

Regular Meeting of the City Council, City of Farmington, New Mexico, held in the Council Chamber at City Hall at 7:00 p.m. on Tuesday, February 12, 2013. 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:

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| MAYOR      | Tommy Roberts   |
| COUNCILORS | Dan Darnell<br>Mary M. Fischer<br>Gayla McCulloch<br>Jason Sandel |

constituting all the members of said Governing Body.

Also present were:

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|------------------------|----------------|
| CITY MANAGER           | Rob Mayes      |
| ASSISTANT CITY MANAGER | Bob Campbell   |
| CITY ATTORNEY          | Jay B. Burnham |
| CITY CLERK             | Dianne Fuhrman |

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

INVOCATION: The invocation was offered by Pastor Wade Elftman of Crossroads Community Church.

Amy O'Neill led the Pledge of Allegiance.

CONSENT AGENDA: The Mayor announced that those items on the agenda that are marked with an asterisk (\*) have been placed on the Consent Agenda and will be voted on 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 January 22, 2013 and the minutes of the Regular Work Session of the City Council held January 15, 2013.

\*DECLARATION OF SURPLUS PROPERTY: The Purchasing Officer recommended that worn-out, unusable or obsolete vehicles (Administrative Services, Central Warehouse, General Services and Vehicle Maintenance) be declared surplus to the needs of the City and not essential for municipal purposes, and that the City Manager or his designee be authorized to dispose of such surplus property pursuant to State Statutes.

\*BID: The Purchasing Officer recommended that the bid for a multi-term contract for scrap metal disposal (Administrative Services) be awarded to CBH Trucking, Inc. as the only responsible bidder meeting specifications (estimated annual revenue \$85,174.39), and to reject the bid received from Valley Scrap Metal for being non-responsive for not submitting a bid schedule. Bids opened January 29, 2013 with two bidders participating.

\*PURCHASE AGREEMENT between the City and Los Niños Limited Partnership, Greg Anesi as general partner, for purchase by the City of multiple tracts of land totaling 13.35 acres in Deer Hollow Subdivision No. 2 located on Rail Road (cost to the City \$369,285) (replaces the Purchase Agreement approved by the Council on December 11, 2012).

\*CONFIRMATION OF REAPPOINTMENT OF REGISTERED VOTER Bill Standley as temporary municipal judge in the absence of the Municipal Judge or Part-Time Municipal Judge for the period of April 1, 2013 through March 31, 2014.

\*WARRANTS PAYABLE for the time period of January 20, 2013 through February 9, 2013, for current and prior years, in the amount of \$9,272,746.24.

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

#### PEACE CORPS WEEK PROCLAMATION

The Mayor presented Dr. Mick O'Neill, Kyla Johnson, Vicky Holmsten and Amy O'Neill with a Proclamation declaring February 24 through March 2, 2013 as "Peace Corps Week."

#### AUTHORIZE \$75,000 FROM THE METROPOLITAN REDEVELOPMENT AREA ("MRA") FUND FOR A GATEWAY PROJECT

Directing the Council's attention to a memorandum contained on page 5.0 of the agenda materials, Community Development Director Mary Holton reported that staff concurs with the recommendation of the Metropolitan Redevelopment Agency to authorize \$75,000 to be expended from the MRA Fund and added to the existing \$60,000 in 2010 Community Development Block Grant ("CDBG") fund earmarked for downtown streetscape improvements. She introduced Government Relations Director/Downtown Coordinator Elizabeth Isenberg and Downtown Design Committee members Linda Barbeau and Derald Polston.

In response to inquiry from Councilor Fischer, Ms. Isenberg reported that staff did not receive any response to the request for proposals to design two downtown streetscape improvement projects because there was not enough money available for the project. She stated that the additional \$75,000 should rectify the matter. Ms. Isenberg also explained that the scope of the request was for a "gateway" project that would be installed at the western and eastern ends of the Main Street corridor and for a public art display for Orchard Park that would provide directional pointers to local and regional locations of interest (a "wayfinding" sign). With regard to the economic vitality of the downtown area, Ms. Isenberg confirmed that there is a shift from retail to service-oriented business, but noted that almost all of the buildings are occupied.

