees with **Alysa Revell** that non-contributing out of period homes wouldn't need a certificate of appropriateness.

Rick Dutson said **David Petersen** had reported that historic districts nationally have enjoyed increased property values. He said he encourages preservation of key buildings in some areas. However he is concerned with an inconsistency in the Landmark District chart and map as contained in the packet. He also is concerned with the contents of a May 18, 2009, letter from Lagoon representative David Freed to the **Mayor**, the Council, and **David Petersen**. **Mr. Dutson** read the letter verbatim, as follows:

“Dear Mayor and City Council:

This letter is written to object to the designation of the Clark Lane National Historic District as a historic resource on the Farmington Historic Landmark Register. Two properties owned by us are located within the District. In an effort to be good neighbors, previous historic proposals have enjoyed our support. We understand and side with individual property owners that may desire this designation for their own property. But, this broad brush approach for the designation of all parcels within the area places an unwelcome, difficult burden with regard to our properties. In the words of one City official, the requirements as a result of this designation are “pretty tough.” Further, the structures that we own are neither unique nor architecturally significant, and through the years have been brutally altered to the

point of being less than a shell of the original construction.

As an alternative, we suggest that individual property owners desiring the designation address the Council themselves. While being great fans of history, antique collectors, and supporters of the Heritage Foundation and its goals, we believe that further restriction on our lots is not in our interest, will be to the detriment by discouraging refurbishment, and will forestall the quiet enjoyment of our property. In any event, please remove the following properties that we own from consideration for this designation.

268 West State Street
290 West State Street

Sincerely,

David W. Freed
For Davkris Investments, L.C.”

After reading the letter, **Mr. Dutson** opened the matter up to the Council for discussion. **David Hale** asked if designation would increase or decrease maintenance on the City, the landowner, or the district. **Mr. Petersen** replied that the Historic Commission determines whether a historic home is in disrepair, and they notify the property owner to make repairs. In the event of non-compliance, owners receive a nuisance citation. **Mr. Petersen** added that of notices sent out in the past, the City has only had to take a case to court three times. In response to another question, **Mr. Petersen** estimated that few, if any, homeowners in historic districts would have to be taken to court. He also said the ability of some homeowners to be excluded from the district if they so desired would depend on how central they are to the district.

In response to questions by Council members, **Alysa Revell** stated that the Commission received a petition from twelve property owners who want to be included, and **Cory Ritz** read the names of petitioners, which included Clark and Linda Sonzini, Charles and Sally Clark, Vik and Dorothy Arnold, Berlene Luken, David Barney, and Art and Lee Forbush. **Ms. Revell** said the ordinance protects the entire neighborhood, and everyone has to comply. Having some homes included in the district and not others is like spot zoning and does not have the same effect as a complete district. She said historic preservation is not a rights movement, but a responsibility movement. She said the maintenance clause is called the “Demolition by Neglect” clause, and when citizens do not maintain their property, this affects neighbors’ property values or the enjoyment of their property. She noted there were home additions added to two contributing homes belonging to the Sonzinis and the Robinsons. They were able to do these additions through the OTR process. **Ms. Revell** said they would have been approved either way, and that the ordinance is not overly restrictive.

Cory Ritz stated that when he was on the Planning Commission, there was concern about being oppressive to property owners. He asked if this had been addressed, and whether a street level inventory had been done. **Ms. Revell** replied that it had, and the result was the map showing contributing and non-

contributing homes. Regarding the issue of oppressiveness, she said there was a question of due process, and the attorney who crafted the ordinance addressed this issue. The attorney has indicated it was the best preservation ordinance in the state and is becoming a model for other cities.

Rick Dutson asked how expensive repairs creating a serious hardship on a family would be handled, and how the thirty day requirement would be addressed. **Ms. Revell** replied that the thirty days refers to the time allowed for the homeowners to contact the Preservation Commission and the Planning Department to get repairs underway. She said hardship is addressed in the ordinance and that the Commission would be happy to help on long-standing problems. **David Petersen** read from the ordinance regarding hardship, and said that the City Council has the ability to modify the ordinance.

