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, May 10, 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 G. Rodgers Sean E. Sharer Gayla A. McCulloch Nate Duckett

constituting all the members of said Governing Body.

Also present were:

ASSISTANT CITY MANAGER	Julie Baird
CITY ATTORNEY	Jennifer Breakell
CITY CLERK	Dianne Smylie

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

MOMENT OF SILENCE

Mayor Roberts asked for a moment of silence in remembrance of Ashlynne Mike, the 11-year old girl who was kidnapped and murdered on the Navajo Reservation last week.

INVOCATION: The invocation was offered by Men's Ministry Pastor Denver DeWees of Crossroads Community Church.

Dr. John McNeill 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 April 26, 2016 and minutes of the Regular Work Session of the City Council held April 19, 2016.

*BID: The Acting Procurement Officer recommended that the bid for construction services for the Municipal Operations Center expansion project (Electric) be awarded to B & M Cillessen on its low bid meeting specifications after application of five percent in-state preference of $1,853,000. Bids opened April 27, 2016 with four bidders participating.

*BID: The Acting Procurement Officer recommended that the bid for Phase I of the 20th Street Sidewalks project (Public Works) be awarded to H.O. Construction on its low bid meeting specifications of $262,609. Bids opened April 12, 2016 with four bidders participating.

*BID: The Acting Procurement Officer recommended that the bid for Phase II of the 20th Street Sidewalks project (Public Works) be awarded to H.O. Construction on its low bid meeting specifications of $214,000. Bids opened April 12, 2016 with four bidders participating.

*BID: The Acting Procurement Officer recommended that the bid for purchase of trucking services (Public Works) be awarded to Envirotech, Inc. ($83,687.50), Herrera Trucking LLC ($90,000) and GBL Trucking LLC ($90,000) as the lowest and best bidders per category after application of the five percent in-state

and Veterans preferences. Bids opened May 3, 2016 with eight bidders participating.

*QUITCLAIM DEED for conveyance by the City of a 1.00 acre tract of land located in Section 12, Township 29 North, Range 14 West not currently being used by the City to Westerman Realty Interests, LLC.

*QUITCLAIM DEED for conveyance by Sand and Spring, LLC of Lot 6540 of the Bella Vita Estates Subdivision to the City for use as the La Bella Vita Detention Pond.

*ADOPTION OF RESOLUTION NO. 2016-1587 requesting a time extension from the New Mexico Department of Transportation for the Foothills Drive Enhancement project (Phase I).

*LEASE AGREEMENT MODIFICATION between the City and Raymond L. Kysar, Jr. and Patsy Sue Kysar for lease of Lots 6 through 9 of Block Two of the Arrington Addition for public parking purposes (term to April 30, 2019).

*PUBLIC CELEBRATION PERMIT APPLICATION AND WAIVER to the 300-Foot Separation Requirement from a Church from Wines of the San Juan (License No. 6085) for the Four Corners Federated Republican Women's social and membership drive to be held on June 23, 2016 at Piñon Hills Community Church.

*PUBLIC CELEBRATION PERMIT APPLICATION AND WAIVER to the 300-Foot Separation Requirement from a Church from Wines of the San Juan (License No. 6085) for a ribbon cutting and business social to be held on May 24, 2016 at 203 West Main Street.

*WARRANTS PAYABLE for the time period of April 24, 2016 through May 7, 2016, for current and prior years, in the amount of $5,409,427.93.

Councilor Duckett asked that the Quitclaim Deed between the City and Sand and Spring, LLC be removed from the Consent Agenda.

Thereupon, a motion was made by Councilor Rodgers, seconded by Councilor Duckett to approve the Consent Agenda, with the exception of the Quitclaim Deed between the City and Sand and Spring, LLC, and upon voice vote the motion carried unanimously.

NATIONAL PUBLIC WORKS WEEK PROCLAMATION

Mayor Roberts presented Public Works Director David Sypher with a Proclamation declaring May 15 through 21, 2016 as "National Public Works Week."