Mayor Roberts commended Ms. Isenberg for promoting successful events in the downtown area, such as TGIF and the art walks. He also stated that the downtown restaurateurs have indicated that they are happy with the level of business activity that they are receiving.

Councilor Sandel asked for a comprehensive explanation of the goals being set for the downtown area, specifically with regard to controlling traffic and promoting walkability. In response, Ms. Holton explained that staff is working to promote the goals established in the MRA plan concerning infrastructure improvements and economic development incentives. Furthermore, she stated that staff is working with the MRA Commission to implement a "complete streets" program in the downtown area to promote further walking and bicycling.

Councilor Sandel contended that staff's approach is piecemealing and stated that he does not believe that the construction of a gateway project accomplishes any goal identified in the MRA plan and stated that he is concerned that staff is trying to spend money just for the sake of spending money. He also initiated discussion concerning the \$50,000 in CDBG funds that is earmarked for this project and stated that he believes that the Council should reconsider all of the CDBG earmarks.

In response, Councilor McCulloch reported that the "complete streets" committee met for the second time to discuss the project and assured Councilor Sandel that progress is being made. Furthermore, she contended that the complete streets project will complement the downtown area. Councilor Sandel stated that he was impressed with the presentation that was made to the Council concerning complete streets, but restated his concern that there is a lack of comprehensive planning for the downtown area.

Mayor Roberts voiced his support for the subject project, stating that he believes that the gateways will complement the complete streets project.

Addressing Councilor Sandel's concerns, Ms. Barbeau announced that she shares his frustration, but stated that the overall feeling of the MRA Commission and Downtown Design Committee is that they are making progress. She argued that the proposed gateway will serve as a traffic calming device in the downtown area since drivers will likely slow down to look at the art. She recommended that more meetings be scheduled between the MRA Commission members and the City Council for the purpose of discussing the visions for downtown, contending that this might resolve some of the frustration and confusion.

In response, Mayor Roberts announced that the MRA Commission is empowered to implement the MRA plan that was adopted by the Council. He explained that, from his perspective, the MRA Commission should take the MRA plan and make decisions that support its implementation. With regard to the confusion concerning the Council's goals for the MRA, he explained that they have discussed the possibility of constructing a new convention center in the MRA area as a long-term goal, but stated that the short-term goal is to renovate the existing civic center until adequate funding is secured. Noting that the area is in a transitional period, he pointed out that the Public Health Office and the District Attorney's Office were recently constructed in the MRA district and contended that the MRA Commission is making significant progress despite differing views. He announced that he would like to see a developer propose a new hotel in the MRA.

Councilor Sandel thanked Ms. Barbeau for her dedication and passion for revitalizing the downtown area and agreed that the MRA Commission and the City Council should be working together to reach the goals. However, he stated that he strongly supports the construction of a new convention center and argued that such project is the crux of the MRA plan. Mayor Roberts suggested that the Council review the MRA plan to determine whether the construction of a new convention center is the number one project identified and reiterated that lack of funding is the primary reason why the project has not been pursued.

Councilor Fischer questioned whether it would be prudent to have an architectural rendering of what is envisioned for the downtown area to ensure that everyone is working towards the same goal. She asked if there is a theme that has been envisioned, such as historic, southwestern, retro or modern. In response, Ms. Isenberg stated that she believes that staff and the MRA Commission are moving in the right direction. She also contended that "whitewashing" the downtown area is a bad idea since numerous eras (railroad, oil and gas, Victorian) are depicted in the buildings. She also pointed out that downtown is registered as a historic district with the State Historic Preservation Office which requires the preservation of historic homes and buildings. She reiterated that pedestrian amenities and safety are the primary goals for redevelopment.

