

Regular Meeting of the City Council, City of Farmington, New Mexico, held in the Council Chamber at City Hall at 6:00 p.m. on Tuesday, January 12, 2016. The open regular session was held in full conformity with the laws and ordinances and rules of the Municipality.

Upon roll call, the following were found to be present, constituting a quorum:

MAYOR	Tommy Roberts
COUNCILORS	Linda Rodgers Mary M. Fischer Gayla A. McCulloch Nate Duckett

constituting all the members of said Governing Body.

Also present were:

CITY MANAGER	Rob Mayes
ASSISTANT CITY MANAGER	Bob Campbell
CITY ATTORNEY	Jennifer Breakell
CITY CLERK	Dianne Smylie

The meeting was convened by the Mayor. Thereupon the following proceedings were duly had and taken:

INVOCATION: The invocation was offered by Associate Pastor Larry Moore of World Harvest Center.

Former City Attorney Jay Burnham led the Pledge of Allegiance.

CONSENT AGENDA: The Mayor announced that those items on the agenda marked with an asterisk (\*) have been placed on the Consent Agenda and will be voted on without discussion by one motion. He stated that if any item did not meet with approval of all Councilors or if a citizen so requested, that item would be removed from the Consent Agenda and heard under Business from the Floor.

\*MINUTES: The minutes of the Regular Meeting of the City Council held December 8, 2015 and the minutes of the Regular Work Session of the City Council held December 15, 2015.

\*BID: The Chief Procurement Officer recommended that the bid for purchase of a "direct feed screener" portable box screen (Public Works) be awarded to Golden Equipment Company on its low bid meeting specifications of \$99,706, and to reject the bid received from Power Equipment Company for being non-responsive and not meeting specifications. Bids opened January 5, 2016 with four bidders participating.

\*BID: The Chief Procurement Officer recommended that the bid for purchase of construction materials for the Aztec Substation (Electric) be awarded to the lowest and best bidder per category after application of five percent in-state preference (Category A - Stuart C. Irby Co. \$38,476.59; Categories B, I and J - Summit Electrical Supply \$45,582.03; Category C - Graybar Electric \$7,332.46; Category F - Border States Electric \$315.14; and Categories G and H - Western United \$15,869.77); that all bids received for Categories D and E be rejected due to an error in the bid schedule; and that the bid received from Border States Electric for Category J be rejected for being non-responsive and not meeting specifications. Bids opened December 22, 2015 with six bidders participating.

\*MINOR AMENDMENT TO THE 2012 COMMUNITY DEVELOPMENT BLOCK GRANT ANNUAL ACTION PLAN to extend for an additional year the financial literacy/credit repair classes being offered by San Juan College.

\*RECOMMENDATION FROM THE LIQUOR HEARING OFFICER for approval of Application #972838 for a new Restaurant License (beer and wine on premise consumption only) from The 505 Burgers Farmington, LLC, 820 N. Sullivan Avenue, Farmington, New Mexico doing business as The 505 Burgers Farmington, LLC, 820 N. Sullivan Avenue, Farmington, New Mexico. (Hearing held December 16, 2015)

\*WARRANTS PAYABLE for the time period of December 6, 2015 through January 9, 2016, for current and prior years, in the amount of \$16,886,747.17.

There being no requests to remove any items, a motion was made by Councilor Rodgers, seconded by Councilor Duckett to approve the Consent Agenda, as presented, and upon voice vote the motion carried unanimously.

RECOMMENDATION FROM THE PLANNING AND ZONING COMMISSION:

\*CONSENT AGENDA: Community Development Director Mary Holton requested that the Planning and Zoning Commission recommendation marked with an asterisk (\*) be placed on the Planning and Zoning Commission Consent Agenda and voted on without discussion by one motion. She asked that if the item proposed did not meet with approval of all Councilors or if a citizen so requested, the item would be removed from the Consent Agenda and heard in regular order.

