



CITY COUNCIL MEETING NOTICE AND AGENDA

Notice is given that the City Council of the City of Farmington will hold a regular meeting on **Tuesday, June 6, 2023** at City Hall 160 South Main, Farmington, Utah. A work session will be held at 6:00 pm in Conference Room 3 followed by the regular session at 7:00 pm in the Council Chambers. The link to listen to the regular meeting live and to comment electronically can be found on the Farmington City website at www.farmington.utah.gov. If you wish to email a comment for any of the listed public hearings, you may do so at dcarlile@farmington.utah.gov

WORK SESSION – 6:00 p.m.

- Lindquist Mortuary discussion
- Consolidated Fee Schedule(CFS) discussion
- Discussion of regular session items upon request

REGULAR SESSION – 7:00 p.m.

CALL TO ORDER:

- Invocation – Councilmember Alex Leeman
- Pledge of Allegiance – Councilmember Roger Child

PRESENTATION:

- Deaglan Blackburn, Spotlight
- Introduction of New Police Officer, Harrison Chen

PUBLIC HEARING:

- Surplus of 0.094 acres of property at approximately 1160 West Park Lane [3](#)
- Whether to exercise condemnation authority for Parcel 08-283-0002, located at approximately 901 N. Shepard Creek Parkway for public use. [14](#)

BUSINESS:

- Landmark Design Master Plan discussion [19](#)
- Open Sky Drone Light Show Presentation [21](#)
- Resolution thanking Representative Chris Stewart and his family for their service [23](#)
- Resolution to consider boundary adjustment [26](#)
- Utility billing procedure [33](#)
- Employee appeals amendments [40](#)

SUMMARY ACTION:

- All West Franchise Agreement for Cable Television Services [52](#)
- Approval of Minutes for 5/16/23 [62](#)

GOVERNING BODY REPORTS:

- City Manager Report
 - Consolidated Fee Schedule
 - Notice of Conditional Contract Award under RFP # 032423, Investment Advisor Services [80](#)
- Mayor Anderson & City Council Reports

ADJOURN

CLOSED SESSION – Minute motion adjourning to closed session, for reasons permitted by law.

In compliance with the Americans with Disabilities Act, individuals needing special accommodations due to a disability, please contact DeAnn Carlile, City Recorder at 801-939-9206, at least 24 hours in advance of the meeting.

CERTIFICATE OF POSTING I, the City Recorder of Farmington City, certify that copies of this agenda were posted at Farmington City Hall, Farmington City website www.farmington.utah.gov, and the Utah Public Notice website at www.utah.gov/pmn, on June 1, 2023

CITY COUNCIL AGENDA

For Council Meeting:
June 6, 2023

PUBLIC HEARING: **Surplus of 0.094 acres of property at approximately 1160 West Park Lane.**

GENERAL INFORMATION:

See staff report prepared by Lyle Gibson Assistant Community Development Director



FARMINGTON CITY

BRETT ANDERSON
MAYOR

ROGER CHILD
SCOTT ISAACSON
MELISSA LAYTON
ALEX LEEMAN
AMY SHUMWAY
CITY COUNCIL

BRIGHAM MELLOR
CITY MANAGER

City Council Staff Report

To: Honorable Mayor and City Council

From: Lyle Gibson, Assistant Community Development Director

Date: October 18, 2022

SUBJECT: **Surplus of 0.094 acres of property at approximately 1160 West Park Lane.**

RECOMMENDATION

1. Move that the City Council approve sale of .02 acres of property as outlined in the included quit-claim deed.

Findings

1. The sale of the property will not restrict or impact the city's anticipated or potential future use of remaining city property.
2. The sale of the property will clean up property in relation to the Park Lane right of way and is consistent with the planned and approved development and platting at this location.
3. The proposed offer complies with the provisions of FCC 3-6-110 in that it serves the interest of city residents and produces a fair return.

Background Information

The subject property was acquired by Farmington City in anticipation of a new road that would head north of Park Lane. Since its acquisition, design and location for Innovator Drive have been refined and the final location shifted to the east making the small knuckle which is the subject property unnecessary and unusable for the purposes of Farmington City.

While the property was originally acquired as part of a larger purchase of the current parcel 08-072-0023, it is the only portion of that parcel which is not needed for Park Lane or Innovator Drive.

Staff is proposing that the 0.094 acres of property be given to the adjacent owner, E&H Land LLP, at no cost as it makes the most sense that it be part of their property as part of anticipated development. The rationale for deeding the property to E&H Land LLP at no cost is due to the arrangements in motion that the land needed for the right of way for Maker Way and Innovator Drive that runs through their property will be dedicated to Farmington City at no cost to the city.

This larger street dedication represents 4.706 acres of property, a much larger area than the 0.094 acres the city would deed back to E & H Land LLP. The Planning Commission approved a final plat for the E & H Land Subdivision in September of 2022 which when recorded will dedicate the right of way for Innovator and Maker, this plat also creates the lot on which the subject property will be included that is anticipated to house a Maverik gas station which has previously received initial approvals from the City Council.

The subject property is depicted below (approximation of property highlighted in red).



An appraisal has not been completed for the subject property based on the recommended direction of giving the property effectively in exchange for the other right of way dedication.

The subject property is not considered a significant parcel of real property as it is not 1 acre or more in size and does not have a value exceeding \$100,000. As such it is not necessary to hold a public hearing, though a hearing has been noticed to surplus the property and likewise the consideration of the sale should be done in a public meeting.

Applicable Ordinance:

3-6-110: DISPOSAL OF SURPLUS PROPERTY:

A. Authority: The city shall have the authority to sell, lease, convey and dispose of real and personal property for the benefit of the city as provided by Utah Code Annotated section 10-8-2, as amended.

B. Requirements: Before the city may dispose of a significant parcel of real property, the city shall:

1. Provide reasonable notice of the proposed disposition at least fourteen (14) days before a scheduled meeting at which the city will hear public comment; and
2. Hold a meeting at which the city council accepts public comment on the proposed disposition.

C. Conditions, Limitations: All disposal, leases or subleases of such property of the city other than a significant parcel of real property, shall be made, as nearly as possible, under the same conditions and limitations as required by city ordinances and state law for the purchase or sale of property.

D. Methods of Sale: The city council may also authorize at its discretion and under such terms and conditions as it may deem desirable, fair and appropriate, considering intended use, property tax value and the interests of the city, the sale of any surplus property, through public auction or other method designed to best serve the interests of city residents and produce a fair return; the trade or exchange or any surplus property; and the lease or sublease of any surplus property.

Supplementary Information

1. E & H right of way dedication exhibit for Innovator Drive and Maker Way
2. Plat for E&H Land dedicating right-of-way
3. Quit Claim Deed and Survey Exhibit of surplus property.

Respectfully Submitted

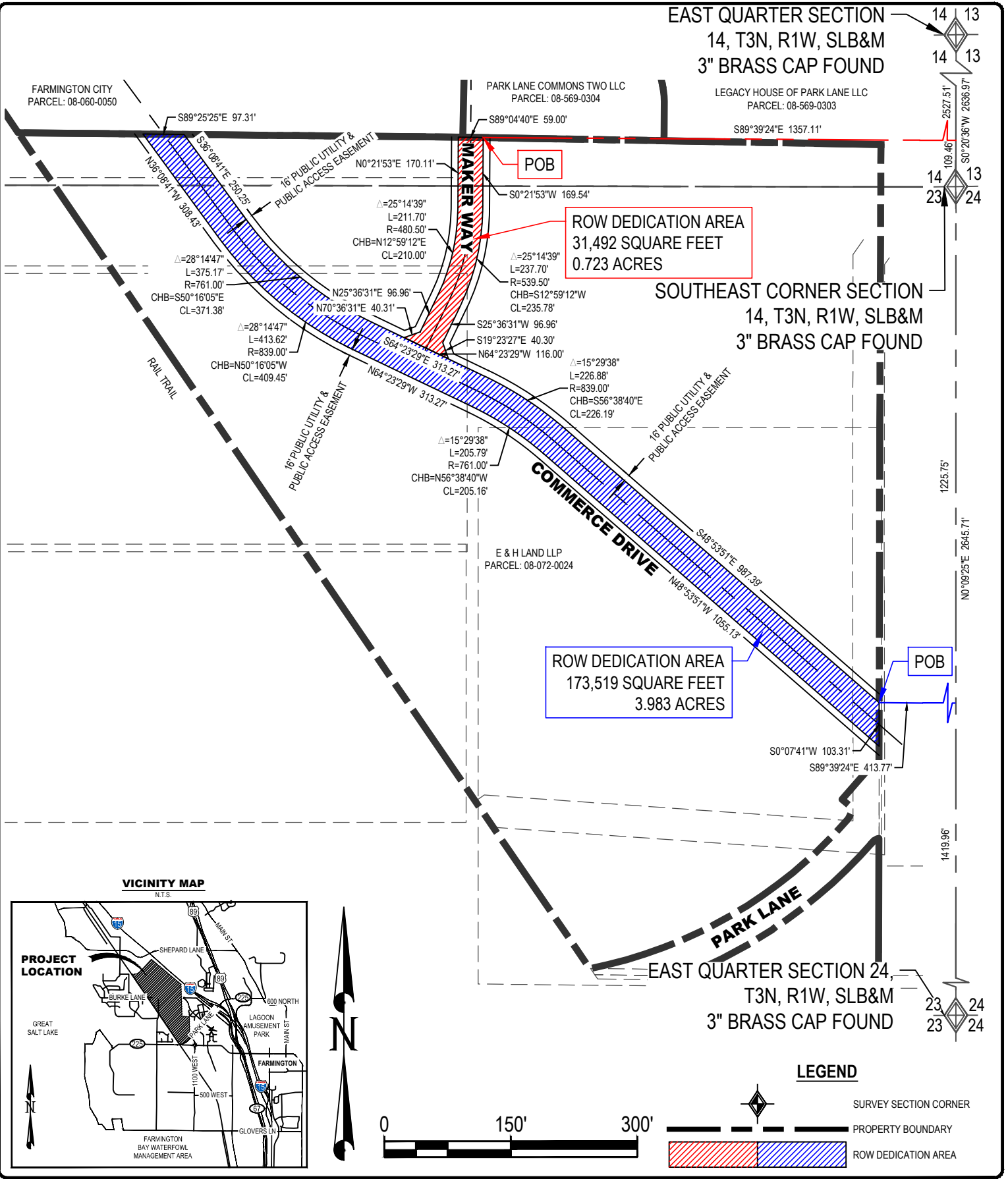


Lyle Gibson
Assistant Community Development Director

Concur



Brigham Mellor
Assistant City Manager



CRS ENGINEERS
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2 N Main, Ste 8 | Providence, UT 84332 | P: 435.374.4670 | www.crsengineers.com

FARMINGTON CITY ROW DEDICATION
FARMINGTON STATION COMMERCE DRIVE
08-072-0024
PROPERTY AQUISITION EXHIBIT
E & H LAND LLP

PROJECT NUMBER 2019-0217	
SHEET 1	OF 1
SHEET NUMBER 08-072-0024	

E & H LAND LLP
08-072-0024
ROW ACQUISITION LEGAL DESCRIPTION

LEGAL DESCRIPTION

A TRACT OF LAND FOR THE PURPOSE OF A 78 FOOT RIGHT-OF-WAY ACQUISITION LOCATED IN FARMINGTON, DAVIS COUNTY, UTAH WITHIN PARCEL 08-072-0024 AND PARTIALLY IN THE SOUTHEAST QUARTER OF SECTION 14 AND THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 3 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN. SAID TRACT BEING FURTHER DESCRIBED AS FOLLOWS, TO WIT;