Councilor Fischer contended that deficiencies in the water, sewer and electrical infrastructure, along with deteriorating rental properties, may be part of the problem as to why redevelopment is not occurring. She also suggested that solar-powered street lights be considered.

There being no further discussion, a motion was made by Councilor Darnell, seconded by Councilor McCulloch to authorize an expenditure of \$75,000 from the Metropolitan Redevelopment Area Fund for the purpose of constructing a gateway and public art project in the downtown area, as recommended by the Metropolitan Redevelopment Agency Commission. The roll was called with the following result:

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|-------------------|---------------------------------|
| Those voting aye: | Dan Darnell<br>Gayla McCulloch  |
| Those voting nay: | Mary M. Fischer<br>Jason Sandel |

The Mayor voted in favor of the motion and declared the motion carried.

APPOINTMENT TO THE SAN JUAN REGIONAL MEDICAL CENTER CORPORATION  
BOARD

Mayor Roberts asked the Council's consideration of the appointment of Elizabeth Isenberg to the San Juan Regional Medical Center Corporation Board for an indefinite term.

A motion was made by Councilor Darnell, seconded by Councilor McCulloch to confirm the appointment of Elizabeth Isenberg to the San Juan Regional Medical Center Corporation Board, as recommended by the Mayor, and upon voice vote the motion carried unanimously.

COUNCIL BUSINESS

Governing Body Rules of Procedure

Councilor Sandel voiced frustration for the fact that City Council meeting minutes do not reflect the names of the Councilors who support "consensus items" and contended that such items are not consistently tracked and followed-up on by staff. Referring to a memorandum from City Attorney Jay Burnham, as contained on page 6.0 of the agenda materials, he asked whether giving direction to staff by "consensus" is, in fact, an action of the Council. In response, Mr. Burnham reported that the Open Meetings Act prohibits the Council from taking action on items that are not listed on the agenda and explained that it is his opinion that directing staff to prepare a report, furnish information, research an issue, give an opinion or bring a matter back to the Council for future consideration is not "taking action".

Expanding his position, Councilor Sandel explained that staff has told him in the past that they are not certain whether direction was given since there was not a true "consensus" vote of the Council. He suggested that the Governing Body Rules of Procedure be amended to account for a system of consensus-building and require staff follow-up on those items. He contended that this method will provide clarity to staff and ensure that the item is followed-up on.

Mayor Roberts stated that he has no bias on the Governing Body Rules of Procedure since they were in place at the time he took office, but stated that they appear to work reasonably well. Noting that he tries to announce when consensus is obtained, he pointed out that City Manager Rob Mayes and Government Relations Director Elizabeth Isenberg take notes at Council meetings and then track and follow-up on consensus items. He announced that he believes that the process works reasonably well, but agreed that it could be improved upon.

Mr. Mayes stated that he is not aware of any instances where the minutes do not accurately reflect Council consensus items and argued that the established process is working. He explained that confusion occurs when a Councilor suggests in a public meeting that something be done, but no consensus poll of the Council is taken. However, he pointed out that staff tries to accommodate those specific requests. Mayor Roberts also pointed out that "consensus" is only associated with ordinances in the Rules of Procedure and suggested that it may be prudent to expand its use to include requests for information and legal opinions.

Councilor Sandel explained that his main concern is one of follow-up by staff, noting that it took Mr. Burnham six months to submit a memorandum on campaign finance reporting and a revised disclosure form in accordance with the Governmental Conduct Act. He pointed out that Mr. Burnham only responded then because he was reminded at the January 22, 2013 regular City Council meeting that the Council was still awaiting a response. He also pointed out that such items were not included on staff's consensus item list and asked who is responsible for following-up on these matters. He suggested that a formal process be written into the Rules of Procedure to prevent such oversights in the future.

Mr. Burnham took full responsibility by announcing that he had failed to report the findings of his research to the Council.