Sid Young asked about “ordinary maintenance and repair”, which he said can vary from person to person. **Ms. Revell** said it would have to be quite extreme. **David Petersen** pointed out that the process for this situation is more neighborhood friendly compared with the normal process of code enforcement. In response to a question about alerting potential buyers of the historic designation, **Ms. Revell** said the designation would be recorded with the title.

Paula Alder noted that more than half the neighbors in the designated area have not been heard from regarding this issue. Other Council members agreed that those residents’ input would be useful. **Max Forbush** said the City Council makes decisions based on how the public benefits. He said there is no doubt this area is special, which is why the Commission wants to address its preservation. All ordinances are measured against the benefit of the whole as opposed to what is detrimental to the individual. As determined in meetings and workshops for several years, historic preservation is valued in the community. There is a question as to how this is balanced against property rights. This consideration will take further time and review.

Alysa Revell said that there had been much publication, including several meetings and notices over a period of time. **Paula Alder** commented that anyone opposed would most likely have attended this or other meetings. **Sid Young** wants legal counsel’s advice, as well as to have the input of all affected property owners before making a decision. **David Hale** noted that a 50% approval is needed in the making of Special Improvement Districts, and this situation should be the same. **Cory Ritz** agreed, and also commented on neglected pioneer homes in another Utah community. He raised the possibility of trees in the area being considered as part of the historic district and dealt with as such. **David Petersen** said this issue is being resolved in the street tree ordinance. **Ms. Revell** said the neighbors are protective of trees in the area.

Rick Dutson requested that the entire chapter be given to the Council for study. **Mr. Petersen** said legal counsel has already affirmed the legality of the ordinance. He said this is a policy about enforcement, and that the issues to have addressed by Mike Mazaran are if the certificate of appropriateness is necessary for a home that is out of period, and if these homes are governed by the provision of underlying zones. **Rick Dutson** added that definitions need to be clear on contributing and non-contributing homes. **David Petersen** said the ordinance has been well-written regarding the

determination of enforcement by the Historic Commission, and added that the Planning department has had to become involved in minor issues.

Council members agreed that more time is needed to clarify and study the issues. **Max Forbush** said that this ordinance affects the entire community, not just the residents in this area. He noted that the Rock Church, the trees on Main Street, and other areas belong to the city as a whole. **Alysa Revell** said there is not a punitive effect from having a national district. The district will be listed if it meets all the criteria, but not if 50% of the residents officially oppose the listing. **Cory Ritz** said that in spite of legal review, he wants to ensure there is not a punitive factor or heavy handed enforcement. He also wants to see the ordinance in its entirety.

Motion

Cory Ritz moved to table the consideration of the Landmark Ordinance pending further review of issues of definitions, certificates of appropriateness, potential punitive enforcement, clarification of the map and chart, and other pertinent issues. **Paula Alder** seconded the motion. A roll call vote was taken, and Council members **Alder, Dutson, Young, Hale,** and **Ritz** all voted in favor of the motion.

Mayor Harbertson rejoined the council.

MINUTE MOTION APPROVING SUMMARY ACTION LIST. (Agenda Item #5)

- **Approval of March's Disbursement List.**
- **Ratification of approvals of Construction Bond Agreements.**
- **Resolution Approving Memorandum of Agreement between Farmington City and other fire jurisdictions in Davis County establishing a Davis County Fire Investigation Team.**
- **Approval of a Public Improvements Extension Agreement for Frontage improvements on the east side of 1525 West north of Glover's Lane but south of the Eagle Creek Estates Subdivision.**
- **Authorization to sell surplus office furniture through the Public Surplus website.**
- **Ratification of Amended Parks custodial and maintenance agreement.**

Mayor Harbertson briefly reviewed the items on the Summary Action List. The **Mayor** asked **Max Forbush** to have department heads go through available office furniture prior to its sale.

Motion

Dave Hale moved to approve the Summary Action List. The motion was seconded by **Rick Dutson**. The motion passed with Council members **Alder, Dutson, Hale, Young,** and **Ritz** all voting in favor.

RESOLUTION ADOPTING THE COMMUNITY FIRE PLAN FOR THE STEED CREEK AREA AUTHORIZING THE MAYOR TO SIGN THE SAME. (Agenda Item #6)

Mayor Harbertson stated that the Steed Creek committee requested that this issue be tabled to the next City Council meeting.