BEGINNING AT A POINT WHICH IS N00°09'25"E, ALONG THE EASTERLY LINE OF SECTION 23, A DISTANCE OF 1419.96 FEET AND N89°39'24"E, A DISTANCE OF 413.77 FEET FROM THE QUARTER CORNER OF SECTION 23, TOWNSHIP 3 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN TO THE EASTERLY PROPERTY LINE OF PARCEL 08-072-0024 AND THE EASTERLY RIGHT-OF-WAY ACQUISITION LINE BEING THE POINT OF BEGINNING; THENCE ALONG THE EASTERLY PROPERTY LINE S0°07'41"W, A DISTANCE OF 103.31 FEET TO THE WESTERLY RIGHT-OF-WAY ACQUISITION LINE; THENCE LEAVING SAID PROPERTY LINE THE FOLLOWING FIVE (5) COURSES 1) N48°53'51"W, A DISTANCE OF 1055.13 FEET; 2) THENCE NORTHWESTERLY ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 761.00 FEET, A CENTRAL ANGLE OF 15°29'38" AND A LENGTH OF 205.79 FEET (CHORD BEARS N56°38'40"W 205.16 FEET); 3) THENCE N64°23'29"W, A DISTANCE OF 313.27 FEET 4) THENCE NORTHWESTERLY ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 839.00 FEET, A CENTRAL ANGLE OF 28°14'47" AND A LENGTH OF 375.17 FEET (CHORD BEARS S50°16'05"E 371.38 FEET); 5) THENCE N36°08'41"W, A DISTANCE OF 308.43 FEET TO A THE NORTHERLY PROPERTY LINE; THENCE ALONG SAID PROPERTY LINE S89°25'25"E, A DISTANCE OF 97.31 TO A POINT ON THE EASTERLY RIGHT-OF-WAY ACQUISITION LINE; THENCE LEAVING SAID PROPERTY LINE THE FOLLOWING FIVE (5) COURSES 1) S36°08'41"E, A DISTANCE OF 250.25 FEET; 2) THENCE SOUTHEASTERLY ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 761.00 FEET, A CENTRAL ANGLE OF 28°14'47" AND A LENGTH OF 375.17 FEET (CHORD BEARS S50°16'05"E 371.38'); 3) THENCE S64°23'29"E, A DISTANCE OF 313.27 FEET; 4) THENCE SOUTHEASTERLY ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 839.00 FEET, A CENTRAL ANGLE OF 15°29'38" AND A LENGTH OF 226.88 FEET (CHORD BEARS S56°38'40"E 226.19 FEET); 5) THENCE S48°53'51"E, A DISTANCE OF 987.39 FEET TO THE POINT OF BEGINNING.

ALSO INCLUDING A 16 FEET PUBLIC UTILITY AND PUBLIC ACCES EASEMENT ON THE EASTERLY AND WESTERLY LINE OF SAID RIGHT-OF-WAY ACQUISITION.

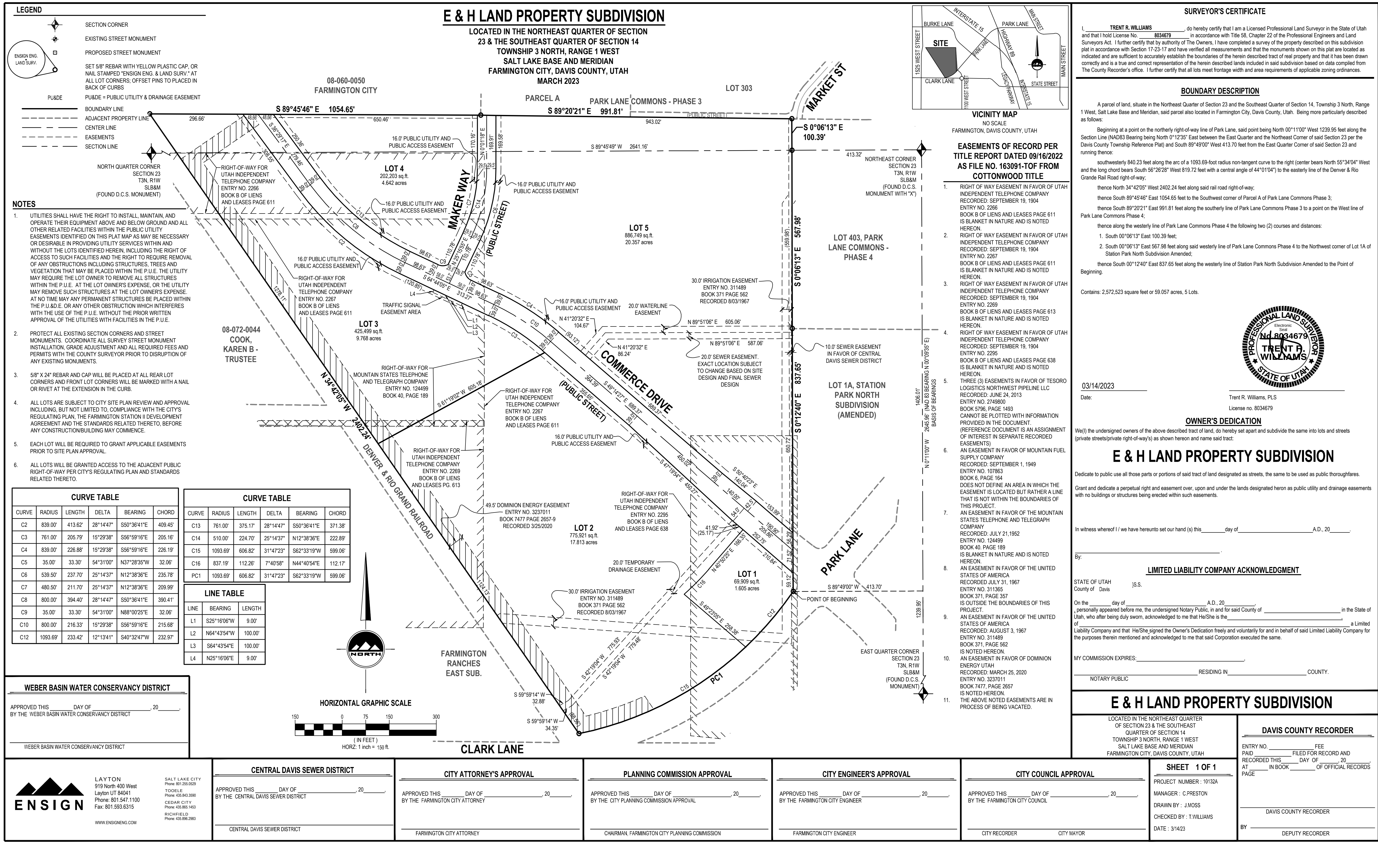
THE ABOVE DESCRIPTION INTENDING TO DESCRIBE THAT PORTION OF LAND LOCATED WITHIN PARCEL 08-072-0024 FOR RIGHT-OF-WAY ACQUISITION FOR A ROADWAY TO BE KNOWN AS COMMERCE DRIVE. THE ABOVE DESCRIPTION CONTAINING 173,519 SQUARE FEET OF AREA OR 3.983 ACRES, MORE OR LESS.

A SECOND TRACT OF LAND FOR THE PURPOSE OF A 59 FOOT RIGHT-OF-WAY ACQUISITION LOCATED IN FARMINGTON, DAVIS COUNTY, UTAH WITHIN PARCEL 08-072-0024 AND PARTIALLY IN THE SOUTHEAST QUARTER OF SECTION 14 AND THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 3 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN. SAID TRACT BEING FURTHER DESCRIBED AS FOLLOWS, TO WIT;

BEGINNING AT A POINT WHICH IS N00°20'36"W, ALONG THE EASTERLY LINE OF SECTION 14, A DISTANCE OF 109.46 FEET AND N89°39'24"E, A DISTANCE OF 1357.11 FEET FROM THE SOUTHEAST CORNER OF SECTION 14, TOWNSHIP 3 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN TO A POINT ON THE NORTHERLY LINE OF PARCEL 08-072-0024 AND THE EASTERLY RIGHT-OF-WAY ACQUISITION LINE BEING THE POINT OF BEGINNING; THENCE LEAVING SAID PROPERTY LINE THE FOLLOWING FOUR (4) COURSES 1) S00°21'53"W, A DISTANCE OF 169.54 FEET 2) THENCE SOUTHWESTERLY ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 539.50 FEET, A CENTRAL ANGLE OF 25°1'39" AND A LENGTH OF 237.70 FEET (CHORD BEARS S12°59'12"W 235.78 FEET); 3) THENCE S25°36'31"W, A DISTANCE OF 96.96 FEET; 4) THENCE S19°23'27"E, A DISTANCE OF 40.30 FEET TO A POINT ON A RIGHT-OF-WAY ACQUISITION FOR COMMERCE DRIVE; THENCE ALONG SAID RIGHT-OF-WAY ACQUISITION LINE N64°23'29"W, A DISTANCE OF 116.00 FEET; THENCE LEAVING SAID RIGHT-OF-WAY ACQUISITION LINE THE FOLLOWING FOUR (4) COURSES 1) N70°36'31"E, A DISTANCE OF 40.31 FEET; 2) THENCE N25°36'31"E, A DISTANCE OF 96.96 FEET; 3) THENCE NORTHEASTERLY ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 480.50 FEET, A CENTRAL ANGLE OF 25°14'39" AND A LENGTH OF 211.70 FEET (CHORD BEARS N12°59'12"E 210.00); 4) THENCE N00°21'53"E, A DISTANCE OF 170.11 FEET TO A POINT ON THE NORTHERLY PROPERTY LINE; THENCE S89°04'40"E ALONG SAID PROPERTY LINE, A DISTANCE OF 59.00 FEET TO THE POINT OF BEGINNING.

ALSO INCLUDING A 16 FEET PUBLIC UTILITY AND PUBLIC ACCESS EASEMENT ON THE EASTERLY AND WESTERLY LINE OF SAID RIGHT-OF-WAY ACQUISITION.

THE ABOVE DESCRIPTION INTENDING TO DESCRIBE THAT PORTION OF LAND LOCATED WITHIN PARCEL 08-072-0024 FOR RIGHT-OF-WAY ACQUISITION FOR A ROADWAY TO BE KNOWN AS MAKER WAY. THE ABOVE DESCRIPTION CONTAINING 31,492 SQUARE FEET OF AREA OR 0.723 ACRES, MORE OR LESS.



THIS SPACE PROVIDED FOR RECORDER'S USE ONLY:

Please combine with parcel ID: 08-072-0024

WHEN RECORDED RETURN TO:

Farmington City

Attn: City Manager

160 South Main Street

Farmington, UT 84025

QUIT CLAIM DEED

THE GRANTOR(S),

- Farmington City, a municipal corporation, for and in consideration of: One Dollar (\$1.00) and other good and valuable consideration conveys, releases and quit claims to the

GRANTEE(S):

- E & H Land LLP, a limited liability partnership of the State of Utah,
the following described real estate, situated in Farmington, in the County of Davis, State of Utah:

(legal description):

A parcel of land, situate in the Northeast Quarter of Section 23 and the Southeast Quarter of Section 14, Township 3 North, Range 1 West, Salt Lake Base and Meridian, said parcel also located in Farmington City, Davis County, Utah. Being more particularly described as follows:

Beginning at a point on the northerly right-of-way line of Park Lane, said point being North 00°11'00" West 1239.95 feet along the Section Line (NAD83 Bearing being North 0°09'35" East between the East Quarter and the Northeast Corner of said Section 23 per the Davis County Township Reference Plat) and South 89°49'00" West 413.70 feet from the East Quarter Corner of said Section 23 and running thence:

southwesterly 122.30 feet along the arc of a 1093.69-foot radius non-tangent curve to the left (center bears North 55°34'04" West and the long chord bears South 37°38'09" West 122.24 feet with a central angle of 6°24'26") along the northerly right-of-way line of Park Lane;

thence northerly 44.77 feet along the arc of a 28.50-foot radius non-tangent curve to the left (center bears North 49°10'01" West and the long chord bears North 04°10'01" West 40.31 feet with a central angle of 90°00'02");

thence North 49°09'37" West 13.00 feet;

thence North 40°50'23" East 100.00 feet;

thence easterly 23.62 feet along the arc of a 28.50-foot radius non-tangent curve to the left (center bears North 40°50'13" East and the long chord bears South 72°54'26" East 22.95 feet with a central angle of 47°29'17");

thence South 00°12'40" East 20.81 feet to the Point of Beginning.

Contains: 4,082 square feet or 0.094 acres.

The included Exhibit A is a visual of the above referenced legal description.

Grantor grants, all of the Grantor's rights, title, and interest in and to the above described property and premises to the Grantee(s), and to the Grantee(s) heirs and assigns forever, so that neither Grantor(s) nor Grantor's heirs, legal representatives or assigns shall have, claim or demand any right or title to the property, premises, or appurtenances, or any part thereof.