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. ZC 16-03 from Carolyn Crowley requesting a zone change from the RA, Rural Agricultural, District to the OP, Office Professional, District for 1.7 acres of property located at 4951 North Butler Avenue.

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.

ENTRYWAY MONUMENTS/APPROVAL OF LOCATIONS

Utilizing a Powerpoint presentation, General Services Director Eddie Smylie reported that the Council approved the design of the entryway monuments on September 8, 2015 and stated that staff is now seeking approval to erect the monuments at the four entry points located on Highway 64 West, Highway 64 East, Highway 516 and at the intersection of Highway 371 and Mission Avenue. He assured the Mayor and Council that the proposed sites have been fully vetted based upon driver visibility, intersections with multiple roadways and who owns the land. He also noted that the bid for construction of the monuments will be issued once the property owners have been contacted and the New Mexico Department of Transportation has given their approval of the selected sites.

Following further discussion and consideration, a motion was made by Councilor Rodgers, seconded by Councilor Duckett to approve the four final locations for construction of the Entryway Monuments, as proposed, and upon voice vote the motion carried unanimously.

REAPPOINTMENTS TO THE COMMUNITY RELATIONS COMMISSION

Mayor Roberts asked the Council's consideration of the reappointments of Cathryn Abeyta, Melissa Meechan, Mark Marquez and Charles Kromer (terms to April 2018) to the Community Relations Commission.

Thereupon, a motion was made by Councilor McCulloch, seconded by Councilor Rodgers to confirm the reappointments of Cathryn Abeyta, Melissa Meechan, Mark Marquez and Charles Kromer to the Community Relations Commission, as recommended by the Mayor, and upon voice vote the motion carried unanimously.

COUNCIL BUSINESS

Reconsideration of Petition No. ZC 16-02/San Juan Regional Medical Center

(1) Denial of Petition No. ZC 16-02 from San Juan Regional Medical Center requesting a zone change from the OP, Office Professional, District and MU, Mixed-Use, District to the PD, Planned Development, District for 12.32 acres of property located at 804F South Drake Avenue and 710 South Lake Street, subject to:

(a) fencing being installed along West Murray Drive (similar to that of Navajo Preparatory School's fencing along Apache Street); and
(b) an agreement being finalized regarding the landscape screening with the neighboring businesses surrounding the property.

In accordance with Section IV.E. of the Governing Body Rules of Procedure, Councilor Rodgers made a motion to reconsider the action taken by the Council at the April 12, 2016 regular City Council meeting to deny Petition No. ZC 16-02 concerning a request from San Juan Regional Medical Center ("SJRMC") to rezone property located at 804F South Drake Avenue and 710 South Lake Street. Councilor Duckett seconded the motion. The roll was called with the following result:

Those voting aye:	Linda G. Rodgers Sean E. Sharer Nate Duckett
Those voting nay:	Gayla A. McCulloch

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

Mayor Roberts announced that the reconsideration of the subject petition is a quasi-judicial proceeding which requires the decision to be based upon the evidence that was presented at the April 12, 2016 regular City Council meeting and, as result, he explained that no new testimony or commentary will be allowed. However, he noted that clarifying questions from the Council are permitted. There was no response to Mayor's call for questions from the Council.

Thereupon, a motion was made by Councilor Rodgers, seconded by Councilor Duckett to overturn the denial of Petition No. ZC 16-02 from San Juan Regional Medical Center and to grant a zone change from the OP, Office Professional, District and MU, Mixed-Use, District to the PD, Planned Development, District for 12.32 acres of property located at 804F South Drake Avenue and 710 South Lake Street, subject to conditions (a) and (b).

Mayor Roberts called for discussion from the Council.

Councilor Rodgers explained that she has requested reconsideration of the subject petition because she has thoroughly reviewed the evidence that was presented at the April 12, 2016 regular City Council meeting, inspected the subject property and surrounding area and has determined that the land use proposed in the Planned Development is 1) consistent with the surrounding property uses and zone designations; 2) is ancillary to SJRMCs operation; and 3) is not located within the boundary of the Metropolitan Redevelopment Area ("MRA"). Furthermore, she stated that she does not believe that the proposed solar farm will have an adverse effect on the advancement of the MRA vision.