Motion

A motion was made by **Sid Young** to table the Resolution adopting the Fire Plan for the Steed Creek area to the next City Council meeting. **Rick Dutson** seconded the motion, which passed unanimously. Council members **Alder, Dutson, Young, Hale,** and **Ritz** voted in favor of the motion.

ORDINANCE EXTENDING MORATORIUM FOR “OFF-PREMISE” (REAL ESTATE) SIGNS. (Agenda Item #7)

Mayor Harbertson stated that this issue was discussed with realtors, and that a two month moratorium was agreed upon.

Motion

David Hale moved to approve the ordinance extending a moratorium for “off premise” real estate signs. The motion was seconded by **Cory Ritz**, with Council members **Alder, Dutson, Hale, Young,** and **Ritz** voting in favor.

ORDINANCE FOR TEMPORARY REGULATIONS PERTAINING TO CRAFT BOUTIQUES. (Agenda Item #8)

Mayor Harbertson introduced this agenda item. **David Petersen** explained that **Nikki Weekes** is proposing a craft boutique in Farmington and noted the increasing popularity of these boutiques in the country. The **Mayor** invited **Ms. Weekes** to address the Council. **Ms. Weekes** distributed information to the Council concerning plans for a craft fair/boutique at the Spring Creek development. She explained that the boutique is an artisan showcase which allows patrons to purchase unique items. The boutique is manned by local vendors, which gives them an opportunity for local exposure. The proposed dates are June 5th and 6th, and they plan to return in the fall. She said there is a demand here for boutiques. In response to questions from the Council, **Ms. Weekes** said this will be the first boutique of its kind in northern Utah, and is sponsored by Destination Homes. She said fifty cars would be a conservative estimate, and spoke about the event’s great success in other areas. She said there will be no tents used since everything is within the homes. They do not want to create a nuisance. Destination Homes would have representatives on hand, and there would be greeters, vendors, and a central checkout. A patron’s typical stay is 20-30 minutes. Their signage would replace Destination Homes signage for two days.

Motion

Rick Dutson moved to adopt the ordinance for temporary Regulations pertaining to Craft Boutiques. The motion was seconded by **Paula Alder** and was unanimously approved. Council members **Alder, Dutson, Young, Hale, and Ritz** all voted in favor of the motion.

CONSIDERATION OF A RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF NOT MORE THAN \$1,250,000 AGGREGATE PRINCIPAL AMOUNT OF GENERAL OBLIGATION BONDS, SERIES 2009, OF FARMINGTON CITY, UTAH; FIXING THE MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF THE BONDS, THE MAXIMUM NUMBER OF YEARS OVER WHICH THE BONDS MAY MATURE, THE MAXIMUM INTEREST RATE WHICH THE BONDS MAY BEAR, AND THE MAXIMUM DISCOUNT FROM PAR AT WHICH THE BONDS MAY BE SOLD; PROVIDING FOR THE PUBLICATION OF A PUBLIC HEARING AND NOTICE OF BONDS TO BE ISSUED; PROVIDING FOR THE RUNNING OF A CONTEST PERIOD AND RELATED MATTERS. (Agenda Item #9)

Mayor Harbertson introduced this Agenda item. **Jonathan Ward**, Zion's Bank Public Finance, 1 South Main Street, 18th floor, Salt Lake City, explained that these two bond resolutions (Agenda items #9 and #10) are meant to provide maximum flexibility. He said this resolution calls for two publications in the newspaper and a public hearing. The hearing, which they would like scheduled for June 16th, would allow citizens to share how the City's projects would impact the public sector. These types of bond hearings typically have a large attendance.

Mr. Ward suggests notices be published in the Clipper for the next two weeks. He recommends the parameters as follows: an issuance of General Obligation bonds limited to \$1.25 million, payable over up to ten to fifteen years, with an interest rate note to exceed 12%. These bonds require no tax increase to the voters and residents. Recent tax exempt bond placements in the market have received very limited interest. However, the new federal "Build America" bonds are issued at a taxable rate. Bond counsel are asking for both the tax exempt and taxable rates, so it's good to have the higher interest rate in the parameters. Then, if someone comes back with an 8 or 9 % rate the City doesn't have to start the approval process all over because the parameter was set too low. Additionally, buyers could potentially request a variable rate structure. They recently won two bids for Utah cities with an adjustable rate. This is why they are recommending the 12%, so the City can choose how to do things as bids come in.