Grantors' Signatures:

Dated: _____

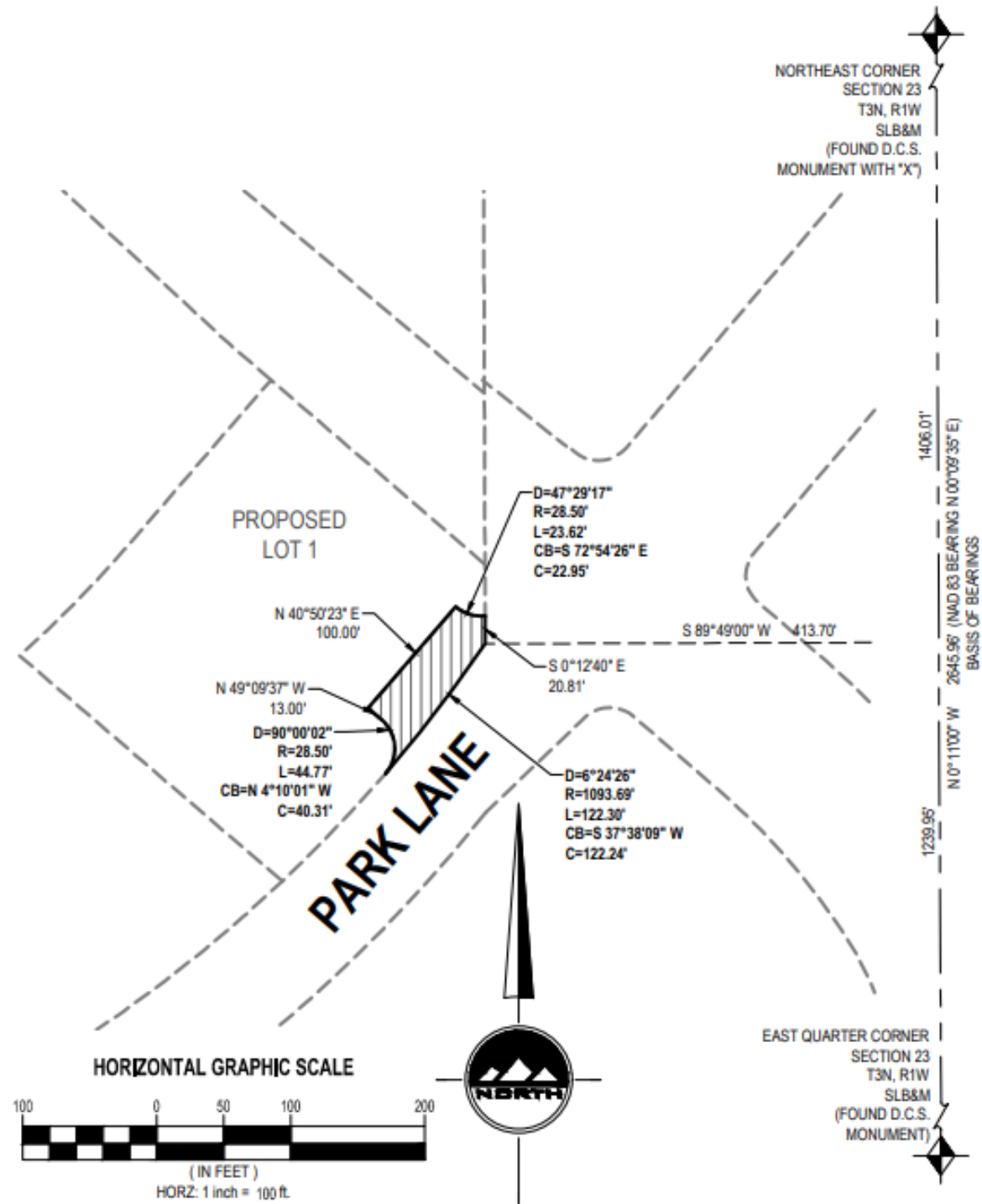
Brett Anderson, Mayor
Farmington City Corporation

STATE OF UTAH, COUNTY OF DAVIS, ss:

This instrument was acknowledged before me on this ____ day of _____ 2023 by Brett Anderson, Mayor, on behalf of Farmington City Corporation.

Notary Public
My Commission Expires: _____

Exhibit A



PROJECT NUMBER 10133A PROJECT MANAGER T. WILLIAMS PRINT DATE 2023-03-30 DESIGNED BY C. ROMER	EVERLY APARTMENTS PARK LANE & 1100 WEST FARMINGTON, UTAH PART OF LOT 1	ENSIGN THE STANDARD IN ENGINEERING LAYTON 919 North 400 West Layton, UT 84041 Phone: 801.547.1100 WWW.ENSIGNENG.COM SUNNY Phone: 801.265.2629 TORRE Phone: 313.662.3386 CEDAR CITY Phone: 313.662.1600 BOHLE Phone: 313.662.2600
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CITY COUNCIL AGENDA

For Council Meeting:
June 6, 2023

PUBLIC HEARING: **Condemnation of Parcel 08-283-0002 for public park purposes**

GENERAL INFORMATION:

See staff report prepared by Brigham Mellor, City Manager



FARMINGTON CITY

BRETT ANDERSON
MAYOR

ROGER CHILD
SCOTT ISAACSON
MELISSA LAYTON
ALEX LEEMAN
AMY SHUMWAY
CITY COUNCIL

BRIGHAM MELLOR
CITY MANAGER

CITY COUNCIL STAFF REPORT

To: Mayor and City Council
From: Brigham Mellor, City Manager
Date: June 6, 2023
Subject: **Condemnation of Parcel 08-283-0002 for public park purposes**

RECOMMENDATION(S)

Staff recommends that the Council receive public input at this hearing, and consider all comments tendered by participants. We recommend that the Council schedule this item for final consideration during the Council's June 20, 2023 hearing.

Motion Language: "I move that we schedule this item for the June 20, 2023 council meeting to vote on the proposed taking."

BACKGROUND

In 2001 this parcel was created as part of surrounding development. It was placed in the ownership of "Residential Zone Owner Association" which was governed by four surrounding homeowner's associations. However, that association reportedly failed to pay property taxes on the parcel, and the County conducted a tax sale of the parcel in 2007. The Browns acquired the land at that time and it has remained in its current state since then.

It is proposed that the land be acquired as an expansion of the public park that the City owns and maintains to the West of the parcel.

Attempts to initiate negotiation with the Browns via correspondence have not been successful. A certified letter inviting voluntary transfer was mailed on April 21, 2023 and received by the Browns. A certified letter notifying them of this hearing was mailed on May 16, 2023, but its delivery was unsuccessful and it sat unclaimed at the post office until it was returned to the City. Out of an abundance of caution and ensuring that the Browns receive notice of the Council's action, staff recommends that the Council table this matter after hearing from any interested residents, and schedule it for further hearing and a final decision on June 20. On the other hand, if the Browns attend this meeting, then there will be no question that they received notice, and the Council may vote on the matter.



The specific uses to which the parcel can be put are not appropriate topics for this meeting, so long as the use fits within the categories of acceptable uses. The potential uses to which the ground may be put include: public buildings and grounds for the use of any city, bicycle paths and sidewalks adjacent to paved roads, all other public uses for the benefit of any city or its inhabitants, cemeteries and public parks. Eminent domain may not be exercised for trail acquisition.

Staff believes that the acquisition of this parcel will be beneficial to the surrounding residents as an expanded public space.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Brigham Mellor', written in a cursive style.

Brigham Mellor
City Manager

RESOLUTION NO: 2023-_____

A RESOLUTION OF THE FARMINGTON CITY COUNCIL APPROVING THE USE OF EMINENT DOMAIN RELATED TO PARCEL 08-283-0002, TO ACQUIRE THE ENTIRE PARCEL IN FEE SIMPLE, FROM DAVID & JULIE BROWN.

WHEREAS, the City has authority to exercise eminent domain in order to acquire public grounds for the City's use and public uses for the benefit of the City's inhabitants; and

WHEREAS, the City intends to establish a public park and other allowable public uses on Parcel 08-283-0002, which is owned by David & Julie Brown; and

WHEREAS, the City has attempted to initiate negotiations with the property owner by sending correspondence to the address listed on property records for the parcel; and

WHEREAS, the Browns have neither responded nor attempted to negotiate or communicate with the City with respect to a voluntary transfer of the requested land;

WHEREAS, Utah Code Ann. § 78B-6-504(1) requires the City Council to approve a taking by eminent domain; and

WHEREAS, the City has provided notice as provided in Utah Code Ann. § 78B-6-504 and 78B-6-505, by mailing information to the property owners at the address listed on County records; and

WHEREAS, the City Council held a hearing on June 6, 2023 in order to allow the property owner to appear and be heard on the proposed taking; and

WHEREAS, the Council finds that the use of eminent domain is appropriate and advances the public interest,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF FARMINGTON CITY, STATE OF UTAH, AS FOLLOWS:

Section 1. Authorization for acquisition. Pursuant to Utah Code Ann. § 78B-6-505, the Mayor is authorized to commence legal proceedings to acquire via eminent domain the parcel identified as 08-283-0002 in Davis County records, which is legally described as the following:

ALL OF PARCEL A, SHEPARD CREEK SOUTHWEST SUBDIVISION, A PLANNED UNIT DEVELOPMENT.

CONT. 2.483 ACRES

Section 2: Severability. If any section, clause, or provision of this Resolution is declared invalid by a court of competent jurisdiction, the remainder shall not be affected thereby and shall remain in full force and effect.

Section 3: Effective Date This Resolution shall become effective immediately upon its passage.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF FARMINGTON CITY,
STATE OF UTAH, THIS ____TH DAY OF JUNE, 2023.**

ATTEST:

FARMINGTON CITY

DeAnn Carlile, City Recorder

Brett Anderson, Mayor

CITY COUNCIL AGENDA

For Council Meeting:
June 6, 2023

BUSINESS: **Landmark Design Master Plan discussion**

GENERAL INFORMATION:

See staff report prepared Colby Thackeray, Parks & Recreation Director



FARMINGTON CITY

BRETT ANDERSON
MAYOR

ROGER CHILD
SCOTT ISAACSON
MELISSA LAYTON
ALEX LEEMAN
AMY SHUMWAY
CITY COUNCIL

BRIGHAM MELLOR
CITY MANAGER

To: Honorable Mayor and City Council

From: Colby Thackeray

Date: June 1, 2023

SUBJECT: Master Plan LOS Discussion

RECOMMENDATION

Allow the level of service to reduce which is typical when a city gets closer to build-out.

BACKGROUND

As part of the master plan study, Landmark Design analyzes LOS (Level of Service) and compares it to comparable cities. The LOS is in reference to the amount of park space per 1000 residents. There are 3 options to move forward with illustrated below:

1. Show only the parks currently planned, under the assumption of a future reduced Level of Service (LOS).
2. Show the planned parks with some additional acreage. While this will still correspond to a lower LOS than the current standard, it will not be as low as with only the presently planned parks.
3. Show the planned parks with the requisite acreage needed to maintain the current LOS.

Respectfully Submitted

Colby Thackeray
Parks Director

Concur

Brigham Mellor
City Manager

CITY COUNCIL AGENDA

For Council Meeting:
June 6, 2023

BUSINESS: **Open Sky Drone Light Show Presentation**

GENERAL INFORMATION:

See staff report prepared by Brigham Mellor, City Manager



FARMINGTON CITY

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BRIGHAM MELLOR
CITY MANAGER

City Council Staff Report

To: Honorable Mayor and City Council

From: Brigham Mellor

Date: June 6th, 2023

SUBJECT: Open Sky Drone Light Shows Presentation

RECOMMENDATION:

No action at this time.

BACKGROUND:

Councilmembers have expressed an interest in learning more about drone shows and possibly incorporating them into city events. Nate Mortensen, CEO of Open Sky, presented at the URPA conference this spring with some city staff in attendance. We have invited Open Sky to come to the council meeting and be available to answer questions and show their product.