There being no further discussion, the Mayor called for the vote upon the motion to overturn the denial of Petition No. ZC 16-02 from San Juan Regional Medical Center and to grant a zone change from the OP, Office Professional, District and MU, Mixed-Use, District to the PD, Planned Development, District for 12.32 acres of property located at 804F South Drake Avenue and 710 South Lake Street, subject to conditions (a) and (b). The roll was called with the following result:

Those voting aye:	Linda G. Rodgers Sean E. Sharer Nate Duckett
Those voting nay:	Gayla A. McCulloch

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

The Mayor asked each Councilor to explain the reasons for their vote.

Councilor Duckett pointed out that his position has not changed and stated that he explained his reasons at the April 12, 2016 regular meeting. However, he restated that he believes that the land use is consistent with the surrounding area.

Councilor McCulloch explained that she is opposed to the subject petition because she does not believe that the PD zone designation is the right decision for the Animas District of the MRA since the City has been working to redevelop this area for more than 20 years. She reiterated that SJRMC owns 15.5 acres of land that is located less than one block away from the subject property and pointed out that there is also a City-owned parcel in that same area and that both parcels are already zoned industrial and are better suited for a solar project. Furthermore, Councilor McCulloch took exception to the article that was published in yesterday's edition of the *Daily Times* inferring that the Council denied the petition because they are against solar projects.

Councilor Rodgers restated that she has determined that the land use proposed in the Planned Development is 1) consistent with the surrounding property uses and zone designations; 2) is ancillary to SJRMCs operation; and 3) is not located within the boundary of the MRA.

Councilor Sharer announced that he reversed his decision on the matter because he believes that SJRMC has the right to develop their property as they see fit and contended that they have served as good neighbors to the surrounding property owners.

With regard to the article published in the *Daily Times,* Mayor Roberts took exception to the comments made by Mariel Nanasi, Executive Director of New Energy Economy, a Santa Fe-based advocacy group for renewable energy, which stated, "Farmington's oil and gas-focused government has a history of obstructing solar projects, even though Northern New Mexico has plentiful sunshine." He stated that he has been involved in local government for 14 plus years and cannot recall a single instance where City government obstructed a solar project and he

challenged Ms. Nanasi to cite an example where this occurred. He acknowledged that the City Council is an advocate for the extractive industries, but stated that he believes that most residents of Farmington do not share the extreme perspectives and world views of the New Energy Economy whose mission is to immediately eliminate the use of all fossil fuels. He argued that a more rationale and reasonable perspective is to embrace the short- and long-term use of all power sources including coal, oil, natural gas, solar, wind and nuclear. He stated that he has seen New Energy Economy employ this strategy in the past when it attempted to convince the people of New Mexico that Public Service Company of New Mexico was doubling-down on coal when, in fact, their plan for San Juan Generating Station will result in a 30 to 39 percent reduction in the reliance on coal. He contended that it is important to contest extreme activism because he believes that it is an attempt to mislead the public. He also pointed out that the Farmington City Council has embraced the concept of a community solar project and noted that the Electric Utility Department has also been considering certain solar projects, which contradicts the falsehoods of the newspaper article.

CITY ATTORNEY BUSINESS

City Attorney Jennifer Breakell presented for discussion a proposed ordinance pertaining to a loan from the New Mexico Environment Department for improvements to the City's wastewater treatment facility. The title of such proposed ordinance being:

AN ORDINANCE AMENDING ORDINANCE NO. 2015-1274 AND THE LOAN AGREEMENT AND NOTE AUTHORIZED THEREBY, ALL RELATING TO THE WASTEWATER CONSTRUCTION LOAN FROM THE NEW MEXICO ENVIRONMENT DEPARTMENT TO THE CITY OF FARMINGTON FOR THE PURPOSE OF FINANCING THE COST OF BETTERING AND IMPROVING THE CITY'S SANITARY SEWER SYSTEM BY EXTENDING, ENLARGING, BETTERING, REPAIRING AND OTHERWISE IMPROVING THE CITY'S EXISTING WASTEWATER TREATMENT FACILITY; AND OTHERWISE RELATING TO SUCH LOAN, LOAN AGREEMENT, NOTE, PROJECT AND THIS ORDINANCE.

