

Work Session of the City Council, City of Farmington, New Mexico, held Tuesday, February 18, 2014 at 9:00 a.m. in the Executive Conference Room at City Hall, 800 Municipal Drive, Farmington, New Mexico, in full conformity with the rules, regulations and ordinances of the municipality.

At such meeting the following were present, constituting a quorum:

MAYOR	Tommy Roberts
COUNCILORS	Dan Darnell
	Mary M. Fischer
	Gayla McCulloch
	Jason Sandel (arrived late)

Constituting all the members of the Governing Body.

Also present were:

CITY MANAGER	Rob Mayes
ASSISTANT CITY MANAGER	Bob Campbell
CITY ATTORNEY	Jay B. Burnham
DEPUTY CITY CLERK	Melody Coyner

#### PURCHASING MONTH PROCLAMATION

Mayor Roberts presented Purchasing Officer Eddie Smylie with a Proclamation declaring the month of March, 2014 as "Purchasing Month." He recognized the staff of the Purchasing Division for their dedication and commitment to the City of Farmington. Mr. Smylie introduced Purchasing Supervisor Kristi Benson; Buyers II Jennifer Rowland, Emily Foucault and Rosalyn Potter; Buyers I Sharron Dunn and Kay Rose; Administrative Aide Jeanette McCoy; and Contracts Administrator Bill Harrell.

#### REPORT/DIRECTION TO STAFF ON BANK STABILIZATION AND ARROYO EROSION IN CRESTWOOD ESTATES

As directed by the Council at the February 4, 2014 Work Session, Water/Wastewater Administrator Jeff Smaka reported that staff performed an evaluation of erosion protection in the Hood Arroyo from Hill 'N Dale Drive north to property located at 6200 Hogan Avenue (a total distance of 3500 feet and 33 properties). He noted that City Attorney Jay Burnham has provided an opinion on the legal principles involved in storm water repair and improvement projects, and stated that there are ten major arroyos within the city limits that total more than 32 miles in length and that there are many more miles of minor arroyos and tributaries which present challenges to private property similar to those experienced along Hood Arroyo in Crestwood Estates.

Councilor Sandel arrived at the meeting at 9:05 a.m.

Mr. Smaka noted that, following the major flooding in 2010 that damaged City infrastructure within Hood Arroyo, the Federal Emergency Management Agency ("FEMA") allocated mitigation funds for the City to install erosion protection for a damaged waterline and City-owned concrete structure near 6200 Hogan Avenue.

In response to inquiry from Councilor Fischer regarding flood control on arroyos, Mr. Smaka and City Engineer Nica Westerling confirmed that there are dams on the Martin and 30<sup>th</sup> Street arroyos and detention ponds on the Carl and Hood arroyos and noted that there is no flood control on the Butler, Glade, Porter, Wyper, Wildflower, Andrea and Katherine arroyos. Ms. Westerling agreed that flood control on the arroyos would help with the current flooding issues and Mr. Smaka stated that staff is working through flood control issues with HDR Engineering ("HDR").

Responding to inquiry from Councilor Fischer, Mr. Burnham stated that the City cannot force the developer to install the required detention pond in Crestwood Estates until he asks for approval for the next phase of development. He further stated that he believes that storm

water improvements would fall under the Improvement District Act. Councilor Fischer expressed a desire for staff to research storm water improvement districts as an option and report back to the Council on the cost of flood control with detention ponds on the problem arroyos. City Manager Rob Mayes reminded the Council that HDR's Drainage Master Plan ("Master Plan") is an overall study of the arroyos (location, number and priority for additional detention facilities) and assured the Council that funding options will be provided which will include establishing a utility or improvement district.

Mr. Mayes introduced Associate Project Engineer Ryan Gladden whose focus within the Public Works Department is flood management.

Responding to Councilor Fischer, Mr. Gladden stated that he has taken HDR representatives to inspect the affected areas on Hood Arroyo in Crestwood Estates.

Discussion followed concerning the potential for violating the Anti-Donation Clause by stabilizing the arroyo bank near the property located at 6200 Hogan Avenue. Mr. Mayes pointed out that natural arroyos are dynamic flow paths that are constantly changing and eroding. He contended that if the City interferes with the path of a natural arroyo, it will be responsible for any damage that results from the interference. In addition, he stated that any work that the City has done on an arroyo has been on City-owned property or near or on City infrastructure.

Responding to Mayor Roberts, Mr. Burnham stated that the City does not have a legal duty to prevent this type of impact (arroyo bank erosion) to a property owner and that the law would assume that the property owners know that arroyos move.