Respectfully Submitted

Brigham Mellor
Assistant City Manager

CITY COUNCIL AGENDA

For Council Meeting:
June 6, 2023

BUSINESS: **Resolution thanking Representative Chris Stewart and his family for his service in the United States Congress**

GENERAL INFORMATION:

See staff report prepared by Brigham Mellor, City Manager



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BRIGHAM MELLOR
CITY MANAGER

City Council Staff Report

To: Honorable Mayor and City Council

From: Brigham Mellor

Date: June 6th, 2023

SUBJECT: RESOLUTION THANKING REPRESENTATIVE CHRIS STEWART AND HIS FAMILY FOR HIS SERVICE IN THE UNITED STATES CONGRESS

RECOMMENDATION:

Approve the resolution thanking Rep. Chris Stewart and his family for his service in the United States Congress.

BACKGROUND:

Rep. Stewart and his family are residents of Farmington, and we are proud to call him one of our own. Whenever Farmington or our residents have called on Rep. Stewart's office to assist in something, they have bent over backward to make it happen. Whether it is traipsing through the mud with the Army Corps in the coldest winter months or hottest summer months, they are there without a doubt. Helping residents procure passports, participating in community events and presentations, or just regularly stopping by council meetings to see how things are going – The Stewart Team is always available.

We sincerely thank Rep. Stewart, Rhonda Perkes, and Gary Webster for all their help over the years.

Respectfully Submitted

Brigham Mellor
Assistant City Manager

RESOLUTION NO: 2023-_____

A RESOLUTION THANKING REPRESENTATIVE CHRIS STEWART AND HIS FAMILY FOR HIS SERVICE IN THE UNITED STATES CONGRESS

WHEREAS, Congressman Chris Stewart was first elected to serve Utah's Second District in the United States House of Representatives in 2012, and has served this district since that time: and

WHEREAS, Representative Stewart has diligently represented our citizens during his time in Congress; and

WHEREAS, the City and its inhabitants have directly benefitted from his representation on countless occasions; and

WHEREAS, the City Council acknowledges the tremendous sacrifice made by Representative Stewart and his family for him to serve in the United States Congress; and

WHEREAS, the City Council also acknowledges the dedicated service of Representative Stewart's staff as they have worked as liaisons and partners with the City on multiple projects, including the Farmington Business Park; and

WHEREAS, Representative Stewart has announced his intention to resign from his position in the coming weeks or months,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF FARMINGTON CITY, STATE OF UTAH, AS FOLLOWS:

Section 1: Expression of Gratitude. The City Council of Farmington, Utah, hereby expresses its gratitude to Representative Stewart and his family for their service to the United States. The Council acknowledges the personal sacrifices that each of them made during Representative Stewart's time in office. The City Council also specifically thanks Rhonda Perkes and Gary Webster from his office for their tireless work with the City on its business park development.

PASSED AND ADOPTED BY THE CITY COUNCIL OF FARMINGTON CITY, STATE OF UTAH, THIS 6TH DAY OF JUNE 2023.

ATTEST:

FARMINGTON CITY

DeAnn Carlile, City Recorder

Brett Anderson, Mayor

CITY COUNCIL AGENDA

For Council Meeting:
June 6, 2023

BUSINESS: **Kaysville Farmington Boundary Adjustment**

GENERAL INFORMATION:

See staff report prepared by Lyle Gibson Assistant Community Development Director



FARMINGTON CITY

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City Council Staff Report

To: Honorable Mayor and City Council

From: Lyle Gibson, Assistant Community Development Director

Date: June 6, 2023

SUBJECT: **KAYSVILLE FARMINGTON BOUNDARY ADJUSTMENT**

RECOMMENDATION

Adopt the enclosed resolution initiating proceedings to adjust the common boundary lines between Farmington City and Kaysville City.

BACKGROUND

Farmington City has been in coordination with Kaysville City for a long time to design and fund construction of a new road linking the soon to be constructed interchange at I-15 and Shepard Lane and the nearly completed interchange at 950 North and West Davis Corridor.

Construction of this new connector road has been underway for months and may be complete this construction season.

Currently the city boundary between Farmington and Kaysville puts part of this road in each city making it a challenge to deal with maintenance, plowing, and has an impact on services to property on different sides of the street.

Both Farmington City and Kaysville City are considering similar resolutions in a similar timeframe to commence a process to further study a boundary adjustment and to initiate the process of posting the required notice before holding a hearing on the matter at a future date.

The included resolution does not approve the boundary adjustment, rather it indicates the intent of the city to more fully study the matter and initiate a notice process. This process requires that the notice be posted 3 weeks before the public hearing to be held on July 18. The council would not necessarily need to make a final decision in July. It is important that when a decision is ready to be made that Kaysville City and Farmington City adopt ordinances approving the boundary adjustment within a short timeframe of each other. Because of this staff from each city have been in contact to try and run the processes in a similar timeframe.

Included with this report are 2 options showing how the boundary may be adjusted with details on the images regarding each option. Currently, Farmington City staff prefers an alignment as shown in

option 1 which would keep the park and ride facility in Kaysville. A decision on which option is not necessary at this time, rather the approval of the included resolution directs staff to further study the pros and cons of the options and initiates the process to collect input from the public and affected entities that the council can use later on before making a final decision.

Respectfully Submitted

Lyle Gibson
Assistant Community Development Director

Concur

A handwritten signature in black ink, appearing to be 'B. Mellor', written in a cursive style.

Brigham Mellor
City Manager

**CITY COUNCIL RESOLUTION NO. 2023-
A RESOLUTION OF THE FARMINGTON CITY COUNCIL INITIATING
PROCEEDINGS TO ADJUST THE COMMON BOUNDARY LINES BETWEEN
FARMINGTON CITY AND KAYSVILLE CITY AND PROVIDING FOR A PUBLIC
HEARING THEREON.**

WHEREAS, Farmington City and Kaysville City wish to adjust their common boundaries to more clearly identify municipal boundaries and to better define who maintains the public right of way.

WHEREAS, pursuant to Utah Code Ann. 10-2-419, municipalities may adjust their common boundaries; and

WHEREAS, Utah law requires that a public hearing be held on the proposed adjustment and that notice of such hearing be given by publication as provided herein; and

WHEREAS, owners of private real property located within the area proposed for adjustment are entitled to file written protests to the proposed adjustment if they oppose the same; and

WHEREAS, the City Council of Farmington City desires to initiate proceedings to effect the proposed boundary adjustment as provided herein;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF FARMINGTON CITY, STATE OF UTAH, AS FOLLOWS:

Section 1. Statement of Intent. The Farmington City Council intends to adjust certain boundaries that are common between Farmington City and Kaysville City. The areas proposed to be adjusted are more particularly described in Section 3 of this Resolution.

Section 2. Public Hearing. The Farmington City Council will hold a public hearing on the proposed adjustment on the 18th day of July, 2023 at the hour of 7:00 p.m. or as soon thereafter as business permits at the Farmington City offices, located at 160 South Main Street, Farmington, Utah.

Section 3. Notice of Public Hearing. The Farmington City Council hereby directs the City Manager to cause the following notice to be published at least three weeks before the public hearing in accordance with Utah Code 10-2-419 and 63G-30-102. The first publication of the notice shall be published within fourteen days of the City Council's adoption of this Resolution. The form of the notice shall be as follows:

NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held before the Farmington City Council at Farmington City Hall, 160 South Main Street, Farmington, Utah 84025 on **Tuesday, July 18, 2023** at 7:00 p.m., or as soon thereafter as business permits, for the purpose of receiving public comment with regard to a proposal to adjust Farmington City's common boundaries with Kaysville City in the following described areas:

Exhibits A and B included with this notice show two options under consideration as to where the new shared municipal boundary may be located after the adjustment.

Additional information regarding the proposal can be obtained from Farmington City offices during regular business hours up to the date and time of the public hearing. The Farmington City Council has adopted a Resolution indicating the City Council's intent to adjust the boundary as provided above. The Farmington City Council will adjust the boundary unless, at or before the public hearing, written protests to adjustment are filed by the owners of private real property that is located within the area proposed for adjustment and covers at least twenty five percent (25%) of the total private land area within the area proposed for adjustment and is equal in value to at least fifteen percent (15%) of the value of all private real property within the area proposed for adjustment. All protests shall be filed with the Farmington City Recorder at the Farmington City offices with the time provided herein.

The complete public notice is posted on the Utah Public Notice Website; www.utah.gov/pmn/, the Farmington City Website; farmington.utah.gov, and at Farmington City Hall. To request a copy of the public notice or for additional inquiries please contact Lyle Gibson at Farmington City offices lgibson@farmington.utah.gov and 801-451-2383.

DeAnn Carlile, City Recorder

Section 4. Severability. If any section, part or provision of this Resolution is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Resolution, and all sections, parts and provisions of this Resolution shall be severable.

Section 5. Effective Date. This Resolution shall become effective immediately upon its passage.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF FARMINGTON CITY,
STATE OF UTAH, THIS 6TH DAY OF JUNE 2023.**

ATTEST:

FARMINGTON CITY

DeAnn Carlile
Secretary

By: _____
Brett Anderson, Mayor

Exhibit A:

