

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 26, 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:

MAYOR	Tommy Roberts
COUNCILORS	Dan Darnell Mary M. Fischer Gayla McCulloch Jason Sandel

constituting all the members of said Governing Body.

Also present were:

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 Assistant Pastor Ray España of United Pentecostal Church.

Councilor McCulloch 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 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 February 12, 2013 and the minutes of the Regular Work Session of the City Council held February 5, 2013.

*BID: The Purchasing Officer recommended that the bid for purchase of power transformers (Electric Utility) be awarded to HD Supply Utility on its low bid after application of five percent in-state preference of \$1,164,335, and that the bids received from LNAEL and Niagra Transformer Corp. be rejected for being non-responsive. Bids opened February 8, 2013 with five bidders participating.

*FOURTH AMENDMENT TO INTERGOVERNMENTAL AGREEMENT FOR DETENTION CENTER SERVICES between the City and San Juan County for the purpose of establishing the day rate of \$70.13 for City prisoners (an increase of \$2.34 per day) (term July 1, 2013 thru June 30, 2014).

*RECEIPT OF GRANT FUNDS FROM THE DEPARTMENT OF HOMELAND SECURITY & EMERGENCY MANAGEMENT (Sub-Grant No. HM-HMP-0293-12-01-00 FFD) in the amount of \$7,355 for travel to the FDIC Conference in Indianapolis, Indiana April 21-28, 2013 (City's match is \$1,838.75).

*WARRANTS PAYABLE for the time period of February 10, 2013 through February 23, 2013, for current and prior years, in the amount of \$7,241,150.98.

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.

RECOMMENDATIONS FROM THE PLANNING AND ZONING COMMISSION:

CONSENT AGENDA: Community Development Director Mary Holton requested that the Planning and Zoning Commission recommendations marked with an asterisk () be placed on the Planning and Zoning Commission Consent Agenda and voted on by one motion. She asked that if the items proposed did not

meet with approval of all Councilors or if a citizen so requested, it 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, approving Petition No. SUP 13-01 from Dirt Bandit Sweeping, Inc., represented by Phil McKinney, requesting a Special Use Permit to operate an asphalt recycling operation at 110 E. Corcorran Avenue in the IND, Industrial, District, subject to:
 - (a) the special use permit being granted for a period of two years from the date of approval in order to allow the petitioner to relocate the asphalt recycler;
 - (b) additional screening or other devices to mitigate dust and particulate matter being installed around the hopper of the recycler to make the operation compliant with the performance standards of Section 5.11 of the Unified Development Code and that a conveyor belt not be used; and
 - (c) sound mitigation being installed to assure that the operation is compliant with the maximum sound levels of Section 12-5 of City Code.

- * (2) Adoption of the recommendation from the Planning and Zoning Commission, as contained within the Community Development Department Petition Report, approving Petition No. PP 12-04 from Joe Kozimor, represented by Robert Echols, requesting preliminary plan approval for Little Creek Subdivision, Phase II, a 52-lot subdivision on 18.96 acres located along Piedras Street, northwest of the Martin Mesa Arroyo, subject to technical and corrective changes required by the Unified Development Code, and with variances to allow:
 - (a) a 70-foot offset between the intersection of Snowdrift Lane and Peregrine Drive and the intersection of Peregrine Drive and Peregrine Circle;
 - (b) a 33-foot right-of-way on the southern portion of Peregrine Circle; and
 - (c) 4-foot sidewalks along Piedras Street with additional width every 200 feet according to the Americans with Disabilities Act.

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

COUNCIL BUSINESS

Recognition of Boy Scout Troop 179

Mayor Roberts asked the members of Boy Scout Troop 179, who were present in the audience for the purpose of attaining their citizenship merit badge, to introduce themselves.

Email Account for Councilor Fischer

Announcing that it was brought to her attention that an email account was assigned to her without her knowledge or permission, Councilor Fischer reported that she sent a memorandum to City Manager Rob Mayes asking that it be removed. Noting that this has put IT Director Rich Friedman in a bad position because he cannot remove the account until Mr. Mayes directs him to do so, Councilor Fischer reiterated that she does not want the email account and asked Assistant City Manager Bob Campbell to remind Mr. Mayes that she does not work for him and that he has no authority to make decisions on her behalf.

In response, Mayor Roberts reported that he directed Mr. Mayes to set-up the email account and announced that he has no intention of removing it. He advised Councilor Fischer that she does not have to use the account, noting that Mr. Mayes has agreed to provide her with hard copies of all the emails that are sent to her. He contended that if Councilor Fischer is sincerely interested in hearing from her constituents that she will expand her lines of communication to include email.

Councilor Fischer stated that she does not believe that it is appropriate for the Mayor to mandate how she communicates with her

constituents and she questioned the Mayor's authority to direct such action without her consent. Announcing that her constituents have expressed their support to her, she noted that she also received a telephone call in support from an Albuquerque resident who heard about it on KOB-TV. She stated that if the Mayor wants to continue this debate, she will approach a legislator and ask them to have the Attorney General make a ruling on his authority to dictate that she have an email account.

Mayor Roberts explained that the email account was created because Councilor Fischer routinely complains that she does not receive the same information as the other Councilors. He argued that the account will assure that she is provided all of the information and he welcomed her to challenge his authority.

Councilor Fischer explained that her primary complaint stems around two requests for information that she submitted through the Inspection of Public Records Act. She claims that the Mayor and City Manager failed to provide her the information within the time constraints of the law. In response, Mayor Roberts explained that the requests for information were not initially deemed to be subject to the Inspection of Public Records Act until she followed-up and placed it in that context. Providing further explanation on what was requested of the Mayor and City Manager, Councilor Fischer stated that Mayor Roberts announced in a public meeting that the City Manager had scheduled employee meetings prior to the pay plan being adopted and that employees were given the opportunity to express their concerns. As the result of several employees disputing the statement, she made a request for documentation on when and where the meetings took place and who attended. She claimed that what she eventually received was a "fluff accounting" from Mr. Mayes indicating that such meetings took place in 2011. Furthermore, Councilor Fischer argued that she should have been provided the information within three days of it being requested and noted that members of the public have expressed concern to her that they are not being provided all of the information that they are entitled to. Referring to an article that was published in Monday's edition of the *Daily Times* claiming that staff is refusing to release certain information related to the recent firing of a police officer, she questioned the basis for staff's decision and asked the city attorney to provide her with the statute upon which the denial is being based. In closing, she stated that she has never heard of a Mayor who takes such a heavy hand with a member of the Council.

Councilor Sandel asked for consensus from the Council to direct the city attorney to draft a memorandum that explains the Mayor's level of authority with regard to directing a staff member to do something that is contrary to the desires of a Councilor. There were no objections.

Federal Sequestering

Councilor Sandel asked staff to gather financial information on the direct and indirect impacts that Federal sequestering will have on our community, particularly with regard to the number of federal employees who may lose their job or experience furloughs. In response, Assistant City Manager Bob Campbell reported that Airport Manager Todd Gressick has indicated that the air traffic control tower at the Four Corners Regional Airport will not be affected, but assured him that he will determine if there could be other unintended consequences.

There being no further business to come before the Council, the meeting was adjourned at 7:19 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 12th day of March, 2013.

Entered in the permanent record book this 13th day of March, 2013.

Tommy Roberts, Mayor

SEAL

ATTEST:

Dianne Fuhrman, City Clerk