- \*(1) Adoption of the recommendation from the Planning and Zoning Commission as contained within the Community Development Department Petition Report to approve Petition No. SUP 15-07 from William Cillessen requesting a Special Use Permit to allow outside storage for reels of stainless steel tubing and other small business-related materials at 935 Malta Avenue in the GC, General Commercial, District.

There being no requests to remove the item, a motion was made by Councilor Duckett, seconded by Councilor Rodgers to approve the Planning and Zoning Commission Consent Agenda, as presented, and upon voice vote the motion carried unanimously.

INTERGOVERNMENTAL AGREEMENT FOR BEHAVIORAL HEALTH SERVICES (JOINT INTERVENTION AND SOBERING PROGRAMS)

Assistant City Manager Bob Campbell recommended approval of the Intergovernmental Agreement for Behavioral Health Services (Joint Intervention and Sobering Programs) between the City, San Juan County, San Juan Regional Medical Center and Presbyterian Medical Services for an initial term of 24 months. He reported that the City will be responsible for 47 percent (\$775,563.30) of the annual costs associated with operating the Sobering program and Joint Intervention program ("JIP"), noting that this amount is \$200,000 more than what the City had been paying Four Winds Addiction Recovery Center ("Four Winds") for the sobering program alone. However, he explained that \$300,000 of the monies are provided by a grant from the State of New Mexico and pointed out that the number of clients being served will double. Furthermore, he reminded the Council that the JIP pilot program resulted in a savings of over \$200,000 for the 10 clients that were served due to a significant reduction in jail time, arrests and visits to the emergency room. Adding to his comments, City Manager Rob Mayes explained that it is difficult to compare "apples to apples" when comparing the budgetary costs because Four Winds was simply offering sobering/detoxification services whereas JIP is a new program that will offer long-term substance abuse services. He noted that they are expecting the JIP program to be even more successful than the pilot program because a housing component has been added for the clients.

Councilor Fischer contended that the major difference between the detoxification program offered by Four Winds and the proposed JIP program was protective custody which forced the individuals to be mandatorily detained for 72 hours. She stated that she does not believe that two employees working at the sobering house is going to be sufficient to control a large number of severely intoxicated individuals. Furthermore, she stated that she does not believe that the sobering program is going to work without a protective custody element. In response, Mr. Mayes pointed out that Four Winds was operating as a "pseudo jail" which made the program extremely costly to operate. He also stated that it was reported to him that the violent outbursts were typically caused by

individuals who had sobered up and were being detained against their will. He explained that under the new guidelines, violent individuals will be taken to jail.

In response to inquiry from Councilor Fischer, Mr. Campbell confirmed that the sobering house will be operated seven days per week, twenty-four hours per day. However, he did point out that JIP participants will not be required to attend counseling sessions on Sundays in an effort to give them time to do laundry and/or clean their rooms.

Mayor Roberts offered his comments by stating that it is a safe prediction that the program is going to fail and he contended that it takes a certain level of risk, vision and leadership to propose and support a new program. He argued that the research and planning have been completed and that the results indicate that JIP helps some individuals overcome their substance abuse disorders. He complimented the members of Presbyterian Medical Services and the Farmington Police Department for bringing JIP to fruition and he expressed his support for the proposed Agreement.

There being no further discussion, a motion was made by Councilor Duckett, seconded by Councilor Rodgers to approve the Intergovernmental Agreement for Behavioral Health Services (Joint Intervention and Sobering Programs), as presented. The roll was called with the following result:

Those voting aye:	Linda Rodgers Gayla A. McCulloch Nate Duckett
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Those voting nay:	Mary M. Fischer
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The presiding officer thereupon declared that three Councilors having voted in favor thereof, the said motion carried.

#### COUNCIL BUSINESS

##### Potholes

Councilor Duckett commended the Public Works Department for repairing a large pothole on Foothills Drive during the middle of a snow storm.