Noting that the developer was allowed to postpone building a required detention pond, Councilor Sandel contended that the arroyo bank erosion issues in Crestwood Estates are due to the lack of adequate infrastructure. He showed a video of the 2013 flood crossing Hill 'N Dale Drive and contended that flooding from Hood Arroyo caused eminent public danger to residents in the area.

Stating that the City has already done some bank stabilization in areas of the city, Councilor Sandel suggested that, as a "half-step" or show of good faith, the City try to shore-up the areas that are most problematic in the same manner as was done in 2010 and argued that it is not a violation of the Anti-Donation Clause. He expressed a desire to direct staff to come up with a plan to "make those things happen."

In response to inquiries from Councilor Darnell, Mr. Smaka stated that the location of the required detention pond has changed during the different phases of development of the area, but noted that at one time it was to be south of 6200 Hogan Avenue. Mr. Burnham pointed out that, based on the facts provided by staff, stabilizing the bank at 6200 Hogan Avenue would benefit a single property and not the entire system.

In response to inquiry from Mayor Roberts, Ms. Westerling stated that there are probably hundreds of miles of arroyos requiring bank stabilization in order to maintain the integrity of the drainage system.

Following further discussion, Mr. Mayes stated that staff does not recommend funding erosion control for private properties along Hood Arroyo in Crestwood Estates.

Responding to Mayor Roberts, Mr. Burnham stated that the City does not have a legal duty to install a detention pond and noted that, at the time the development was approved, a decision was made that the regulations did not require the installation of the detention pond.

Responding to Councilor Darnell, Mr. Burnham noted that if HDR recommends a detention pond in the area of Crestwood Estates, the City could put the detention pond on its long-range plan and require developers to reserve the area for the detention pond and participate in its development or the City could buy and/or condemn property and build the detention pond.

Following discussion concerning repairs to Crestwood Drive; arroyo bank stabilization at the north end of Crestwood Estates; erosion control on Hood Arroyo south of Main Street; and the status of HDR's Master Plan, Councilor Sandel expressed a desire to see action now instead of waiting

for completion of the Master Plan. He suggested that staff be directed to "develop a plan independent of the Master Plan for erosion control for the top 10 percent of problems" along the Hood Arroyo from Hill 'N Dale Drive north to 6200 Hogan Avenue. In response, Ms. Westerling stated that "putting a bandaid" on problem areas will make the City responsible for problems downstream. In addition, she stated that any improvements the City wants to make must be approved by the Army Corps of Engineers.

Following further discussion regarding expected recommendations from the Master Plan, Mr. Mayes stated that staff can commit to having at least an interim report on the Master Plan from HDR in August, 2014.

Addressing the Council, Chad Silseth, 6200 Hogan Avenue, stated that he had riprap installed along the bank of the arroyo on his property for protection against flooding but that it failed during the 2010 flood events that took out half of his back yard. He further stated that he has pleaded with City staff to do something to stabilize the arroyo bank at the northeast corner of his property and was told that the only way to fix it was by building a concrete channel. In closing, he contended that the Council should have required the developer of Crestwood Estates to install the required detention pond before lots were sold.

Discussion followed regarding flood control measures north of 6200 Hogan Avenue where the arroyo bulges to the east to move flood waters on straighter course and can be done as a systemic improvement to avoid any anti-donation issues. Councilor Fischer suggested that HDR inspect the area and present options for a temporary fix and Councilor Sandel suggested that staff be directed to engage HDR to bring back recommendations for a temporary remedy to the systemic issues associated with this part of Hood Arroyo. Mayor Roberts agreed so long as an option to do nothing is not excluded. Following brief discussion, it was the consensus of the Council to direct staff to engage with HDR to bring back recommendations for a temporary remedy to the systemic issues associated with Hood Arroyo north of 6200 Hogan Avenue so long as an option to do nothing is not excluded from consideration.

#### REPORT/DIRECTION TO STAFF ON FLOODING ISSUES ON LAS BRISAS TRAIL

Water/Wastewater Administrator Jeff Smaka requested authorization to expend \$40,000 from the 408 Fund to construct a culvert under Las Brisas Trail at Foothills Drive to alleviate flooding issues.

Following brief discussion, a motion was made by Councilor Sandel, seconded by Councilor Darnell to authorize expending \$40,000 from the 408 Fund to construct a culvert under Las Brisas Trail at Foothills Drive, and upon voice vote the motion carried unanimously.