KAYSVILLE FARMINGTON BOUNDARY ADJUSTMENT
OPTION 1

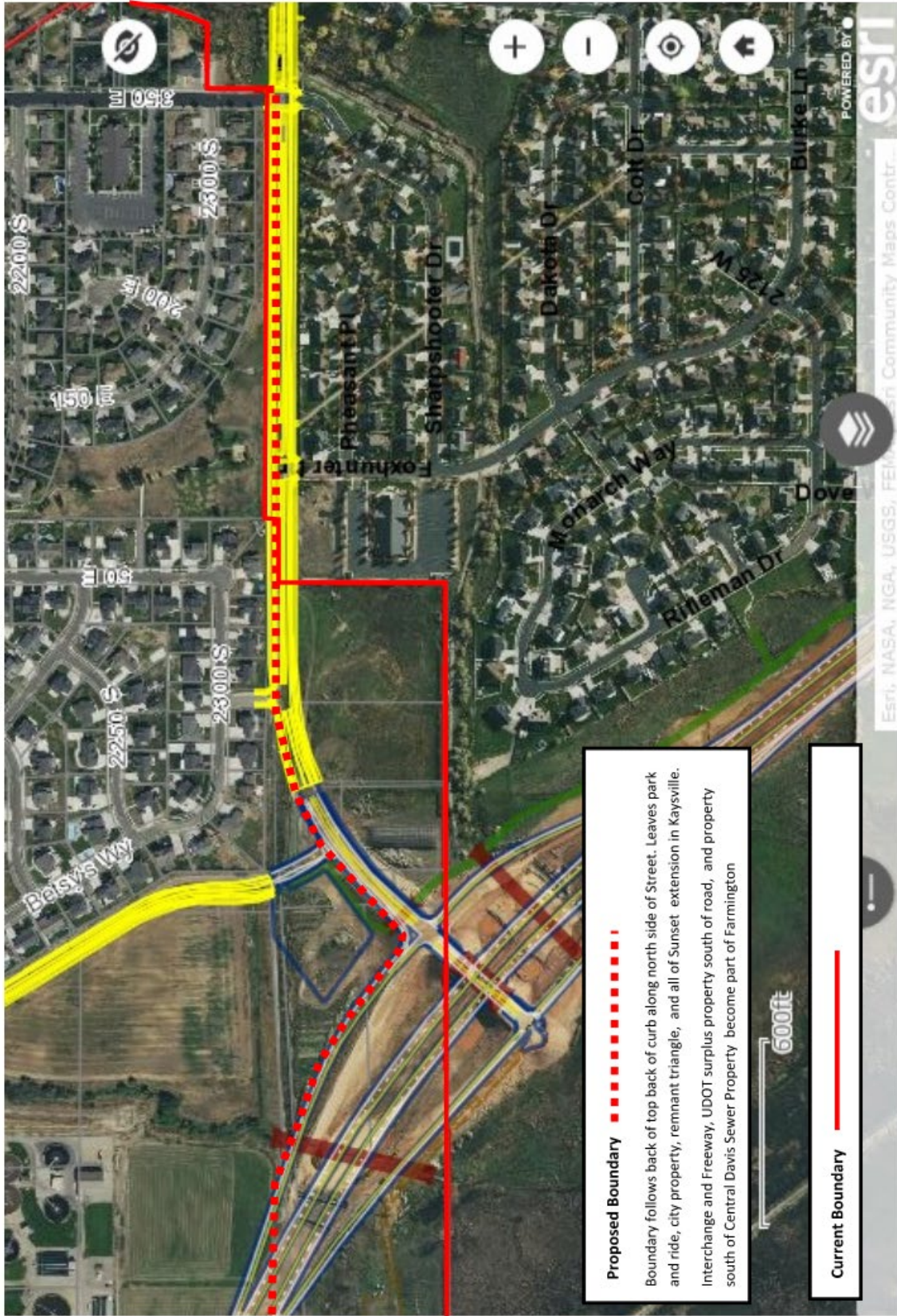
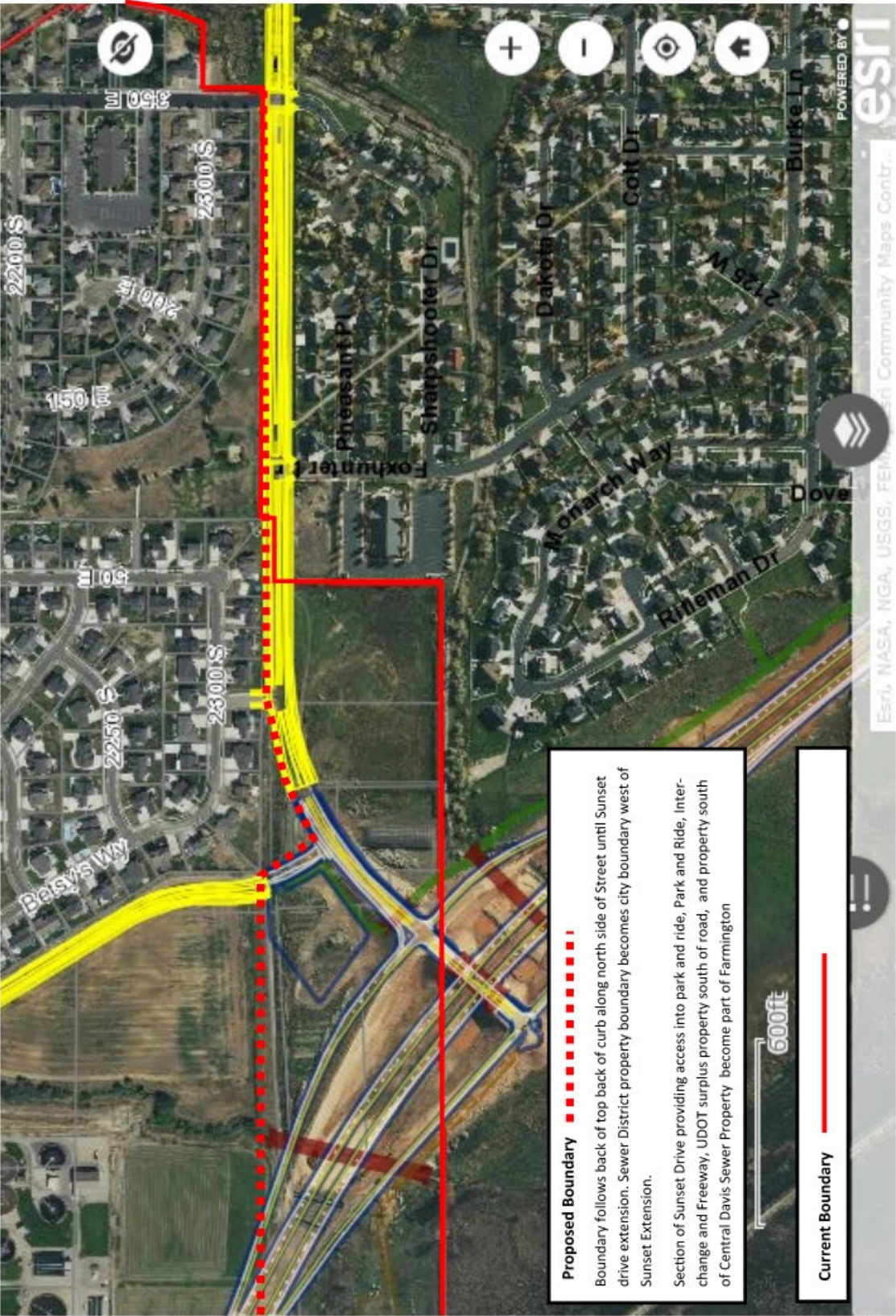


Exhibit B:

KAYSVILLE FARMINGTON BOUNDARY ADJUSTMENT
OPTION 2



CITY COUNCIL AGENDA

For Council Meeting:
June 6, 2023

BUSINESS: **Amendment Related to Billing Practices**

GENERAL INFORMATION:

See staff report prepared by Brigham Mellor, City Manager



CITY COUNCIL STAFF REPORT

To: Mayor and City Council
From: Brigham Mellor
Date: June 6, 2023
Subject: Amendments Related to Billing Practices

RECOMMENDATION(S)

Discuss policies underpinning utility billing practices. If the redline text is in line with the Council's policy direction, then move to adopt the proposed ordinance. If not, then move to table the item with direction to adjust the ordinance text.

"I move that the Council adopt this ordinance amending sections 7-30-030, 9-1-010, 9-1-130, and enacting section 9-1-015 of the Farmington City Municipal Code, related to utility billing practices."

OR

"I move that we schedule this item to be further discussed during our June 22, 2023 council meeting."

BACKGROUND

It has been some time since our ordinance governing utility billing has been modified, and the changes in redline are proposed in order to bring the ordinance up to date with current billing practices.

Removal of Trash Containers for Non-Payment

In addition to shutting off water for non-payment, we recommend also removing waste containers from the property for those who do not pay their bills. This also would remove service from those who do not pay for their water use directly (such as those served by a multi-user water line, which are paid by another party such as an HOA). In connection to this removal, we will be proposing adding a redelivery fee to the consolidated fee schedule to cover the costs of removal and redelivery of cans to the residence.

Delivery Fees

Although delivery of the initial set of cans would still be included in the overall fees, staff recommends adding a delivery fee for those who add or remove cans without terminating service. There are some users who repeatedly adjust the number of cans at their home throughout the year. So staff is going out and picking up the terminated cans, only to return some months later and redeliver the extra can. While it is not common, it puts a strain on resources and has not been charged a fee in the past. We recommend having those customers who wish to do this cover the cost of retrieving and redelivering their cans. This will be accomplished by adding the charge to the consolidated fee schedule.

Property Owners are Primary Account Holders

We have in the past created new accounts whenever a new tenant moves into a home, with a landlord listed as a secondary account holder. When tenants fail to pay their bills (which is fairly common when they vacate the

premises), we bill the landlords with limited success. This amendment would require all property owners who are planning on renting out their premises to be listed as the primary account holder. Any tenants that are listed as authorized to view or pay bills may do so, but the amounts owed will remain in the landlord's name. This also helps in situations where a property is vacant for a period of time between tenancies. We anticipate that we can roll this out prospectively, and when a new tenant comes into a property, then we will require the landlord to convert their account into the primary one at that time.

Termination of Service & Deferral

When property changes hands, there is often a gap between when the previous owner vacates and the new one takes over. A new property owner may be leaving the home vacant for a month or two. In the meantime, the charges continue to accrue to the old owner. This section permits a customer who can prove transfer of ownership to disconnect from the account. At that point, utilities will transfer the account to the new owners.

Deferral for greater than six months and no greater than two years may be sought for individuals who will be leaving their property vacant during that time. Examples could include military service, admittance to long-term residential care, or extended service missions. There will still be a base charge that is assessed as a deferral fee (which covers the unit's share of maintenance for the city-wide system). That fee will be proposed with a consolidated fee schedule amendment. The City will likely install a lock on the meter for properties placed in deferral. If a lock is not placed on the meter or is removed unlawfully, there is a penalty for a person who put their unit into deferral but allowed occupants to use water.

Penalty for Non-Payment of Water Bill

Customers are billed for the use of water after the fact, and then receive a bill with a due date. Penalties will begin to be assessed only against bills that are over 30 days past due – i.e., when they pay the past due amount with their next bill. This avoids penalizing someone who simply forgets a bill one month. This ordinance requires that all past due balances, including fees and penalties, must be paid before penalties stop accruing.

Shut-off

If an account goes for another 30 days without paying (i.e. 90 days after the water was used), then the ordinance mandates that water be shut off. The water remains off until all past due balances are paid.

Appeal

The ordinance adds some procedure to the appeal provision, with the Council remaining the appeal body.

Policy Direction

If the Council likes the direction this ordinance is heading, then it may enact the law. Or if the Council would like to adjust the ordinance based upon policy considerations, now is the time to give that direction.

Potential policy considerations include: whether to assess penalties and the timing of those penalties; whether to allow a deferral; whether to expressly authorize the utility billing clerk to make arrangements for payment with customers, and if so, what limitations are desired; and whether to provide for relief for low income households, including a discussion of how that program would be administered and paid for by other utility users.

Respectfully submitted,



Brigham Mellor
City Manager

ORDINANCE NO: 2023-_____

AN ORDINANCE AMENDING SECTIONS 7-30-030, 9-1-010-, 9-1-130, AND ENACTING SECTION 9-1-015 OF THE FARMINGTON CITY MUNICIPAL CODE RELATED TO UTILITY BILLING PRACTICES

WHEREAS, the City Council provides utility services to its residents and property owners within the city; and

WHEREAS, the City charges the costs of providing these services to the users; and

WHEREAS, the Farmington City Municipal Code includes procedures and policies governing the utility billing practices of the City; and

WHEREAS, the City Council finds that the amendments and enactment of the attached ordinances are in the best interests of the City's utility program and its residents,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF FARMINGTON CITY, STATE OF UTAH, AS FOLLOWS:

Section 1: Amendment. Sections 7-30-030, 9-1-010, and 9-1-130 of the Farmington City Municipal Code is hereby amended as provided in Exhibit A.

Section 2: Enactment. Section 9-1-015 is hereby adopted into the Farmington City Municipal Code, as provided in Exhibit A.

Section 3: Severability. If any section, clause, or provision of this Ordinance is declared invalid by a court of competent jurisdiction, the remainder shall not be affected thereby and shall remain in full force and effect.

Section 4: Effective Date This Resolution shall become effective immediately upon publication.

PASSED AND ADOPTED BY THE CITY COUNCIL OF FARMINGTON CITY, STATE OF UTAH, THIS 6TH DAY OF JUNE, 2023.

ATTEST:

FARMINGTON CITY

DeAnn Carlile, City Recorder

Brett Anderson, Mayor

7-3-030: SERVICE CHARGE:

- A. Imposed: There is hereby levied and imposed upon the owner or owners of each residence served by the city (or its contractor) in accordance with the preceding sections, a monthly service charge for each such residence. The city may include said service charge on a bill for other services.
- B. Late Charges: The city may also impose late charges and interest on any past due service charges or unpaid part thereof. Collection of said late charges may be effected through such action as the city may deem necessary, including, but not limited to, termination and disconnection of garbage and/or water service to delinquent residences, litigation in a court of competent jurisdiction for collection of penalties and charges provided for, and/or other methods as the city may deem appropriate from time to time.
- C. Payment By Owner: The owner or owners of the residence serviced are responsible for payment of the service charge and any other charges levied and imposed hereunder. An occupant or person in possession or control of a residence or property unit other than the owner may pay the service charge and thereby cause a credit on the corresponding property of the owner, provided nothing herein shall relieve the property owner from responsibility for payment of any unpaid charges imposed hereunder.
- D. Amount: The amount of the monthly service charge and all associated late charges and interest may be set and modified from time to time by resolution of the city council.
- E. Removal of Containers Due to Non-payment: If within a period of sixty (60) days after the penalty in Section 9-1-130(B) of this code is assessed, payment for any past due balances, together with any penalty fees, has not been made, the city utility billing clerk shall notify the public works department to remove all city garbage and recycling containers from the premises or to take other collection measures authorized by the city council. A redelivery fee in the amount determined in the consolidated fee schedule shall be imposed on the account at the time the containers are removed. Before the containers are redelivered, all past due balances, together with all penalty and special expense fees that may be assessed, must have been paid.