At the request of City Manager Rob Mayes, City Engineer Nica Westerling reported that during the month of December, 1706 potholes were repaired; 502 street cuts were made; 6.5 miles of roadway were bladed; and 178 hours were spent plowing snow from the streets. She explained the freeze/thaw cycle and stated that the pothole patches will likely have to be redone more than once during the winter because the existing asphalt is too cold to adhere to the hot patch.

In response to inquiry from Councilor Fischer, Water & Wastewater Administrator Jeff Smaka reported that a brochure encouraging residents to leave a faucet dripping during these cold months was included in the most recent utility bill but assured her that staff will also send out the message via social media.

Responding to a question from Councilor Duckett, Ms. Westerling confirmed that it is appropriate to tell constituents to report potholes to non-emergency dispatch.

#### UPDATE ON SAN JUAN WATER COMMISSION

Jay Burnham, former City attorney and the City's current representative to the San Juan Water Commission ("SJWC"), directed the Council's attention to a handout titled, "Excerpt from the 1986 JPA Agreement." Providing background information, he explained that SJWC often discusses how the water rights that are being held by SJWC are to be allocated to the member entities (San Juan County, the Rural Water Users Association, and the Cities of Aztec, Bloomfield and Farmington), but have never been brought to a vote because there is not a consensus on how to apportion the Animas-La Plata ("ALP") Project water rights. Reminding the Council that SJWC and the Office of the State Engineer were engaged in litigation concerning the ALP rights, Mr. Burnham reported that a settlement was reached which allowed SJWC to apply for permitting of the water rights based on the difference between the original project

and the project as it was built (known as the ALP Lite). He recalled sitting in a SJWC meeting many years ago where the member entities agreed to obtain all of the water rights that they could and then decide how to allocate them at a future date (which is now). He directed the Council's attention to page 2 of the handout titled, "Allocation of Water Rights per Joint Powers Agreement (JPA)," and pointed out that the original water right allocation was 30,800 but was reduced to 20,800 as a result of ALP Lite. He explained that the best method to discuss the amount of water rights being allocated to each entity is to address them in the manner in which they were permitted. He noted that at the end of the litigation, the State Engineer's office issued Permit Number 2883-C based on diversionary rights which reflects the difference between ALP and ALP Lite. However, he noted that there is a discrepancy when discussing the amount of diversionary water rights compared to the consumptive use rights for the same permit. He stated that he and Mr. Cooper met with staff yesterday to discuss this matter because SJWC will be conducting a Work Session tomorrow morning for the purpose of receiving input on an allocation policy for the water rights permitted in 2883-B and 2883-C which are solely in the name of SJWC. He advised that it is their recommendation that SJWC allocate the water rights as stated in Section IVB of the 1986 JPA which states, "Any diminishment of or increase in the 30,800 acre feet of water shall result in a proportional decrease or increase based upon the percentage of the base of 30,800 as allocated above."

Councilor Fischer questioned the motivation of SJWC to hold onto the water rights instead of allocating them to the member entities and stated that she believes that it is a full-fledged attempt to control all of the water in the San Juan Basin since they do not have the ability to put the water to use. Mr. Cooper strongly disagreed with her position and pointed out that without the member entities, SJWC could not exist.

Further discussion followed concerning the reasons why SJWC believes that they are legally authorized to hold water rights. Mayor Roberts asked if SJWC is required to prepare and submit for approval by the State Engineer's Office a 40-year water plan. In response, Mr. Burnham reported that SJWC has submitted a 40-year water plan but noted that the State Engineer's Office no longer approves such plans. He also assured him that the City's 40-year water plan is reviewed and updated by staff as water rights are acquired. In closing, City Manager Rob Mayes pointed out that the Cities of Aztec and Bloomfield indicated to City Attorney Jennifer Breakell, via telephone conference yesterday, that they are in agreement with the City's position that the water rights be proportionally allocated based upon the percentage of the base of 30,800. Following further discussion and consideration, it was the consensus of the Council to direct staff to proceed as recommended, which is the same direction that was previously given by the Council with regard to the allocation of the water rights.