Councilor Fischer argued that staff should provide all information that is requested by a Councilor, not just those items that they see fit. She also pointed out that it is her recollection that Councilor Sandel specifically requested that the appeal process also be discussed at tonight's meeting in addition to the 18 individuals who are maxed-out under the recently-adopted pay plan. She contended that Mr. Mayes

purposefully narrowed the discussion in an effort to keep employees from attending tonight's meeting. Furthermore, she reminded the Council that Mr. Mayes refused her request to schedule discussion of the pay plan at an evening meeting and stated that she was forced to request a consensus from the Council in order to get the meeting date changed. Mayor Roberts argued that Councilor Fischer's requests would be met if she had followed protocol and made her requests directly to the city manager. Explaining that she refuses to meet with Mr. Mayes on a one-on-one basis because he previously leaned over a table and physically threatened her, Councilor Fischer argued that she does not receive the same courtesy from Mr. Mayes as the other Councilors. She also pointed out that Mr. Burnham advised her that he is too busy to provide her an update on the action that was recently taken by San Juan Water Commission, contending that such action is contrary to the direction provided by the Council in prior years. Claiming that there is a disparity on how councilors are treated, Councilor Fischer voiced frustration for the fact that Mayor Roberts is able to get staff to respond to his requests when she is not. Mayor Roberts argued that there is a difference between the position of city councilor and the position of mayor. Councilor Fischer stated that she has tried to work with Assistant City Manager Bob Campbell, but he dismissed her suggestions and, as a result, Government Relations Director Elizabeth Isenberg has been directed to communicate with her. She voiced strong objection to the manner in which the recently-adopted pay plan was handled and stated that she is appalled by Mr. Mayes' email suggesting that employees do not need to attend tonight's Council meeting because the discussion will only be focused on those employees who are topped-out in their pay ranges.

Mayor Roberts called the meeting back to order.

Councilor Sandel suggested that the Rules of Procedure be amended to require a Councilor to request a consensus; the Mayor make a declaratory statement; the "poll" vote be recorded in the minutes; and that staff record the item on the consensus item list and provide the Council a copy within three days of the meeting.

Referring to page 6.4 of the agenda materials containing a copy of the Rules of Procedure, Councilor Fischer suggested that Section II. Meeting Agenda be amended to state that, "The agenda for all City Council meetings will be prepared by the City Clerk in consultation with the city manager (instead of under the direction of the city manager). She pointed out that the City Clerk no longer works under the direction of the City Manager and suggested that this provision is outdated. Mayor Roberts argued that the City Manager is the chief operating officer for the city and that he is tasked with determining the items to be placed on an agenda. However, he agreed to discuss this issue at a later date if Councilor Fischer so chooses.

Following further discussion, it was the consensus of the Council to consider amendments to the Rules of Procedure. Mayor Roberts noted that this item is not on tonight's agenda for action and will need to be scheduled for consideration on a future agenda.

#### Staffing at the Farmington Animal Shelter

Recalling that the Animal Shelter Advisory Committee recently made a presentation to the Council recommending that 10 additional employees be hired once the new facility is constructed and noting that general fund revenues are declining, Councilor Fischer asked staff to explain their staffing plan. She also pointed out that she formally requested this information six months ago and has yet to receive a response.

City Manager Rob Mayes explained that the staffing issues will be addressed through the upcoming Fiscal Year 2013/2014 budget process. He noted, however, that the preliminary budget reports do include staff increases for the animal shelter. Councilor Fischer contended that it would be more prudent for staff to provide this information prior to the commencement of construction of the new facility.

#### Staffing at the Farmington Police Department

Councilor Fischer announced that it has come to her attention that the Farmington Police Department is significantly understaffed and that the Cities of Aztec and Bloomfield and San Juan County are nearly fully staffed. Noting that neither the city manager nor the police chief have advised the Council of this concern, she contended that this should be a

"red flag" that something is wrong inside the department since many of the City's certified police officers have left to work for those other agencies. In response, Police Chief Kyle Westall confirmed that there are 15-16 certified police officer positions that need to be filled, but assured her that the staffing shortage is not having a negative impact on the overall safety of the community. Noting that the number of calls for service has declined over the years due to the recession, he pointed out that the department is staffed at the level it was before the downturn in the economy. He also explained that it was easier to stay fully-staffed during the recession because other departments were not hiring. Furthermore, he pointed out that the City's pay scale for certified police officers was not competitive until recently when the new pay plan was adopted.