Max Forbush asked **Mr. Ward** to explain to the Council how this is tied to the Building America bonds. **Mr. Ward** said that Building America bonds are sold as taxable bonds. In lieu of a tax exemption, the City would take a 35% subsidy from the federal government. Because they are taxable, it needs a higher interest rate. Usually taxable bond rates would range about 2% higher than would be seen on tax exempt bonds. The 12% allows the City to accommodate the "Build America" bonds if someone is interested in buying those and bids them as taxable bonds. But the 12% is mainly for a variable rate structure. If the City receives no other bids for the financing except a variable rate structure, it has the option at that point to take it or reject it. But if the parameter on 7 or 8% maximum coupon has been locked in, the flexibility does not exist of accepting the adjustable rate.

David Hale noted the City's excellent credit rating, and asked what they are realistically estimating. **Mr. Ward** said they are estimating about 4 and 1/4 percent with government obligation bonds for shorter term bonds, and closer to 4 and 3/4 to 5% on the sales tax bonds for longer term. **Rick Dutson** asked if the original 8% had been changed to 12% because the level of market uncertainty has risen. **Mr. Ward** said yes, and that Zions' only bids on bonds beyond ten years if there is a variable rate structure. Anything beyond year ten is subject to adjustments on a five year basis. He said it is a volatile market, so they are asking for as much flexibility as you as the Council can bear, recognizing that when public notice shows a 12% interest rate, people will be alarmed. The reasoning will need to be explained at the public hearing.

Mr. Ward said they have run a tax impact analysis. Growth patterns have slowed down from the previous five years, so they assume the lower growth rate will continue for the next few years with lower interest rates.

Motion

David Hale moved to adopt the Resolution, and to change the interest rate from 8% to not to exceed 12%. **Rick Dutson** seconded the motion. A roll call vote was taken, and the motion passed with Council members **Alder, Dutson, Young, Hale, and Ritz** voting in favor.

CONSIDERATION OF A RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF NOT MORE THAN \$1,000,000 AGGREGATE PRINCIPAL AMOUNT OF SALES TAX REVENUE BONDS, SERIES 2009, OF FARMINGTON CITY, UTAH; FIXING THE MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF THE BONDS, THE MAXIMUM NUMBER OF YEARS OVER WHICH THE BONDS MAY MATURE, THE MAXIMUM INTEREST RATE WHICH THE BONDS MAY BEAR, AND THE MAXIMUM DISCOUNT FROM PAR AT WHICH THE BONDS MAY BE SOLD; PROVIDING FOR THE PUBLICATION OF A PUBLIC HEARING AND NOTICE BONDS TO BE ISSUED; PROVIDING FOR THE RUNNING OF A CONTEST PERIOD; AND RELATED MATTERS. (Agenda Item #10)

Mayor Harbertson stated that no discussion was needed since this matter was addressed in the previous Agenda item.

Motion

A motion was made by **David Hale** to approve this Resolution, changing the interest rate from 8% to not to exceed 12%. The motion passed with a roll call vote being taken. Council members **Alder, Dutson, Young, Hale, and Ritz** all voted in favor of the motion.

CUSTOM LIGHTING SERVICES AGREEMENT. (Agenda Item #11)

Mayor Harbertson stated that this agreement was reviewed and mailed electronically to the Council. He said it has been negotiated and the only item at issue is the length of the agreement. The **Mayor** said that because of the company's good reputation, it is felt there is little risk to move forward. He said this will save quite a bit of money in the long run. He clarified that approving the agreement is the recommendation of staff.

Motion

Rick Dutson moved to approve the agreement with Custom Lighting Services, and the motion was seconded by **David Hale**. Council members **Alder, Dutson, Hale, Young,** and **Ritz** all voted in favor.

