



# FARMINGTON CITY

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## Memo

To: Residents within proposed Special Assessment Area

From: Dave Millheim, City Manager

Date: October 31, 2016

**SUBJECT: APOLOGY & SPECIAL ASSESSMENT AREA UPDATE**

All of you received a notice of the City's resolution of intent for a proposed special assessment area (SAA) that affects your property. This memo is provided for two purposes. The first is to apologize for some bad legal advice which caused some frustration amongst the neighborhood which has made this process more painful than it should have been. The second purpose is to provide a brief update on a few matters related to the proposed SAA.

As many of you know, there are several dozen extension agreements which are recorded against many of the properties within the proposed SAA. These extension agreements are contracts between the City and the property owners that require certain improvements be put in at the property owner's expense once the agreement is called due by the City. The specific requirements are outlined in each individual agreement. While most of the extension agreements have similar requirements, there are differences among the various agreements. Some of those agreements clearly have restrictions that would prohibit a resident from protesting the formation of an assessment area if the City elected to move forward with putting one together AND it was approved by the property owners.

Some of those agreements do not have clear language regarding potential protests from residents and some have language that could be subject to legal arguments. Because I was concerned about the differences in the language in the various agreements, I asked the City attorney for a written legal opinion as to the protest provisions. That opinion was provided on August 18<sup>th</sup>. In that legal opinion, among other things, the City Attorney advised me,

"... to send a letter, prior to the council hearing on the notice of intent, to all affected owners with extension agreements that indicates the City's intent, notes the extension agreement and its provision requiring that they not protest, and invites them to contact the city if they have questions."

The City Attorney subsequently drafted a letter along these lines for my signature, which I signed and was sent to those residents with extension agreements.

**The City Attorney's legal opinion was in error and caused us to make some bad decisions regarding the information we put out to the public. It caused some frustration among some of the residents with extension agreements that felt they were being pushed into supporting the SAA. For this mistake I take full responsibility and apologize to any resident who felt they were given bad information or that their rights were being denied.** This was certainly not our intent. While we can explain how the mistake was made because the City Attorney only reviewed a few of the respective agreements and not all of them as should have happened, it does not condone nor make right the mistake. We have attempted to clean this up in public meetings since the original notices went out but felt a more detailed explanation was in order. Had we been given a more detailed legal opinion we would have approached this project in an entirely different way.

For the record, the protest period ends on December 5<sup>th</sup> at 5:00 P.M. Protests must be in writing and must follow the requirements outlined in the original notice letters. We have received many protests. Most of them appear to be valid. We will tabulate and qualify all protests received once the protest period ends. Some residents have asked about withdrawing their protests prior to the end of the protest period. This is allowed under the SAA rules. Residents are clearly in control of whether or not the SAA goes forward. Again, my sincere apologies for the incorrect misinformation we put out.

**Now for the update** -- Staff still believes the SAA is the best method for providing the fairest way possible to get these important improvements built in a timely matter. We still believe that the extension agreements are enforceable contracts between the City and the respective property owners.

Members of the City Council asked many specific questions of staff, legal counsel and our financial advisors about the proposed SAA. Answers to these questions are available on the City's web page at [farmington.utah.gov](http://farmington.utah.gov). We have also placed on that page all staff reports and other information related to the proposed SAA. We encourage residents to read that information and please call us with any specific questions you may have. More rumors are circulating with this project than facts and such rumors are not helping the residents make an informed decision. We hope that the information on the city website will give residents accurate up to date information and allow you to make an informed decision.

Staff and a few Council members have met a few times with an informal citizen committee trying to address questions and concerns related to this project. We want to publically thank those who have offered suggestions and taken the time to try to help their neighbors through this challenging project by looking at all possible options.

**UDOT Grant Update** – We were just informed by UDOT we were not successful in getting the one portion of the **safe route to school grant** associated with 500 South. We

asked for \$100,000 and they said our request was too large. Statewide, there was only around \$600,000 available for such projects. The good news is the much larger UTA TIGER grant (\$700,000) is unrelated and still on track.

The proposed SAA was estimated to total \$2,845,369 in a worst case scenario resulting in lineal foot cost of \$196 per foot. The Council asked staff to look at ways in getting the proposed assessments lower as much as possible. To that end, should the SAA pass the City committed in a Council meeting few weeks ago to:

1. Pay 100% of next year's City Prop One funds estimated at \$300,000.
2. The City will self fund the construction loan resulting in an estimated reduction in interest and reserve costs of \$475,000.
3. The City will pledge proceeds from the UTA TIGER grant estimated at \$700,000 towards this project. Please note this includes only those portions of the TIGER grant within the proposed SAA boundaries. Other portions of the TIGER grant covers areas outside the SAA boundaries along North Main and are restricted to that area.
4. The City will continue to seek for Davis County participation in this project with the County contributing \$500,000 of their Prop One funds. Whether the County participates or not, the City will cover through the City's portion of the following year's Prop One funds an additional earmarked contribution not to exceed \$250,000 if the County chooses not to participate.

Since all of the above are estimates and to avoid any misunderstanding, the City's commitment level to this project should the SAA pass totals between \$1,475,000 to \$1,725,000. **This would cap the residents proposed assessments at no more than \$78 per lineal foot.**

**Project costs shared by all Residents** -- I was also asked to address the issue of general fund dollars being used to support this project based on the current proposal. Said another way, how much are all the residents of Farmington paying for this project through non SAA associated funds? That specific details of that proposal are outlined in greater detail on the City's web page. I will briefly attempt to explain that proposal in simpler terms.

The current total estimated project cost is \$4,427,117. **General fund dollars (which come from property and sales taxes paid by all residents) proposed for this project total \$1,127,998.** This calculation does not include the school impact fees or frontage improvements additionally being paid by the Davis District totaling \$1,478,750 related to the high school. Those funds are also paid by the general taxpayers but since we have a County wide school district, I excluded those numbers from this per Farmington household calculation. Some of those funds are borne by Farmington residents but also others within the Davis School District.

Summary of the current total project proposal

Tiger Grant	\$ 700,000
General Fund (All residents)	\$ 1,127,998
Davis School District	\$ 1,478,750
SAA portion (Only SAA residents)	<u>\$ 1,120,369</u>
TOTAL	\$ 4,427,117

Lastly, the City wants to get the proposed improvements done before the High School opens in the fall of 2018. This means construction in the summer and fall of 2017 to optimize the current positive bid environment. We recognize the significant impact this project is having in the area. We know this is a complicated problem and not everyone is happy with the pace of change taking place in the area. Our primary concern is for the safety of the traveling public as this area grows. We are also mindful that with the above commitment of additional resources plus the impact fees, Davis School District contributions and General Fund revenues already pledged to this project, all Farmington residents are paying a significant portion towards these improvements.

We hope this information is helpful as you evaluate your options.

Respectfully Submitted



Dave Millheim  
City Manager

Cc: Mayor and Council  
Keith Johnson, Assistant City Manager