Concerning the Gold King Mine spill into the Animas River, Councilor Fischer asked that staff consider the costs associated with extending a pipeline from Lake Nighthorse to Lake Farmington versus the cost of purchasing water rights on the San Juan River and constructing a second reservoir since additional mine spills are likely.

#### CITY MANAGER BUSINESS

City Manager Rob Mayes presented a proposed ordinance concerning the City of Farmington Hold Harmless Gross Receipts Tax Revenues and stated that notice of intent to consider said ordinance has been published two weeks prior to final action upon the ordinance as required by Section 3-17-3 NMSA 1978. He recommended the ordinance, if adopted, be given the number 2016-1282. The title of the ordinance being:

AN ORDINANCE PLEDGING CITY OF FARMINGTON, NEW MEXICO HOLD HARMLESS GROSS RECEIPTS TAX REVENUES AS SECURITY FOR CITY OF FARMINGTON, NEW MEXICO SALES TAX REVENUE BONDS, SERIES 2005 AND SERIES 2012.

After consideration of Ordinance No. 2016-1282, a motion was made by Councilor Duckett, seconded by Councilor Rodgers that said ordinance be passed and adopted as presented. The roll was called with the following result:

Those voting aye:

Linda Rodgers  
Mary M. Fischer  
Gayla A. McCulloch

Nate Duckett

Those voting nay: None

The presiding officer thereupon declared that four Councilors having voted in favor thereof, the said motion carried and Ordinance No. 2016-1282 was duly passed and adopted.

## CLOSED MEETING

Mayor Roberts announced that staff has requested that pending litigation pertaining to Chavez vs. City of Farmington be removed from tonight's agenda.

Thereupon, a motion was made by Councilor Duckett, seconded by Councilor Rodgers to close the meeting to discuss the acquisition of real property (abutting historical property), pursuant to Section 10-15-1H(8) NMSA 1978, and to receive advice from the City's legal counsel concerning a matter of pending litigation (Inskeep vs. City of Farmington), pursuant to Section 10-15-1H(7) NMSA 1978. The roll was called with the following result:

Those voting aye: Linda Rodgers  
Mary M. Fischer  
Gayla A. McCulloch  
Nate Duckett

Those voting nay: None

The presiding officer thereupon declared that four Councilors having voted in favor thereof, the said motion carried.

The Mayor convened the closed meeting at 7:01 p.m. with all members of the Council being present.

Councilor Duckett left the meeting at 7:21 p.m.

Following the closed meeting, during which meeting the matters discussed were limited only to those specified in the motion for closure, a motion was made by Councilor Rodgers, seconded by Councilor McCulloch to open the meeting. The roll was called with the following result:

Those voting aye: Linda Rodgers  
Mary M. Fischer  
Gayla A. McCulloch

Those voting nay: None

Those absent: Nate Duckett

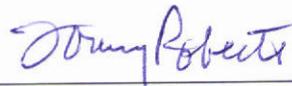
The presiding officer thereupon declared that three Councilors having voted in favor thereof, the said motion carried.

The Mayor reconvened the open meeting at 7:29 p.m. and there being no further business to come before the Council, the meeting was adjourned.

The City Clerk certified that notice of the foregoing meeting was given by posting pursuant to Resolution No. 2013-1466, et seq.

Approved this 26<sup>th</sup> day of January, 2016.

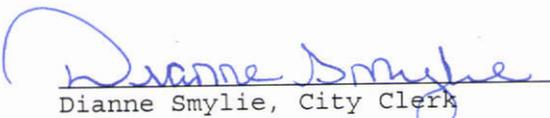
Entered in the permanent record book this 27<sup>th</sup> day of January, 2016.



Tommy Roberts, Mayor

SEAL

ATTEST:



Dianne Smylie, City Clerk