Voicing frustration with the city manager, Councilor Fischer announced that she was never advised of the most recent officer-involved shooting and contended that communication between staff and the Council is insufficient and teeters on being disrespectful to her. She asked for an update on the status of the investigation of the two recent officer-involved shootings and asked if additional training is being scheduled as a result since the victims were both Hispanic males with no prior criminal backgrounds. In response, Chief Westall contended that it was coincidence that both victims were Hispanic males and clarified that her statement of having no prior criminal background is false. He offered to meet individually with the Councilors to update them on the status of the investigations, but pointed out that his information is limited since the investigations were conducted by the State police. She clarified that the crux of her concern is the lack of notification by staff that the incident had occurred.

In response to inquiry from Councilor Darnell, Chief Westall confirmed that the recently-adopted pay plan is more competitive, but stated that the San Juan County Sherriff's Office still pays their senior officers at a higher rate. He also noted that the City is offering a \$15,000 sign-on bonus for lateral New Mexico certified police officers, while the City of Hobbs is offering \$20,000. He stated that he hopes to hire six new police officers next month, following completion of the academy.

At the request of Mayor Roberts, Mr. Mayes responded to Councilor Fischer's comments. He reported that he provided a memorandum to each councilor following both of the officer-involved shootings and maintained that he left Councilor Fischer a voice mail on her home telephone on the day of the shootings. He also advised the Mayor and Council that he will be directing staff to set-up an email account for Councilor Fischer. Councilor Fischer vehemently announced that she does not want an email account and adamantly argued that Mr. Mayes did not contact her with regard to the second shooting, nor did he leave her a voice mail message. Mayor Roberts agreed with Mr. Mayes and directed that she be provided an email account; that a computer be installed in her office; and that she be afforded the training necessary to access the email account. He contended that this will provide the city manager with a certain and equal method of notifying councilors of City business and argued that it is fair, in this day and age, to expect a councilor to utilize email technology.

Councilor Fischer reiterated her strong disapproval by stating that she does not want an email account and urged Mr. Mayes to contact her by telephone. Furthermore, she asked that if important information is placed in her box that the Administrative Aide call and advise her that it needs to be picked up. She maintained her position that Mr. Mayes does not respond to, nor take seriously, any of her requests.

Mayor Roberts directed Mr. Mayes to set-up an email account and a computer for Councilor Fischer. Announcing that she is opposed, Councilor Fischer questioned the Mayor's ability to impose such action upon her. He argued that he, as Mayor, has the authority to direct the city manager to take such action in an effort to resolve the mutual lack of trust between her and Mr. Mayes. Councilor Fischer asked for a consensus of the Council on whether they believe that the Mayor has the authority to dictate that she is provided an email account and a computer. There was no response to her request. Councilor Fischer also noted that her office door is locked because she believes that an employee purposefully destroyed documents that were in her office. She reiterated that her preferred form of communication is via hard copies or by telephone. Mayor Roberts stated that he believes that there are good

reasons for moving forward with the email account and told Councilor Fischer that such action was "done."