CITY HALL PROPERTY ACQUISITION DECISIONS AND OTHER DESIGN AND PROGRAMMING ISSUES. (Agenda Item #12)

Mayor Harbertson stated that a closed session pertaining to this issue would be held at the end of the meeting to discuss the purchase of real property. He said there are policy decisions remaining to be made on design and programming. **Max Forbush** said the issue of emergency power in the building needs to be addressed. He explained that the new City Hall building will not be an emergency operating center. This will be in the police station if the need arises. **Mr. Forbush** said the architect has indicated if the operating and mechanical systems with emergency power are eliminated and used for power, the size of the generator is greatly reduced, which reduces expenses. There is the feasibility that the generator can be activated in an emergency. This is currently in the police, fire, and public works buildings. **Mr. Forbush** said the system in this building has been very inadequate in past emergencies. He believes it would be good to have an emergency generator, but to limit it to powering lights in a few receptacles in the city offices, the community room, and minor lighting in hallways, which he believes would be at a reasonable cost.

Mr. Forbush said there would be an initial electrical expense, but the strategy would be to have the entire building ready for emergency generators at a later date. The Council discussed the issue, and agreed to have the system put in place. **Mayor Harbertson** asked **Keith Johnson** for his input, and **Mr. Johnson** agreed that it would be beneficial to have minimal lighting such as one outlet in each room, some lighting in open areas, and having a working phone system in emergencies. It was clarified that the generator would be outside and activate automatically. The **Mayor** said in the event of an emergency, the public would not come to City Hall, but rather to the Community Center or another location. **Rick Dutson** suggested that the emergency generator issue be considered during the bidding process. **Max Forbush** was asked about the possibility of acquiring the triangular piece on the Wheeler property. Max reported Mr. Wheeler would not sell that parcel. He said the architect had proposed site improvements to the parcel if Mr. Wheeler would approve them.

CENTRAL DAVIS SEWER DISTRICT BOUNDARY & REPRESENTATION ISSUE. (Agenda Item #13)

Mayor Harbertson said this issue originated when the Tuscany Cove development was being done. He explained that Central Davis Sewer District is on one side of the center line of the road and South Davis Sewer is on the other side, while the City owns the whole road. This creates a District boundary problem for the Central Davis Sewer District, because they have no voting representation from the southern half of the road. He said they spoke with Leland Meyers, and that Farmington is the only city which has an appointed position on the CDS Board. *Note: (This is only possible because it was thought that all of Farmington fell within the Central Davis Sewer District boundaries.)* The City can petition for a boundary line adjustment, or put the City's appointed position on the ballot. The latter is the **Mayor's** recommendation. The Council agreed.

Motion

Rick Dutson moved to handle Agenda item #16 ahead of #14 and #15. **David Hale** seconded the motion, which passed unanimously. The Council moved to item #16.

MAYOR HARBERTSON'S REPORT (Agenda Item # 14)

Mayor Harbertson showed the Council the updated proposal for the Farmington Coin that can be presented to citizens in the City. He wants the wording on the coin changed to "Service, Commitment, Integrity, and Excellence." The 1 and 3/4 inch coins and the packaging will be bought in lots of 100, at a cost of \$4.00 each. The Council agreed to order the coins.

The **Mayor** said **Max Forbush** received a call from Senator Bennett's office concerning a meeting on May 23th from 12:00 to 1:30 p.m. They are requesting three decisionmakers from the City to participate in a question and answer policy meeting. The **Mayor, Rick Dutson, and Paula Alder** will attend. **Max Forbush** will email information to the participants.

CITY COUNCIL REPORTS (Agenda Item #15)

Rick Dutson reported on a meeting with Neil Harris regarding replacing yield signs with stop signs in Mr. Harris' neighborhood. He said he witnessed distracted and careless drivers in the area and wants to be an advocate in Mr. Harris' behalf to encourage the City to install stop signs and to periodically evaluate the traffic. **Paula Alder** said there is a similar situation where Hidden Meadow crosses Welling Way and Cherry Blossom. **Max Forbush** said the former area was reviewed by a traffic engineer and the situation will take enforcement effort. He said an evaluation costs from \$200.00 to \$300.00, and that this can be done in the Hidden Meadow area.

