Work Session of the City Council, City of Farmington, New Mexico, held Tuesday, February 19, 2013 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

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

CITY CLERK Dianne Fuhrman

DEPUTY CITY CLERK Melody Coyner

RE-BID/PURCHASE OF CHANDELIERS FOR CIVIC CENTER EXHIBIT HALL

Purchasing Supervisor Kristi Benson reported that bids for purchase of chandeliers for the Civic Center Exhibit Hall opened on February 12, 2013 with four bidders participating. She recommended that the bid be awarded to Border States Electric on its low bid after application of five percent in-state preference of \$16,184.

Thereupon, a motion was made by Councilor Darnell, seconded by Councilor McCulloch to award the bid for purchase of chandeliers for the Civic Center Exhibit Hall to Border States Electric on its low bid of \$16,184, as recommended by the Purchasing Supervisor, and upon voice vote the motion carried unanimously.

PRESENTATION/SAN JUAN WATERSHED GROUP/ANIMAS WATERSHED PARTNERSHIP

Water Resource Specialist Paul Montoia introduced Animas Watershed Partnership ("AWP") Coordinator Ann Oliver; San Juan Watershed Group ("SJWG") Planning and Outreach Coordinator Julia Campus; SJWG Coordinator David Tomko; and SJWG Steering Committee member Chuck Wanner.

Ms. Oliver thanked the City for their commitment and support of AWP and SJWG, noting that Mr. Montoia is the chair of the AWP Steering Committee and an active member of SJWG.

Utilizing a PowerPoint presentation, Ms. Oliver and Ms. Campus briefly reviewed the water quality issues of the Animas and San Juan Rivers. They also reviewed the AWP and SJWG goals and mission statements; noted that the two groups collaborate across state and tribal boundaries; explained the AWP and SJWG efforts including the Animas Watershed-Based Plan, Kiffen Creek project, and hosting a watershed forum; and announced upcoming projects including microbial source tracking, updating the Watershed-Based Plan, riparian stewards program, Florida River water quality improvement, Lightner Creek sediment monitoring and river "Day Camps" with the Southwest Conservation Corps. In closing, Ms. Oliver encouraged the City to continue to support AWP and SJWG.

Ms. Oliver responded to questions from Mayor Roberts regarding AWP's funding and budget.

Ms. Campus proudly announced that in August 2011, SJWG was able to hire its first full-time staff person due to a joint program between Americorps VISTA and the Office of Surface Mining that provides a three-year grant to place college graduates with non-profits to "build up" organizations.

In response to inquiries from Mayor Roberts, Public Works Director Jeff Smaka stated that the amount of fecal pollution in the city water supply impacts water treatment time and cost and that water quality improvements will not affect the requirements for the City's discharge permit.

Mr. Tomko and Ms. Oliver responded to inquiries from Councilor Fischer regarding the impacts of NAPI and low flows on water quality.

COUNCIL BUSINESS

San Juan Water Commission

Councilor Fischer contended that the San Juan Water Commission ("SJWC") took action on the settlement agreement with the New Mexico State Engineer regarding Application No. 4818 and related litigation outside of a public meeting and in violation of the Open Meetings Act ("OMA") and asked City Attorney Jay Burnham what constitutes a "rolling quorum". In response, Mr. Burnham stated that a rolling quorum of a public body subject to OMA occurs when the body takes action by accumulating votes to approve something outside of a public meeting. He noted, however, that OMA does not prevent members of the body from receiving background information about a matter that will be coming before them for action in a public meeting.

Councilor Fischer commended Mr. Burnham and the Cy Cooper, the City's representative to SJWC, for abstaining in the vote to approve the settlement agreement.

Responding to concerns expressed by Councilor Fischer, Mr. Burnham agreed that SJWC's refusal to release recordings of their meetings is not the "best practice" and stated that it is his opinion that if a recording is made, it should be preserved.

Responding to Mayor Roberts, Mr. Burnham stated that, in spite of the fact that the Council and the City's representative to SJWC have an understanding that major items will be discussed with the Council prior to a vote being taken, once a representative is appointed as a voting member of a commission, he or she can vote however they think best, regardless of the feelings of the council or commission they represent.

Distress Sale License

Councilor McCulloch stated that she received a complaint from a business owner who was contacted by the City's Business Registration office about the need for a Distress Sale License, at a minimum cost of \$50, in order to go out of business. She contended that the ordinance is punitive in that it requires an added expense on a business that is obviously struggling and asked if the license fee could be waived administratively if the distress sale is determined to be legitimate and not being used as a marketing tool. In response, City Attorney Jay Burnham stated that the ordinance does not allow for the determination of whether a distress sale is legitimate. Following brief discussion, City Clerk Dianne Fuhrman stated that staff will better explain to business owners how to advertise their sales in order to avoid triggering the requirements of the Distress Sale ordinance.

San Juan Generating Station

Councilor Sandel expressed concern with the recent announcement of an agreement that will result in the closure of Units 2 and 3 at Public Service Company of New Mexico's ("PNM") San Juan Generating Station and asked that the Council be briefed on the agreement by the New Mexico Environment Department, Environmental Protection Agency and Public Service Company of New Mexico and that, following the briefing, the Council consider adopting a resolution expressing support of or opposition to the agreement. He noted that the agreement allows for a sum of money to be given to San Juan Economic Development Service ("SJEDS") and questioned SJEDS' legal authority to act on behalf of the City and what they will do with the money. In response, Mayor Roberts asked City Manager Rob Mayes to make arrangements for a briefing at the March 5, 2013 City Council Work Session. City Attorney Jay Burnham stated that the agreement may have named SJEDS in error, not realizing that SJEDS has evolved into Four Corners Economic Development ("4CED") Service. Following brief discussion, Mayor Roberts directed Mr. Burnham and Mr. Mayes to investigate the SJEDS versus 4CED issue and their authority to act on behalf of the City and report their findings to the Council.

Following discussion, Mayor Roberts stated that he does not know if anything productive can be achieved with a resolution either for or against the agreement.

Following further discussion, Councilor Fischer asked for a "ballpark figure" on the anticipated number of lost jobs at both San Juan Generating Station and Four Corners Power Plant.

Metropolitan Redevelopment Area Plan/Civic Center

Reminding the Council that at the February 12, 2013 regular City Council meeting he suggested that the Council review the Metropolitan Redevelopment Area ("MRA") plan to determine whether the construction of a new convention center is the number one project identified, Mayor Roberts reported that the MRA plan talks about the existing Civic Center as being a critical component of Civic Center District and identifies as a project the improvement of the Civic Center and possible expansion in conjunction with a hotel. However, he noted that the plan does mention the construction of a new convention center as a possible future public project in the list of public investment priorities.

CLOSED MEETING

A motion was made by Councilor Darnell, seconded by Councilor McCulloch to close the meeting to receive advice from the City's legal counsel regarding a matter of pending litigation (San Juan Water Commission v. D'Antonio). The roll was called with the following result:

Those voting aye:

Dan Darnell Mary M. Fischer Gayla McCulloch Jason Sandel

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

The Mayor convened the closed meeting at 10:19 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 McCulloch, seconded by Councilor Darnell to open the meeting. The roll was called with the following result:

Those voting aye:

Dan Darnell Mary M. Fischer Gayla McCulloch Jason Sandel

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 11:18 a.m. with all members of the Council being present and there being no further business to come before the Council, the meeting was adjourned at 11:19 a.m.

APPROVED this 12th day of March, 2013.

	Tommy Roberts, Mayor
SEAL	
ATTEST:	
Dianne Fuhrman, City Clerk	