Mr. Mayes pointed out that the other councilors have provided him cellular telephone numbers where he can communicate with them via phone calls, text and email. He stated that with other councilors he is not limited to leaving a message on a home telephone answering machine as he is with Councilor Fischer. He argued that the email will provide a permanent record of his efforts to communicate with her and stated that he will direct staff to continue to print them and place them in her box. He also reiterated his position that he left a voice message on Councilor Fischer's answering machine concerning the second shooting and refuted her prior statement that he sent an email to all City staff urging them not to come to tonight's meeting. He contended that Councilor Fischer has crossed the line from an ongoing pattern of denigration to defamation and malice. Contending that Councilor Fischer has a complete disregard for the truth, Mr. Mayes maintained that he has never physically threatened her and contended that this is an outrageous statement. He stated that he is flabbergasted that she would lower herself to making such a statement. With regard to her request to place the discussion of the pay plan on an evening meeting, Mr. Mayes explained that he objected to her request because she called the City Clerk's office demanding that the item be moved from a Work Session to an evening meeting without discussing it with him first. He announced that, had she called him, he would have placed it wherever she asked because it was a reasonable request. In closing, Mr. Mayes defended the manner in which the discussion of the pay plan was placed on tonight's agenda, arguing that the Council only directed that the 18 employees who are "topped out" in the pay plan be discussed. Furthermore, he explained that he sent the email to all employees because several of them had voiced concern that it was their belief that the entire pay plan was being reconsidered. He advised Councilor Fischer that she is allowed to expand the discussion of the pay plan as she sees fit, provided that her fellow councilors do not object.

DIRECTION TO STAFF REGARDING THE NINE EMPLOYEES WHO ARE FROZEN DUE TO THEIR ACTUAL PAY "RATE" EXCEEDING THE MAXIMUM IN THE JOB PAY "RANGE"

Directing the Council's attention to a memorandum contained on page 7.0 of the agenda materials, City Manager Rob Mayes announced that the subject item is being discussed at the request of Councilor Sandel. Mr. Mayes reminded the Council that prior to the adoption of the new pay plan, 221 employees had reached the maximum in their pay range and that an additional 34 employees would have reached their maximum during fiscal year 2013. Furthermore, he explained that with the adoption of the new pay plan, the number of employees "maxed-out" dropped to 18 and that, due to retirements and adjustments to the pay plan via the appeal process, there remain only 13 employees who are at the maximum of their pay range at this time. He explained that of those 13 employees, only nine of them actually exceed their adopted pay range maximum (above the 100 percentile). Mr. Mayes pointed out that those four employees who are at the maximum pay range (99-100 percentile) will continue to receive raises because the pay ranges are adjusted annually based on the Cost of Labor ("COL") which is tied closely to the Consumer Price Index. He recommended that the nine employees be given a "grandfathered COL payment" (amortized on 26 pay periods) in an amount equal to any COL percentage adjustment that is applied to the entire pay plan. He explained that once their pay range catches up, this special grandfathering COL payment would cease and they would continue to receive normal adjustments in actual pay rates equal to the COL. He emphasized that the actual pay rate for these nine employees would not increase. Providing justification for his proposal, Mr. Mayes explained that for 15 years adjustments were randomly made to pay scale without tying it to market analysis and that employees have some expectation that they will receive annual market adjustments. He stated that his proposal does not violate fiscal responsibility since the cumulative amount is relatively small (\$11,000 in the first year and decreases annually), nor does it violate prudent business practices. He also stated that he does not believe that this sets an unmanageable precedence because the subject employees are unique in the fact that no employee's rates are being lowered as a result of the newly established pay ranges. He also pointed out that they are long-term employees with several of them fast-approaching retirement.

Councilor Sandel announced that he is grateful that the city manager is reconsidering his position, stating that he cannot imagine working for an organization knowing that all employees will be receiving a raise except for you and eight others. He reminded the Council that he had requested that this matter be addressed several months ago and that the city manager sided with the recommendation from the Hay Group to forego such action. He also pointed out that at the January 8, 2013 regular City Council meeting, he requested reconsideration of the appeal process and the status of the 18 employees who are maxed-out in their pay ranges and stated that he does not believe that the agenda item accurately reflects what was requested. He also pointed out that those employees who are "maxed-out" or "nearly maxed-out" will receive smaller pay increases than the rest of the employees. In response, Mr. Mayes explained that there has always been a disparity in the annual pay increases because the City's personnel policy requires staff to set a minimum and a maximum pay range for each job classification and that step increases were dependent upon where the employee fell in the pay range. He also noted that the old pay plan provided for an arbitrary cost-of-living increase that was applicable to all employees, regardless of their pay range which caused employees to quickly reach their maximum. He explained that with the new pay plan, most employees will work their entire career and never "max-out".