#### REPORT/DIRECTION TO STAFF ON THE GLADE RUN RECREATIONAL AREA

Utilizing a PowerPoint presentation, Parks, Recreation and Cultural Affairs Director Cory Styron briefly reviewed the Recreation and Travel Management Plan prepared by the Bureau of Land Management ("BLM") as presented to the Council on October 4, 2011. Directing the Council's attention to the map provided separately, he pointed out the existing and proposed Recreation and Public Purpose leases. Continuing his presentation, he stated that following public input, the BLM recommended three proposals: 1) Alternative A (preferred by the BLM) encompassing 26,500 acres with trail designations for four-wheel drive and all-terrain vehicles, motorcycles, bicycles and horses; 2) Alternative B encompassing 31,800 acres with trail designations for four-wheel drive and all-terrain vehicles, motorcycles and horses; and 3) Alternative C encompassing 21,100 acres (6400 acres being closed to motorized vehicles) with trail designations for four-wheel drive and all-terrain vehicles, motorcycles, bicycles and horses. Pointing out that Alternative B does not allow for bicycle trails, he stated that staff has consistently supported Alternatives A and C because they provide a full-range of recreational opportunities.

Councilor Sandel initiated discussion regarding the Recreational Management Zone (RMZ) designations indicated on the map and how the Metropolitan Planning Organization's Major Thoroughfare Plan may be impacted by RMZ 1. Following discussion, staff was directed to determine if an objection should be filed with BLM to reserve the right to build a road through RMZ 1.

APPOINTMENTS TO THE ANIMAL SERVICES ADVISORY COMMITTEE

Mayor Roberts asked the Council's consideration of the appointment of Dana Park (term to August 2014) as a member of the Animal Services Advisory Committee and Shiela Noyes (term to August 2014) as an alternate member of the Animal Services Advisory Committee.

Thereupon, a motion was made by Councilor McCulloch, seconded by Councilor Darnell to confirm the appointment of Dana Park as a member of the Animal Services Advisory Committee and the appointment of Shiela Noyes as an alternate member of the Animal Services Advisory Committee, as recommended by the Mayor, and upon voice vote the motion carried unanimously.

CLOSED MEETING

A motion was made by Councilor Darnell, seconded by Councilor McCulloch to close the meeting to discuss request for proposals for a global positioning system field inventory pursuant to Section 10-15-1H(6) NMSA 1978. The roll was called with the following result:

Those voting aye: Dan Darnell  
Mary M. Fischer  
Gayla McCulloch  
Jason Sandel

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 10:42 a.m. with all members of the Council being present.

Following the closed meeting, during which meeting the matter discussed was limited only to that specified in the motion for closure, a motion was made by Councilor Darnell, seconded by Councilor McCulloch to open the meeting for further business. The roll was called with the following result:

Those voting aye: Dan Darnell  
Mary M. Fischer  
Gayla McCulloch  
Jason Sandel

Those voting nay: None

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

The open meeting was reconvened by the Mayor at 10:44 a.m. with all members of the Council being present.

REQUEST FOR PROPOSALS FOR GLOBAL POSITIONING SYSTEM FIELD INVENTORY

Purchasing Supervisor Kristi Benson announced that proposals for a global positioning system field inventory (Electric Utility) opened on November 5, 2013 with five offerors participating. She recommended that the contract be awarded to Chapel Mapping as the top evaluated firm based on the pricing schedule for services.

Thereupon, a motion was made by Councilor Darnell, seconded by Councilor McCulloch to award the proposal for a global positioning system field inventory to Chapel Mapping, as recommended by the Purchasing Supervisor, and upon voice vote the motion carried unanimously.

CLOSED MEETING

A motion was made by Councilor Darnell, seconded by Councilor McCulloch to close the meeting to discuss limited personnel matters (City Clerk, City Manager and City Attorney evaluations) pursuant to Section 10-15-1H(2) NMSA 1978. The roll was called with the following result:

Those voting aye: Dan Darnell  
Mary M. Fischer

Gayla McCulloch  
Jason Sandel

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 10:48 a.m. with all members of the Council being present.

Councilor Fischer left the meeting at 10:55 a.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 Darnell, seconded by Councilor McCulloch to open the meeting. The roll was called with the following result:

Those voting aye: Dan Darnell  
Gayla McCulloch  
Jason Sandel

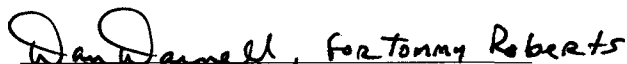
Those voting nay: None

Those absent: Mary M. Fischer

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

There being no further business to come before the Council, the meeting was adjourned at 11:44 a.m.

APPROVED this 11<sup>th</sup> day of March, 2014.

  
Tommy Roberts, Mayor

SEAL

ATTEST:

  
Dianne Smylie, City Clerk