There being no discussion, Ms. Breakell announced that the proposed ordinance will be presented for final action at the May 24, 2016 regular City Council meeting.

Ms. Breakell presented for discussion a proposed ordinance dealing with regular meetings of the Animal Services Advisory Commission. The title of such proposed ordinance being:

AN ORDINANCE AMENDING CHAPTER 6 OF THE CITY CODE DEALING WITH MEETINGS OF THE ANIMAL SERVICES ADVISORY COMMISSION.

There being no discussion, Ms. Breakell announced that the proposed ordinance will be presented for final action at the May 24, 2016 regular City Council meeting.

Ms. Breakell also presented a proposed ordinance dealing with recreational swimming at Lake Farmington 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 Compilation. She recommended the ordinance, if adopted, be given the number 2016-1285. The title of the ordinance being:

AN ORDINANCE AMENDING CHAPTER 20 OF THE CITY CODE DEALING WITH LAKE FARMINGTON.

After consideration of Ordinance No. 2016-1285, a motion was made by Councilor Duckett, seconded by Councilor McCulloch that said ordinance be passed and adopted as presented. The roll was called with the following result:

Those voting aye:	Linda G. Rodgers Sean E. Sharer 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. 2016-1285 was duly passed and adopted.

Lastly, Ms. Breakell presented a proposed ordinance dealing with recreational off-highway motor vehicles ("OHVs") 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 Compilation. She recommended the ordinance, if adopted, be given the number 2016-1286. The title of the ordinance being:

AN ORDINANCE ENACTING A NEW CHAPTER 25, ARTICLE 3, DIVISION 5 OF THE CITY CODE REGARDING OFF-HIGHWAY MOTOR VEHICLES.

Ms. Breakell directed the Council's attention to two handouts; one being an email from Jeremiah Ritchie who is the Deputy Chief of Staff for Governor Susana Martinez and the other being recommendations from the Mayor proposing the rewording of the first and fourth recital paragraphs. She also recommended that Section 12-3-138 of the proposed ordinance be amended to state that OHVs traveling on a paved street shall travel at a speed that complies with the Off-Highway Motor Vehicle Act.

With regard to the email from Mr. Ritchie, Councilor Duckett stated that he is favorable to adding the two proposed recital paragraphs, but announced that he is not favorable to amending paragraph C which would limit the use of OHVs on paved streets to gaining direct access to private or public property or accessing incidental services such as fuel, food, etc. because this provision will be impossible for the Police Department to enforce.

Councilor McCulloch reported that she received a telephone call from Butch Matthews, Commissioner for the New Mexico State Highway and Transportation Department, who indicated to her that he is supportive of the amendments being proposed by the Governor's office. In response to inquiry from Councilor McCulloch, Police Chief Steve Hebbe confirmed that it will be more difficult for officers to ascertain whether a driver was traveling on the roadway for an ancillary service versus heading directly to a trailhead. However, he stated that if it is the intent of the Council to allow drivers to access ancillary services, he prefers the verbiage currently written in the ordinance versus that proposed by Mr. Ritchie.

Daryl Dunlap addressed the Council as the owner of Dunlap Motor Sports and as a board member for the Off-Highway Vehicle Alliance and the Convention & Visitors Bureau and spoke in favor of the comments made by Councilor Duckett and Chief Hebbe.

With regard to the restrictive verbiage suggested by Mr. Ritchie, Mayor Roberts stated that he would prefer to allow OHV travel only for the purpose of getting to and from the trailheads, but understands that it is possible to be too restrictive. He pointed out that the subject ordinance, if adopted, can be amended at a later date if OHV travel becomes a nuisance.