Councilor Sandel pointed out that, as a matter of public policy, the Council historically approved a cost-of-living increase that was levied equally among the employees, in addition to the step increases. He stated that he is concerned that the new pay plan will not take into account those employees who are at, or are reaching, their maximum pay range. In response, Mr. Mayes explained that the annual COL adjustments will be made to the pay ranges themselves and not to the employee's pay rate. As a result, he explained that the pay rate for the nine employees should eventually fall below the maximum pay range. Mayor Roberts confirmed that this is a critical component of the recently-adopted pay plan and pointed out that the entire pay plan ranges will be recalibrated every three to five years in order to ensure that the City is offering fair market pay.

Councilor Darnell expressed support for grandfathering the nine employees who exceed their pay range under the newly-adopted pay plan.

Councilor Fischer questioned whether Mr. Mayes has met with the nine employees to discuss his recommendation. In response, he reported that they were given a copy of his memorandum and stated that he has received no feedback. Councilor Fischer also questioned whether the appeal process was also going to be discussed at tonight's meeting. In response, Mr. Mayes stated that a memorandum is included in the agenda materials if the Council chooses to discuss the appeal process.

The Mayor asked for comments from the members of the audience.

Donavon Garcia, Parks Maintenance Worker IV, expressed his gratitude to Mr. Mayes for his willingness to provide some financial relief to those "maxed-out" employees. He announced that he has been employed with the City for eight years and has not received a raise for the past three.

Don Becker addressed the Council on behalf of the nine subject employees, contending that they have been impacted financially and emotionally due to the adoption of the new pay plan. He urged the Council to approve staff's recommendation, noting that it would be a burden to the City if these employees were to quit.

Councilor Sandel made a motion that all employees who were employed on the date that the pay plan was adopted (August 14, 2012) be given the same percentage of pay increase as those above the market policy position (3 percent) even if their pay rate is minimally below (99 percentile) or in excess of the maximum pay range for their job classification. Following brief discussion and consideration, the motion died for lack of a second.

Thereupon, a motion was made by Councilor Sandel, seconded by Councilor Darnell to grant those nine employees a "grandfathering cost of labor payment" (amortized on 26 pay periods) in an amount equal to any cost of labor percentage adjustment applied to the entire pay plan, as recommended by the City Manager.

Councilor Sandel urged the city manager to research the number of employees who are close to topping-out and to determine the budgetary impact if they were given the same benefit as those nine employees who exceed their pay range.

Councilor Fischer announced that she has extreme sympathy for the nine employees, but explained that she will be voting against the motion because she believes that the pay plan is severely flawed.

The Mayor called for the vote upon the motion to grant those nine employees a "grandfathering cost of labor payment" (amortized on 26 pay periods) in an amount equal to any cost of labor percentage adjustment applied to the entire pay plan, as recommended by the City Manager. The roll was called with the following result:

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| Those voting aye: | Dan Darnell<br>Gayla McCulloch<br>Jason Sandel |
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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.

At the request of Mayor Roberts, Mr. Mayes reviewed the memorandum he drafted concerning the appeal process. With regard to two points of misinformation that he has heard, he explained no employee received a raise as a direct result of the adoption of the pay plan except to become eligible for the designated 3 or 4 percent adjustment. In other words, the top employees did not receive large pay raises as a result of the adoption of the pay plan. Furthermore, he noted that the lowest paid job classifications received over 40 percent increases in their range and the highest paid received only 18 percent. He also reported that the 21 appeals that were submitted to the Human Resources Department were forwarded directly to the Hay Group for reconsideration and, as a result, 12 job classifications remained the same and 9 were adjusted upward. He confirmed that, in hindsight, staff should have retained copies of the appeals but assured the Council that those appeals have since been returned to the City for record-keeping purposes. In response to Mayor Roberts, he reported that all of the appeals have been addressed and that there are none outstanding. Councilor Fischer asked if all of the appeals were accounted for and Mr. Mayes stated that, to the best of his knowledge, they are.