9-1-010: APPLICATION FOR WATER AND SEWER SERVICE:

- A. Any person desiring a supply of water from the city water system or sewer service, or such services available, shall apply therefor to the city treasurer and file an agreement with the city in a form maintained by the city treasurer.
- ~~A.~~ B. The record owner of property to be served by the City water system must appear as an applicant for water connection and service, and shall be held responsible to the City for payment of all water service fees and utility charges incurred by that connection. Owners of property that rent, lease or otherwise give the said property over to the tenancy of another shall remain liable for the water services and other utilities furnished to the property by the City, including all fees and charges incurred by a renter or lessee or other occupant of the owner's premises. It shall be the duty of the property owner to notify the City of termination or change in ownership of the property, which said agreement and application shall be substantially in the following form:

~~—APPLICATION AND AGREEMENT~~

~~TO FARMINGTON CITY CORPORATION: DATE:~~

~~—The undersigned hereby apply for water and sewer service in Farmington for their premises located at and hereby agree to pay for water used for sewer service furnished at the rates as have been or may in the future be fixed by the City Council; and in the event of failure to pay either for the water used for sewer service, the city shall have the right to shut off the water and disconnect the sewer, or either, at its election; and the undersigned further agree to be bound by the rules and regulations and ordinances of the city now in effect or to become effective in the future for the control of the city's water or sewer system.~~

~~—Also submitted herewith is a cash deposit of \$___ which is to guarantee payment for water used or for sewer service. In the event the undersigned shall fail to pay for water used or for sewer charges according to city rates, this deposit shall be forfeited and applied on such delinquency. Upon the termination of the water and sewer service, this deposit shall be returned by the city to the undersigned provided all water and sewer bills have been paid in full.~~

~~—Also submitted herewith is a sum of \$___ in the sum of \$___ which constitutes payment for connection to the water and sewer system, respectively.~~

WITNESSED BY:

APPLICANTS (Husband and Wife)

APPROVED, Farmington City Council

By

Council member

9-1-015: TERMINATION OR DEFERRAL OF SERVICE DUE TO VACANCY:

- A. The customer shall be responsible for the payment of all fees associated with the utilities provided to the property until a new customer submits an application for service at the property. If a customer has transferred ownership of the property, the customer may submit a notice to City requesting disconnection. The City may require proof of property transfer in connection with this request. Due to the ongoing expenses of maintaining the utility system for the immediate benefit of each property, users may not terminate or defer the accrual of fees for their properties, except as provided in this section.
- B. A customer may request a deferral of fees for no less than six months nor greater than two years, if the property will be vacant and water will not be used during that time. The customer shall be required to pay a fee in an amount identified in the consolidated fee schedule at the commencement of the deferral. The City may install a lock on the customer's meter when that customer's account is put into deferral.
- C. Upon resumption of occupancy, the customer must inform the City in order to remove the property from deferral status.
- D. A customer whose account is in deferral, and who fails to inform the City of occupancy within thirty days of occupancy, shall be required to pay the fees for any portion of any month during which the property was occupied, and also pay a penalty fee equal to a month of service.

9-1-130: PAYMENT NOTICE; DISCONTINUANCE OF SERVICE:

- A. Statement Of Charges: The city utility billing clerk shall mail or cause to be mailed a statement of service charges to each user of water, storm sewer, sanitary sewer and garbage collection each month or at such other regular intervals as the city council shall direct. Said statement shall separately specify the amount of charges for water, storm sewer, sanitary sewer, and garbage service and shall also specify the date due and place wherein payments may be made.

B. Penalty: If any person neglects, fails or refuses to pay his charges for water, storm sewer, sanitary sewer or garbage on or before the specified due date, penalties shall be assessed against those charges thirty (30) days following the due date, in an amount established in the consolidated fee schedule. Additional penalties shall apply every thirty (30) days until: (1) water is shut off, or (2) any past due balances, together with all penalties and special expense fees associated with the city utility account, have been paid.~~a five percent (5%) penalty fee shall be assessed against said charges fifteen (15) days following the due date.~~

B.C. Shut-Off: If, within a period of thirty (30) days after the initial penalty in subsection (B) is assessed, payment for any past due balances, together with any penalty fees, has not been made, the city utility billing clerk shall notify the water supervisor to shut off all water service to the premises involved or to take other collection measures authorized by the city council. Before water service to said premises shall again be provided, any past due balances, together with all penalty and special expense fees that may be assessed, must have been paid.

D. Notice: Prior to the shutting off of water service, and during the thirty (30) day period subsequent to the assessment of the penalty fee, the city utility billing clerk shall first mail or cause to be mailed-delivered at least two (2) notices to the billing address of the customers in arrears advising them of their delinquency. One of such notices shall be a shutoff notice specifying the date the water is to be shut off for nonpayment and also specifying the customers' right to appeal such action to the city council.

C.E. Appeal: A customer may appeal a shutoff notice to the City Council by submitting a written appeal to the City Manager prior to the shutoff date. The appeal shall be placed on a subsequent city council agenda that is at least seven calendar days after the appeal is filed. An appeal to the City Council shall stay the shutoff while the matter is pending, but fees and penalties continue to accrue and are not stayed.~~No water shall be shut off when an appeal request to the city council has been made prior to the pending shutoff date as written on the notice.~~

D.F. Collection Agency: The city utility billing clerk shall have the authority to utilize a collection agency on all accounts not collectible by the water shutoff method. When a collection agency is used, the cost of collection shall be added to the account balance in arrears.

CITY COUNCIL AGENDA

For Council Meeting:
June 6, 2023

BUSINESS: **Employee Appeals Amendment**

GENERAL INFORMATION:

See staff report prepared by Paul Roberts, City Attorney



CITY COUNCIL STAFF REPORT

To: Mayor and City Council
From: Paul Roberts, City Attorney
Date: June 6, 2023
Subject: Employee Appeals

RECOMMENDATION(S)

It is strongly recommended by staff that the Council amend its employee appeal ordinance away from the model currently in ordinance. If comment or feedback is necessary, then it is recommended that you provide direction and table the item for further study.

Suggested Motions: "I move that the City Council adopt this ordinance amending chapter 3-4 of the Farmington City Municipal Code related to employee appeals."

OR

"I move that this item be placed on the June 20, 2023 agenda for further consideration."

BACKGROUND

Unlike many jobs in Utah, public employees who are no longer on probation (1 year, in Farmington) have statutory, merit protection for their job.¹ This has been recognized as a property right that cannot be terminated or substantially reduced away without due process.² However, cities are authorized by code to establish the procedure and standards that apply to the due process hearing.³

Current Ordinance

Our current ordinance calls for an employee appeal board consisting of two councilmembers, three employees of the city, and three alternates from among city employees. The employee board members are selected via a nomination and election process and serve for two years. The councilmembers on the appeal board are selected every year with council assignments.

¹ See Utah Code Ann. § 10-3-1105 & -1106. This protection applies to terminations, demotions, and suspensions without pay for more than two days. But appointed officials such as Department Heads do not enjoy merit status. The merit protection also does not apply if termination or transfer is due to a layoffs, reorganization or other non-disciplinary reasons. See UCA § 10-3-1106(8).

² See e.g. *Becker v. Sunset City*, 2013 UT 51, ¶ 15, 309 P.3d 223 ("Because qualified Sunset City employees may only be terminated for cause, they have a due process right to a hearing.")

³ *Nelson v. City of Orem*, 2013 UT 53, ¶25, 309 P.3d 237 ("Section 10-3-1106 in turn provides a municipal employee with the right to 'appeal the final decision to discharge . . . to an appeal board.' It leaves the 'method and manner of choosing . . . the members of the appeal board,' 'the procedure for conducting an appeal,' and the selection of the 'standard of review' to 'the governing body of each municipality by ordinance.'").

The City has not conducted an employee appeal hearing in recent memory and does not maintain a staffed employee appeal board. As such, if the need for an employee appeal arose, the board would have to be quickly constituted in the shadow of the looming appeal. The danger of politicking to get people on the board favorable or opposed to the appealing employee would be significant. The current personnel manual indicates that the employee appeal board renders a recommendation to the City Manager, who then makes the final determination on discipline.⁴

Additional complications arise with employee appeal boards. The City may need to retain independent legal counsel to provide advice to the board as it hears the case and applies the burdens of proof. They are also required to produce written findings of fact, which may or may not be within their range of skills. Depending upon the cause for the discipline, the issues may be more complex and require more frequent legal consultations.⁵

Proposed Ordinance

As noted earlier, the City is permitted to establish procedures and standards for due process hearings. The proposed ordinance expressly adopts a procedure that tracks case law on the subject.

Administrative Hearing Officer Presides Over Appeal

State code permits the appointment of a hearing officer to consider employee appeals.⁶ It is recommended that the Council go this route and utilize the administrative hearing officer (AHO) that we already utilize for land use issues. Policy considerations support this move. First, the removal of employees and councilmembers from the employee appeal process increases the credibility of the tribunal because it removes outside influences from the process. The AHO is far less likely to be accused of rendering a decision for improper purposes, due to the AHO's independence. Second, our AHO is law-trained, eliminating the need for outside counsel to assist the board. The City Attorney can prosecute the case without a conflict of interest arising in the proceedings.⁷

Bifurcated Proceedings

Appellate decisions apply two tests to a disciplinary decision: (1) the factual grounds for discipline, and (2) whether the discipline imposed is proportional and consistent.⁸ The proposed ordinance specifically bifurcates the proceedings so that the AHO is required to make factual findings and legal determinations for each prong of the two-part test. Additionally, it may be that an employee who appeals their disciplinary action will choose to waive a portion of the hearing. For instance, an employee may admit that the misconduct occurred in the face of overwhelming evidence but only

⁴ This could be problematic if the City Manager was the one that considered the level of discipline in the first place.

⁵ More complicated cases can result in multiple trips to the Court of Appeals. *E.g. Fierro v. Park City Mun. Corp.*, 2012 UT App 304, 295 P.3d 696 (reversing the appeals board for considering alleged misconduct that was not included in the termination memo); *Fierro v. Park City Mun. Corp.*, 2014 UT App 71 (reversing appeals board ruling again, finding that there was not substantial evidence to support termination).

⁶ See UCA § 10-3-1106(7).

⁷ See *Palmer v. St. George City Council*, 2018 UT App 94, ¶¶ 25 – 29, 427 P.3d 423 (holding that City Attorney appropriately served as counselor to the appeals board because the City had hired outside counsel to prosecute the disciplinary action).

⁸ *Nelson*, 2013 UT 53, ¶23.

have a beef with the severity of the discipline imposed. In that case, the proceedings may be shortened to the issues being challenged, at the employee's option.

Standards of Review by AHO

The standards of review selected in the proposed ordinance are well-established by Utah case law and should be easy to apply to the facts before the AHO. The factual grounds for discipline must be supported by substantial evidence, which is a well-established standard in this context.⁹ The same is true of the abuse of discretion standard.¹⁰ In the proposed ordinance, the facts must be supported by substantial evidence (which is the same standard of review which the Court of Appeals will apply). That burden will be borne by the City. On the second prong of review, the AHO will consider whether the discipline was an abuse of discretion, giving broad deference to the supervisor's choice of discipline.¹¹ The employee bears the burden of proving an abuse of discretion by clear and convincing evidence.

Creation of Record

It is far too common to see a reversal handed down by the Court of Appeals due to an inadequate record or failure to make findings.¹² The ordinance also calls for the creation of a record and timely written findings, in order to accommodate appropriate review by the court.

Split-verdict as to Alleged Misconduct

What if multiple instances of misconduct are alleged, but not all of them are supported by evidence at the hearing? The proposed ordinance accepts that as a possibility and accounts for it. If the AHO renders a split verdict as to specific alleged misconduct, then the AHO remands the issue back to the department head for reconsideration of the discipline, limiting the decision to only those violations that were sustained by the AHO. The AHO then reviews that amended decision for abuse of discretion.

Fitness for Duty Determinations

In addition to misconduct, an employee has the right to appeal a discharge or transfer due to unfitness for duty. In such cases, the proposed ordinance places the burden on the City to establish that the employee is not fit for duty, by a preponderance of the evidence.

Informal Procedure

Procedures before the AHO are intended to be informal and provide for due process. In some cases, attorneys representing employees will treat the tribunal as a court and begin filing multiple motions

⁹ *Becker*, 2013 UT 51, ¶ 10 ("a quantum and quality of relevant evidence that is adequate to convince a reasonable mind to support a conclusion").