Councilor Duckett announced that he has received numerous telephone calls and emails concerning the proposed ordinance and stated that he wants to assure his constituents that he will be proposing a partnership between the City, San Juan County and the Bureau of Land Management to establish accesses to trailheads from City streets and to document those trailheads on a map to prevent unauthorized travel on private property.

There being no further discussion, a motion was made by Councilor Duckett, seconded by Councilor Rodgers to pass and adopt Ordinance No. 2016-1286 subject to the addition of the two recital paragraphs recommended by the Governor's office, the amendment of the two recital paragraphs as proposed by Mayor Roberts, and the amendment of Section 12-3-138 concerning speed limits as suggested by the City Attorney. The roll was called with the following result:

Those voting aye:	Linda G. Rodgers Sean E. Sharer 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. 2016-1286 was duly passed and adopted.

DISCUSSION OF AND ACTION ON THE ITEM REMOVED FROM THE CONSENT AGENDA:

(1) Quitclaim Deed for conveyance by Sand and Spring, LLC of Lot 6540 of the Bella Vita Estates Subdivision to the City for use as the La Bella Vita Detention Pond.

Councilor Duckett announced that he requested that this item be removed from the Consent Agenda for the purpose of granting Public Works Director David Sypher an opportunity to explain the reasons why the detention pond is necessary, to review the proposed improvements, provide a timeline on when the project will be complete and identify how the project will be funded.

Following the presentation, a motion was made by Councilor Duckett, seconded by Councilor Sharer to approve the Quitclaim Deed for conveyance by Sand and Spring, LLC to the City of Lot 6540 of the Bella Vita Estates Subdivision for the purpose of construction the La Bella Vita Detention Pond, and upon voice vote the motion carried unanimously.

BUSINESS FROM THE FLOOR

Solar Rights Legislation

David Fosdeck, 209 N. Locke Avenue, provided the Council with a copy of a brochure published by the Energy Conservation and Management Division regarding solar energy and individual rights. He advised the Council that the State of New Mexico has adopted the Solar Rights Act of 1978 which states that solar energy is a property right and that New Mexicans have the authority to use solar energy without interference from county or municipal code, covenant or deed restriction. In response, Mayor Roberts assured him that staff is aware of the law and City Attorney Jennifer Breakell pointed out that there is an internal conflict within the statute that will require judicial interpretation.

CLOSED MEETING

A motion was made by Councilor Duckett, seconded by Councilor Rodgers to close the meeting to discuss request for qualification-based proposals for professional engineering services for the Villa View detention ponds, pursuant to Section 10-15-1H(6) NMSA 1978. The roll was called with the following result:

Those voting aye:	Linda G. Rodgers Sean E. Sharer 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 7:00 p.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 Rodgers, seconded by Councilor McCulloch to open the meeting for further business, and upon voice vote the motion carried unanimously.

The open meeting was reconvened by the Mayor at 7:10 p.m. with all members of the Council being present.

QUALIFICATION-BASED PROPOSAL/ENGINEERING SERVICES FOR THE VILLA VIEW DETENTION PONDS

Acting Procurement Officer Kristi Benson reported that proposals for professional engineering services for the Villa View Detention Ponds (Public Works) opened on February 2, 2016 with four offerors participating. She recommended that the proposal be awarded to Bohannan-Huston, Inc. as the top evaluated firm after application of the five percent in-state preference.

Thereupon, a motion was made by Councilor Duckett, seconded by Councilor Rodgers to award the proposal for professional engineering services for the Villa View Detention Ponds to Bohannan-Huston, Inc., as recommended by the Acting Procurement Officer, and upon voice vote the motion carried unanimously.

There being no further business to come before the Council, the meeting was adjourned at 7:11 p.m.

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

Approved this 24th day of May, 2016.

Entered in the permanent record book this 25th day of May, 2016.

Tommy Roberts, Mayor

SEAL

ATTEST:

Dianne Smylie, City Clerk