Cory Ritz reported on poor work quality done on sections of a sidewalk at 950 West and Country Lane. He noted the importance for the Public Works department to keep an eye on subcontractors. He said the work did more damage to the sidewalk than was originally there. **Max Forbush** explained that bonds are required when a home is built so that frontage problems are fixed. The bond, which accrues interest during development, is held until repairs are made. Public Works employees sometimes notice other broken sections, often as a result of landscapers, as they go out and fix things. But the funds must

be used to fix the original problems. **Mr. Forbush** said that poor workmanship must be replaced and that he would follow up on the matter.

MISCELLANEOUS (Agenda Item #16)

- **Miscellaneous items.**
 - **Miss Davis County Scholarship Pageant**
 - **Dunaski Request for cross walk at 100 South S.R. 106**
 - **Request to subsidize payment of impact fees with Transient Room Tax for construction of Hampton Inn in Farmington as requested by Dharmesh Ahir**
- **Minute Motion adjourning to closed session, if necessary, for reasons permitted by law.**

Mayor Harbertson stated that the City has been asked to donate to the Miss Davis County Scholarship pageant, and added that it has already been held. He said the City typically donates to things that benefit the community, and Council members agreed that there was not a benefit in this situation. It was pointed out that the City already donates to the Miss Farmington pageant, and the Council decided to decline the request.

The **Mayor** explained that a Kaysville resident, **Ted Dunaski**, has raised a concern with the lack of a crosswalk at the Monte Vista school area on 200 East. **Mr. Dunaski**, 182 East 100 South, Kaysville, said his son attends the Monte Vista school. He said a boy was injured in this area in January, and he explained that it is a well-used area where there are many special needs and handicapped children, and pedestrians. He explained that the “End of School Zone” sign is misleading to motorists, as there is another school within a short distance. There is also a hill here, which causes problems. He asked the Council for some safety measure such as a crosswalk, caution sign, crossing flags, or painting the pavement in order to warn drivers. **Mayor Harbertson** explained that 200 East is a state road which is not within the City’s jurisdiction to paint. He said the City will file a report which will be sent to the school district and UDOT to review. The **Mayor** added that he has a special needs child as well and understands **Mr. Dunaski’s** concerns. He said the school district has plans to move the school to another location. In the meantime, they don’t want an accident. They have considered having a crosswalk closer to the post office and the gas station. A traffic analysis determined that there was not enough foot traffic to warrant this, but the **Mayor** thinks the survey was not accurate. The Council discussed the pedestrian traffic in the area and the City’s powerlessness because of the road’s status as a state road. **Mayor Harbertson** asked the City Manager to make a note of **Mr. Dunaski’s** unsuccessful efforts to work with UDOT on the issue, and to include this in the file.

Mayor Harbertson explained that he and **Max Forbush** met with **Dharmesh Ahir** and his attorney **Heidi Gordon** about the construction of a Hampton Inn in Farmington, and discussed options for subsidizing the payment of impact fees with the transient room tax. Since that discussion, they have consulted with the City’s legal counsel. He said the City Manager is concerned because of warnings cities have received to follow the impact fee laws, but the City has reviewed its practices and is comfortable with them. The chart in the packet provided by **Mr. Ahir** shows that some cities are in

flagrant violation. The law states that impact fees cannot be waived, unless the City picks up the cost thereof for projects listed on the Capital Facilities Plan. As for the transient room tax, the City will receive one percent. **Mr. Ahir** has estimated, based on the projected occupancy rate, there will be \$18,000 to \$20,000 for the first year, which will increase yearly.

The proposal discussed was taking the 1% fee and returning it to **Mr. Ahir** at the end of each year, for a period of time the Council decides. **Mr. Ahir** is concerned with impact fees of \$163,000 due at the front of the project. He asked if the City could divide the fees into thirds: one third due with the building permit, one third due a year later when the project is about finished, and the last third due a year later. The **Mayor** said the attorneys are concerned with the risk to the City, particularly on the third year.

An extended discussion ensued with the Council and **Mr. Ahir** and **Ms. Gordon**, who suggested that **Mr. Ahir** could give a promissory note for the amounts remaining due. He has done studies and thinks it's a good market for a new hotel. He considers it a great opportunity without a big risk. **Mr. Ahir** will personally guarantee payment of the notes. The **Mayor** thinks a new hotel is needed in the City. **Rick Dutson** asked about the precedent being set when other developers are looking into projects. **Max Forbush** is also concerned about this. The hotel would be reimbursed from the transient room tax it generates. The City subsidized Station Park through the tax increment, a situation where he has less concern. Deferring impact fees could set a precedent for the future. However, the \$163,000 in impact fees is substantial. A deferral that is secured is less of a problem than if unsecured.