With regard to employee involvement, Mr. Mayes reported that 1) the job evaluation committee, which was comprised of employee representatives, met extensively at the onset of the process in both 2008 and 2011; 2) the city manager met informally with small employee groups in 2011 to discuss the pay plan's philosophy; 3) that a mandatory training for managers and supervisors was provided by the Hay Group following adoption of the pay plan; 4) an appeal process was established; and 5) that multiple memorandums were sent to all employees throughout the process.

Councilor Fischer stated that she does not believe that there was enough employee involvement since several of the employees have indicated to her that they do not understand how the new pay plan works. She questioned the status on the building inspectors. In response, Mr. Mayes reported that in the first draft of the pay plan, the maximum pay range for the building inspectors was reduced by approximately \$10,000 which caused him to aggressively appeal the decision of the Hay Group with regard to those positions. As a result, their pay range maximum was increased by \$5,000 and their pay grade was reclassified from "J" to "K". Through the employee appeal process, Mr. Mayes reported that the building inspectors were successful in increasing the pay grade to an "L" which is comparable to their maximum pay range under the old pay plan. Furthermore, he reported that the Hay Group was asked to reconsider the pay grade of "L" following an employee's appeal to the City Council. He reported, however, that the Hay Group has confirmed that "L" is the proper pay grade and has made no further adjustment. He also pointed out that the Information Technology Department experienced a similar scenario with their job classifications.

Councilor Sandel asked for an understanding of the appeal process and an explanation on how it was communicated to the employees. In response, Human Resources Director Lyle Williams reported that all

employees were notified of the appeal process via email and posting of the emails on bulletin boards. Mr. Mayes confirmed that the established appeal process was not followed since it required screening by the city manager and the human resources director, but contended that he and Mr. Williams exceeded expectations when they forwarded all the appeals directly to the Hay Group for an independent third-party analysis. Councilor Sandel contended that this may have hindered the appeal process for some employees because an in-house review may have been useful in helping them prepare a better appeal. Referring to some of the emails that were sent to the Hay Group, Councilor Sandel pointed out that some positions, specifically the Airport Manager, General Services Director and Government Relations Director, were simply assigned pay grades based on the direction of Mr. Williams. He asked for an explanation as to why the pay plan was not adopted in 2008 when the process first began and why the Assistant to the Director of Marketing transitioned to the Executive Assistant position. He also questioned whether such job descriptions exist. In response, Mr. Mayes confirmed that he and the department heads were involved in the pay plan process because the first draft contained errors and explained that the downturn in the economy is the reason why the pay plan was delayed in 2008. He also explained that the pay ranges for the Executive Assistant position were decreased because the former city manager had granted that position an arbitrary pay increase by converting the position to Assistant to the Director of Marketing. He pointed out that this position has since been eliminated from the pay plan in an effort to bring conformity to the organization as a whole. He also assured Councilor Sandel that there is a job description for every job classification.

In closing, Councilor Sandel explained that his interest in the pay plan process is fairness and equality and the assurance that management is adequately addressing the concerns of the employees. He thanked the Mayor and Mr. Mayes for the opportunity to discuss the issue.

There being no further business to come before the Council, the meeting was adjourned at 10:07 p.m.

The City Clerk certified that notice of the foregoing meeting was given by posting pursuant to Resolution No. 96-844, et seq.

Approved this 26<sup>th</sup> day of February, 2013.

Entered in the permanent record book this 27<sup>th</sup> day of February, 2013.

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Tommy Roberts, Mayor

SEAL

ATTEST:

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Dianne Fuhrman, City Clerk