¹⁰ *Nelson*, 2013 UT 53, ¶ 32 ("We reverse under an abuse of discretion standard only if (1) the Board relied on an erroneous conclusion of law or (2) there was no evidentiary basis for its ruling. Further, to satisfy the arbitrary or capricious standard of review, the Board's decision must fall within the limits of reasonableness or rationality.") (quotation marks removed, cleaned up); see also *Taylorsville City v. Taylorsville City Employee Appeal Board*, 2013 UT App 69, ¶26, 298 P.3d 1270.

¹¹ This is consistent with Court of Appeals precedent addressing civil service commissions. See *Taylorsville City Employee Appeal Board*, 2013 UT App 69, ¶ 29 ("a civil service commission should give deference to a police chief's advantaged position in considering whether the sanction selected by the police chief is warranted...").

¹² See *Rosen v. Saratoga Springs City*, 2012 UT App 291, ¶24, 288 P.3d 606; *Palmer*, 2018 UT App 94, ¶¶38-39.

(to dismiss, in limine, summary judgment). The code prohibits that type of practice before the AHO; pre-trial orders are limited to orders on the production of records,¹³ or scheduling matters like continuances. The parties are permitted to file a trial brief, and a reply to the opposing side's trial brief, if desired. During the hearing, the rules of evidence and procedure do not apply. However, recent Court of Appeals case law indicates that confrontation must be available for any individual whose testimony is to be considered.¹⁴

Amendments not Associated with Employee Appeals

While we were in Chapter 3-4, some additional sections needed attention in order to bring our ordinance into conformity with state code. Specifically, section 3-4-030 adds sexual orientation or gender identity to the list of protected statuses, in accordance with the Utah Antidiscrimination Act;¹⁵ section 3-4-045 adds "a deputy head of a municipal department or division" to the list of employees who are exempt from merit protection, as indicated in section 10-3-1105 of the Utah Code.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Paul Roberts", with a long horizontal flourish extending to the right.

Paul Roberts
City Attorney

Review and concur,

A handwritten signature in blue ink, appearing to read "Brigham Mellor", with a stylized, looped design.

Brigham Mellor
City Manager

¹³ This section is in response to the *Palmer* case, in which the court found that failing to provide records sought amounted to a due process violation. *See Palmer*, 2018 UT App 94, ¶ 36. It is preferred to have such matters resolved by the AHO; or if an employee does not exhaust administrative remedies by filing a request compelling production, then it will provide a more solid defense on appeal.

¹⁴ *Brindley v. Logan City*, 2023 UT App 46, ¶ 26.

¹⁵ Utah Code Ann. § 34A-5-106(1)(a).

ORDINANCE NO: 2023-_____

**AN ORDINANCE AMENDING CHAPTER 3-4 OF THE FARMINGTON CITY
MUNICIPAL CODE RELATED TO EMPLOYEE APPEALS**

WHEREAS, the City Council is authorized by state law to adopt provisions related to employee appeals of certain adverse employment decision; and

WHEREAS, the method and manner of choosing the members of the appeals board, the procedure for conducting an appeal, and the selectin of a standard of review for that board is left to the discretion of the City Council; and

WHEREAS, the utilization of an administrative hearing officer is specifically authorized by state law in the employee appeal context; and

WHEREAS, the City Council has considered employee appeals and the appropriate level of protection for employees facing adverse employment decisions; and

WHEREAS, the City Council finds that the procedures established in this amended Chapter 3-4 provide adequate due process to those employees,

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF
FARMINGTON CITY, STATE OF UTAH, AS FOLLOWS:**

Section 1: Amendment. Chapter 3-4 of the Farmington City Municipal Code is hereby amended as provided in Exhibit A.

Section 2: Severability. If any section, clause, or provision of this Ordinance is declared invalid by a court of competent jurisdiction, the remainder shall not be affected thereby and shall remain in full force and effect.

Section 3: Effective Date This Resolution shall become effective immediately upon publication.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF FARMINGTON CITY,
STATE OF UTAH, THIS 6TH DAY OF JUNE, 2023.**

ATTEST:

FARMINGTON CITY

DeAnn Carlile, City Recorder

Brett Anderson, Mayor

3-4-010: HUMAN RESOURCES MANAGER:

The human resource manager shall implement and maintain the provision of this chapter and perform other duties as required by ordinance, resolution or policy of the City Council.

3-4-020: PERSONNEL POLICIES AND PROCEDURES:

The city may establish and adopt personnel policies and procedures consistent with state and federal laws and regulations for the administration, organization, operation and conduct of its personnel.

3-4-030: EQUAL OPPORTUNITY EMPLOYER:

Farmington City is an "equal opportunity employer" and it is the policy of the city to comply with federal and state equal employment opportunity laws and guidelines. It is the policy of the city to prevent discrimination in the hiring, employment, promotion and other employment practices with respect to its employees on the basis of race, color, national origin, religion, sex, political affiliation, age, pregnancy, childbirth or pregnancy related condition, disability, genetic information, ~~or~~ status as a veteran, sexual orientation or gender identity, in accordance with applicable state and federal laws.

Commented [PR1]: Added to conform to Utah Antidiscrimination Act – UCA 34A-5-106(1)(a).

3-4-040: EMPLOYEE APPEALS:

- A. Except as provided in section 3-4-045 of this chapter, each employee of the city shall hold employment without limitation of time, being subject to discharge, suspension of over two (2) days without pay, or involuntary transfer to a position with less remuneration only as provided herein.
- B. If an employee other than an employee excluded under section 3-4-045 of this chapter is discharged, suspended for more than two (2) days without pay, or involuntarily transferred from one position to another with less remuneration for any disciplinary reason, the employee may appeal the final decision to discharge, suspend without pay, or involuntarily transfer to the employee appeal board in accordance with and subject to the procedures set forth in Utah Code Annotated section 10-3-1106, as amended.

3-4-045: EXCLUSIONS:

Section 3-4-040 of this chapter does not apply to any officers, employees or positions described herein, which positions are deemed at will and subject to termination with or without cause and without appeal rights pursuant to Utah Code Annotated 10-3-1105, as amended:

- A. Designated Positions: Section 3-4-040 of this chapter does not apply to a person who holds a position or equivalent position described as follows:
 1. A police chief;
 2. A deputy or assistant police chief;
 3. A fire chief;
 4. A deputy or assistant fire chief;
 5. A head of a municipal department or division;
 6. ~~A deputy head of a municipal department or division;~~
 7. ~~A superintendent;~~
 8. ~~A probationary or introductory employee;~~
 9. ~~A part time employee;~~
 10. Seasonal, temporary or limited employees;
 11. A person who works in the office of an elected official; or
 12. A secretarial or administrative assistant support position that is specifically designated as a position to assist an elected official or the head or deputy head of a municipal department.

Commented [PR2]: Conforms to UCA 10-3-1105(2)(e)(vi)

- B. Appointed Officers: Section 3-4-040 of this chapter does not apply to any person appointed to a position under Utah Code Annotated section 10-3-901 et seq., appointed officials and their duties, including, but not limited to, the city manager, city recorder, city treasurer, city engineer, city attorney, police chief and fire chief.
- C. Layoffs And Reorganizations: Section 3-4-040 of this chapter does not apply to any employee who is discharged or involuntarily transferred to a position with less remuneration if the discharge or involuntary transfer is the result of a layoff, reduction in force, reorganization or other nondisciplinary action.
- D. Statutory Exclusion: Section 3-4-040 of this chapter does not apply to any officer, employee or position that is excluded under and in accordance with the provisions of Utah Code Annotated section 10-3-1105(2), as amended.

3-4-050: EMPLOYEE APPEALS BOARD:

- ~~A. Created: There is hereby created an employee appeal board in accordance with Utah Code Annotated section 10-3-1106, as amended, to hear appeals of covered employees who have been discharged, suspended for more than two (2) days without pay, or involuntarily transferred to a position with less remuneration.~~
- ~~B. Members: The employee appeal board shall consist of five (5) members, three (3) of whom shall be chosen by and from the appointed officers and employees of the city and two (2) of whom shall be members of the city council. Alternate members shall also be appointed as provided herein.~~
- ~~C. Selection Of Members And Alternates:~~
 - ~~1. Council Members And Alternates: The city council shall designate two (2) of its members to serve on the employee appeal board, hereinafter referred to as the "council members", and two (2) of its members to serve as alternate council members.~~
 - ~~2. Officer And Employee Members And Alternates: The appointed officers and employees of the city shall elect three (3) of its members to serve on the employee appeal board, hereinafter referred to as "employee members", and three (3) of its members to serve as alternate employee members in the following manner:~~
 - ~~a. Nomination: The city manager shall send written notice to all appointed officers and employees of the city that they may make written nominations for officer and employee candidates to serve on the employee appeal board and the closing date for filing such nominations with the city recorder. Nominations received by the city recorder after the closing date will not be considered.~~
 - ~~b. Voting: Upon the closing of nominations, an election shall be held by all appointed officers and employees of the city to elect three (3) employee members of the board and three (3) alternate employee members. The election shall be by secret ballot. The three (3) individuals receiving the highest number of votes shall be deemed elected as employee members, and the next three (3) individuals receiving the highest number of votes shall be deemed elected as alternate employee members.~~
- ~~D. Limitation On Members: No person may sit on the employee appeal board who also sat on a predisciplinary hearing of the appealing employee or whose employment with the city has terminated. No employee member of the employee appeal board may sit on the employee appeal board if they themselves or an employee they supervise is the appealing employee. Should such a situation occur, the city manager shall appoint by random lot an alternate employee member to sit for the appeal.~~

- ~~E. Term: Elected and employee and council members shall serve for a term of two (2) years from the date of their election or appointment. Members may serve additional terms in accordance with the election and appointment procedures set forth herein.~~
- ~~F. Vacancies: Any vacancy in an employee member position shall be first filled by an alternate employee member by drawing lots, and if no alternate employee member is available, by nomination and election as provided herein at the time such vacancy occurs. Any vacancy in a council member position shall be filled first by an alternate council member by drawing lots, and if no alternate council member is available, by appointment as provided herein at the time such vacancy occurs.~~
- ~~G. Procedures: All appeals to the employee appeal board shall be conducted in accordance with Utah Code Annotated section 10-3-1106, as amended, and applicable provisions of the personnel policies and procedures adopted by the city.~~
- A. Appeal Authority: The Administrative Hearing Officer for Farmington City is designated as the appeal authority for any appeal of an employee that is terminated, suspended for greater than two days, or transferred into a position with less remuneration, and which employee is not exempt under Section 3-4-045 of this Code. In the case of a conflict of interest or unavailability, the City Manager may appoint a provisional hearing officer to oversee the proceedings.
- B. Filing of Appeal: An employee who is not exempt under section 3-4-045 who wishes to file an appeal of a disciplinary action described in section 3-4-040 must submit a written notice of appeal, describing in detail the grounds for the appeal with any supporting documentation, to the City Recorder within five business days following the disciplinary action giving rise to the appeal, or an employee will be deemed to have waived all appeal rights.
- C. Proceedings: Hearings and decisions of the administrative hearing officer shall be held and rendered as soon as reasonably practicable, with no unreasonable delay.
1. Both the appealing employee and the city shall be entitled to appear at the appeals hearing, to be represented by counsel, to have the hearing open to the public, to confront witnesses whose testimony is offered during the hearing, and to examine the evidence to be considered by the administrative hearing officer.
 2. The administrative hearing officer may request the appointment of independent medical or other technical experts, in the administrative hearing officer's sole discretion, if the administrative hearing officer believes that the expert's opinion is necessary for the resolution of the case.
 3. All documentation to be presented at the appeals hearing shall be made available by each party upon written request of the party seeking the documentation at least six business days prior to the scheduled hearing date; all request for documents shall be considered to be ongoing up to and through the time of the hearing.
 4. Any party may, no later than four business days prior to the date of the appeal hearing or cutoff date for a decision, submit to the administrative hearing officer a written brief, no more than ten pages in length, with supporting documentation, which articulates that party's arguments and position regarding the subject matter of the appeal.
 5. Copies of any written brief shall be concurrently forwarded to the opposing party, and a reply brief may be submitted in response no later than two business days prior to the hearing date or cutoff date for a decision.
- D. Governing Rules: The Utah Rules of Evidence, Utah Rules of Civil Procedure and Utah Administrative Code do not apply to administrative hearings. Hearings are conducted to be

fundamentally fair to the parties and to provide due process. The administrative hearing officer may entertain objections in order to maintain decorum and to address issues of relevance.