Mr. Ahir said 60% hotel occupancy is estimated. **Max Forbush** recommends giving consideration to an agreement on the transient room tax. It is the City Council's choice on the deferral issue, but it must ensure adequate security if there is a deferral. **Dave Peterson** said since it would set a precedent it would be better to limit the deferral to two years. **Mr. Ahir** said many cities have much lower impact fees. It will take 15 to 20 years to pay off the mortgage.

The Mayor said the transient room tax can be used for whatever the City wants because it has nothing to do with impact fees. **Paula Alder** pointed out that this decision could be a precedent for any business owner. **Mr. Ahir's** attorney said he's ready to break ground on the hotel. She said these are unique economic times, and in the future it won't be so difficult for others to get ordinary financing. **Max Forbush** said that City Attorney Todd Godfrey sees nothing wrong legally with deferring the fee. However, there are issues about policy, how it will be received by the public, and setting a precedent.

A general discussion was held on these points. **Max Forbush** suggested that all of the police and fire impact fees be paid in the first year. He said the City hasn't seen the building plans and the fees are only estimates. **Sid Young** said the precedent may apply to another hotel but not necessarily to another kind of business. **The Mayor** said these are tough economic times and accommodating the hotel would be helping out Farmington's economic development. **Mr. Ahir** wants to bring in a sit down restaurant next door, and said there are interested restaurants.

Council members expressed their concern. **Max Forbush** suggested that the City wait for further analysis to provide a proper justification to avoid a precedence problem. **Ms. Gordon** said they are not averse to that, but would rather move ahead. **Max Forbush** said Dan Dixon indicated that there is supposed to be detention basin in this area. This can likely be solved by giving ground and getting an impact fee credit. There is less of a problem about the transient room tax issue.

The Council discussed the need of security for a deferral, and other issues. Support of various proposals was discussed. **Max Forbush** suggested that someone make a motion for conceptual approval, with final agreements to be drafted for consideration later.

Motion

David Hale moved “in concept” to give **Dharmesh Ahir** two years of transient room tax, to divide payment of the impact fees into thirds: 1) one-third to be paid when the building permit is taken out, 2) one third at the time of occupancy or a year later, and 3) the final third a year after that; on the condition that Mr. Ahir give a personal guarantee that is in first position on the property; and that a formal agreement be drawn up and brought back to the City Council for final approval. **Rick Dutson** seconded the motion, which passed by a vote of 4 to 1, with Council members **Dutson, Hale, Young,** and **Ritz** voting in favor, and **Paula Alder** voting nay.

Paula Alder said she voted against the proposal because of the precedent it sets.

ITEMS OF GENERAL CORRESPONDENCE (Agenda Item #17)

Max Forbush said that a shade tree district on the streets in the older part of town was created in 2002 , wherein the City would remove leaves, trim limbs, and remove trees as necessary. He said he received a call from a citizen who wants a replacement tree for a dead one the City removed. He said there is a question on how the resolution should be interpreted. He does not believe it authorizes the City to buy replacement trees, and asked the Council for its input. He said he spoke to Ray White about this issue, who said when the trees were removed they ground the stumps, etc., and that this cost could be considered the City’s contribution. The Council agreed to take no action.

The Council returned to Agenda items #14 and #15.

CLOSED SESSION

At 10:10 p.m., **David Hale** moved to go into a closed session to discuss the acquisition of real property. The motion was seconded by **Rick Dutson**. A roll call vote was taken, and Council members **Alder, Dutson, Hale, Young,** and **Ritz** all voted in favor of the motion.

At 10:25 p.m. a motion was made by **David Hale** to go back into open session with the motion being seconded by **Sid Young**. With all Council Members voting in favor, the motion passed.

ADJOURNMENT

Rick Dutson moved to adjourn the meeting. The motion was seconded by **Sid Young** and the meeting was adjourned at 10:25 p.m.

Margy Lomax, City Recorder
Farmington City