- E. Hearsay Evidence: There is no rule against the admission or consideration of hearsay evidence in appeal proceedings. A decision may not be based solely upon hearsay evidence.
- F. Pre-Hearing Motions: With the exception of a request for an order requiring the release of documents which have been requested or scheduling matters, no pre-hearing motions shall be entertained by the administrative hearing officer.
- G. Record: An audio recording of the hearing shall be kept and all exhibits received in evidence at the hearing shall be maintained.
- H. Decision: The administrative hearing officer shall, within fifteen (15) calendar days of the conclusion of the hearing, transmit the decision to the employee, the department director, the human resource manager and the city recorder for certification. The city recorder shall certify the decision by placing the city's official seal on the document, and the date of certification.
- I. District Court Appeal: The written ruling of the administrative hearing officer shall be the final administrative decision of the city and the decision may be appealed by either party to the Utah Court of Appeals within thirty (30) calendar days from the date on which the administrative hearing officer's decision is certified by the City Recorder.

3-4-055: EMPLOYEE APPEAL PROCEEDINGS – BURDENS OF PROOF:

- A. Appeals from disciplinary actions: The proceedings for appeals from disciplinary actions are bifurcated. The disciplined employee may waive challenge to either phase of the proceedings at any time. In the absence of a clear, written waiver, or a waiver tendered in the presence of the administrative hearing officer, the proceedings will proceed through both phases.
 - 1. During the first phase of the proceedings, the administrative hearing officer considers evidence of the charges upon which the discipline was based. Only evidence that relates to the reason for the discharge, suspension or transfer may be heard by the administrative hearing officer. The burden of proof to establish the charge is upon the City, and the administrative hearing officer shall sustain the charge if it is supported by substantial evidence.
 - a. If the administrative hearing officer sustains all of the charges, then it shall proceed to the second phase of the hearing, described in subsection A(2).
 - b. If the administrative hearing officer sustains none of the charges, then the administrative hearing officer shall overturn the disciplinary action, as provided in subsection (C)(2).
 - c. If the administrative hearing officer sustains some, but not all, of the charges, then the administrative hearing officer shall refer the decision back to the department head or city manager who made the disciplinary decision for reconsideration of the decision, in light of the findings. A referral back to the department head or city manager is an interlocutory order, and is not subject to appeal. The department head or city manager may decrease the severity of, modify, withdraw, or retain the disciplinary decision previously made. If the department head or city manager fails to respond to the administrative hearing officer within three business days from the date of the referral, then the administrative hearing officer shall proceed as if the department director or city manager has not changed the disciplinary decision.

2. During the second phase of the proceedings, the administrative hearing officer considers whether the misconduct warranted the sanction imposed by the city. The administrative hearing officer gives broad deference to the supervisor's choice of discipline and reviews that decision for an abuse of discretion. The disciplined employee bears the burden of proving an abuse of discretion by clear and convincing evidence.
 - a. A supervisor abuses their discretion if the sanction is arbitrary, capricious or illegal.
 - b. When considering whether the sanction is arbitrary, capricious or illegal, the administrative hearing officer considers whether the discipline imposed is:
 - i. Disproportionate in light of the circumstances; or
 - ii. Inconsistent with previous sanctions imposed by the supervisor upon similarly situated employees pursuant to the department or city's own policies.
- B. Appeals from discharge or reassignment due to fitness for duty determinations: In cases of discharge or transfer to a position of less remuneration due to a determination that the individual is unfit to report to duty due to a medical condition, the employee who is not exempt from appeals under section 3-4-045 of this code has the right to appeal that decision.
 1. In cases of fitness for duty appeals, the city bears the burden of proving by a preponderance of the evidence that the circumstances warrant the action taken.
- C. The administrative hearing officer's final decision shall be in writing and include factual findings supporting that decision. The hearing officer may:
 1. Sustain the city's action; or
 2. Overturn the city's action.
- D. If the city's action is overturned:
 1. The human resources manager, or a designee, shall remove the record of the overturned action from the employee's personnel file and retain it separately, which record shall be designated as private pursuant to Utah law.
 2. The hearing officer shall reinstate any loss of pay associated with an overturned action, but in the case where an employee has taken employment elsewhere, the amount shall be reduced by any amounts the employee earned from other employment during this period of time.
- E. If a department director or city manager reduces the severity of the disciplinary decision under subsection (A)(1)(c), then the hearing officer shall reinstate any loss of pay which would not have been incurred, had the reduced discipline been initially imposed.

3-4-060: VOLUNTEERS:

- A. Defined: "Volunteer" means any person who donates service without pay or other compensation, except expenses actually and reasonably incurred as approved by the city.
- B. Status: All volunteers of the city shall be subject to the provisions of the volunteer government workers act, as set forth in Utah Code Annotated section 67-20-1 et seq., as amended. A volunteer may not donate any service to the city unless and until the volunteer services are approved by the city manager.
- C. Government Employee: Except as provided in Utah Code Annotated section 67-20-3, as amended, regarding volunteer safety officers, an approved volunteer is considered a government employee for purposes of:
- D. Receiving workers' compensation medical benefits, which shall be the exclusive remedy for all injuries and occupational diseases as provided under Utah Code Annotated title 34A, chapters 2, workers' compensation act, and 3, Utah occupational disease act, for any injury sustained while engaged in the performance of any authorized service for the city;

- E. The operation of motor vehicles or equipment if the volunteer is properly licensed and authorized to do so; and
- F. Liability protection and indemnification normally afforded paid government employees.
- G. Expenses: Volunteers may receive reimbursement for transportation, meals, travel expenses, lodging, uniforms and supplies, in the discretion of and when authorized and approved by the city manager.

CITY COUNCIL AGENDA

For Council Meeting:
June 6, 2023

SUMMARY ACTION:

1. All West Franchise Agreement for Cable Television Services
2. Minutes Approval for May 16, 2023



FARMINGTON CITY

BRETT ANDERSON
MAYOR

ROGER CHILD
SCOTT ISAACSON
MELISSA LAYTON
ALEX LEEMAN
AMY SHUMWAY
CITY COUNCIL

BRIGHAM MELLOR
CITY MANAGER

To: Mayor and City Council

From: Brigham Mellor, City Manager

Date: June 6, 2023

Subject: **Franchise Agreement with All-West for Cable Television Services**

RECOMMENDATION(S)

Move that the City Council approve the attached franchise agreement with All-West for cable television services, as part of the summary action calendar.

BACKGROUND

Franchise Agreements allow utility providers access to city right-of-way and easements to facilitate providing services to residents. The City is required to provide access to those areas to all providers. This Agreement is substantially similar to the cable television franchise agreement that governs the chief competitor of All-West, in order to ensure parity and a level playing field.

Supplemental Information:

1. Franchise Agreement with All-West governing cable television services (pre-signed by provider)

Respectfully submitted,

Brigham Mellor
City Manager

**FRANCHISE AGREEMENT BETWEEN THE CITY OF FARMINGTON AND ALL
WEST/UTAH, INC. REGARDING OPERATION OF A CABLE TELEVISION SYSTEM
WITHIN THE CITY OF FARMINGTON**

This Franchise Agreement Between the City of Farmington, Utah and All West/Utah, Inc. ("Franchise Agreement") is made this 17 day of May, 2023, by and between the City of Farmington, a municipal subdivision of the State of Utah (the "City") and All West/Utah, Inc., a Utah corporation ("All West" or "Grantee") and for the purpose of granting to All West the non-exclusive right to operate and maintain a cable television system in, on, over, upon, along, and across the public rights of way of the City of Farmington, and for the purpose of identifying and prescribing certain rights, duties, terms, and conditions with respect thereto.

Section 1. Definitions. When used in this Franchise Agreement, unless the context otherwise requires, the following terms and their derivatives shall have the meaning herein given (and when not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular, and words in the singular number include the plural):

- (1) "Basic Cable Service" means any service tier of Cable Service which includes the retransmission of local television broadcast signals by the Grantee.
- (2) "Cable Act" means the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer protection and Competition Act of 1992, the Telecommunications Act of 1996 and any amendments thereto.
- (3) "Cable Service" means: (a) the one-way transmission to Subscribers of video programming or other programming service; and (b) Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.
- (4) "Cable System" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple Subscribers within a community as defined in the Cable Act. A Cable System may be composed of, without limitation, antenna, cables, wires, lines, fibers, towers, wave guides, or any other conductors, converters, equipment or facilities, designed, constructed or wired for the purpose of producing, receiving, amplifying and distributing cable radio, television or other electronic or electrical signals to and from persons, Subscribers and locations in the Franchise Area.
- (5) "City" means the City of Farmington.
- (6) "Council" means the governing body of the City.
- (7) "Franchise Area" means that area within the corporate limits of the City as now or hereafter constituted.

(8) "Grantee" means All West/Utah, Inc., its successors and assigns ("All West").

(9) "Grantee Property" means all property owned, installed or used by the Grantee in the provision of Cable Service in the City as described in Section 2.

(10) "Gross Subscriber Revenues" means all remuneration received directly by the Grantee from Subscribers in payment for regularly furnished Cable Service, but shall not include any franchise fee or taxes on services furnished by the Grantee imposed on any Subscriber or user by any government, governmental unit, political subdivision, agency or instrumentality, and collected by the Grantee.

(11) "Person" means any natural person, company or entity of any kind.

(12) "Street" means the surface of and the space above and below any public street, way, place, right of way, road, highway, freeway, bridge, tunnel, lane, path, bike path, alley, court, sidewalk, parkway, drive, boulevard, communications or utility easement, by whatever name called, now or hereafter existing as such within the Franchise Area.

(13) "Subscriber" means any person or entity who lawfully receives any Cable Service.

Section 2. Grant of Authority. There is hereby granted by the City to the Grantee the right and privilege to engage in the business of operating and providing a Cable System in the City, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain and retain in, on, over, under, upon, across and along any Street or Streets laid out or dedicated and all extensions thereof and additions thereto in the Franchise Area, such poles, wires, cable, conductors, ducts, conduit, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other property as may be necessary and appurtenant to the Cable System (collectively "Grantee Property"); and in addition, so to use, operate, and provide similar facilities or properties rented or leased from other persons, including but not limited to any public utility or other Grantee franchised or permitted to do business in the City.

Section 3. Non-Exclusive Grant. The right to use and occupy said Streets for the purposes herein set forth, shall not be exclusive to the Grantee. The City agrees that any grant of additional franchises or other authorizations by the City to any other entity to provide video or other services similar to those provided by Grantee pursuant to this Franchise Agreement and over which the City has regulatory authority shall require that service be provided for the same territorial area of the City as required by this Franchise Agreement and shall not be on terms and conditions more favorable or less burdensome to the grantee of any such additional franchise than those which are set forth herein. Furthermore, if the City authorizes or permits a competitor to Grantee to operate within the Franchise Area, it shall do so on condition that such competitor or entity indemnify and hold harmless the Grantee for and against all costs and expenses incurred in strengthening poles, replacing poles, rearranging attachments, placing underground facilities, conducting inspections and generally in creating infrastructure improvements for the other entity.

Section 4. Term of Franchise. The franchise and rights herein granted shall commence on the date of the final passage hereof and shall continue in force and effect for ten (10) years after said effective date, subject to such modifications as to which the City and the Grantee may hereafter agree. Thereafter, the franchise and rights granted herein shall automatically renew for successive ten (10) year periods unless the City revokes such franchise and rights by ordinance on or before the expiration of the initial term or any renewal period hereof.

Section 5. Conditions of Street Occupancy. (1) All transmission and distribution structures, poles, lines, and equipment installed or erected by the Grantee within the Franchise Area shall be so located as to cause minimum interference with the proper use of Streets and with the rights and reasonable convenience of property owners who adjoin any of said Streets. The Cable System shall be constructed and operated in compliance with applicable governmental construction and electrical codes. No Cable System shall be located where it will interfere with the rights of property owners or with gas, electric, or telephone fixtures, or with water hydrants or mains, sewer facilities, or any other service, utility or facility that benefits the City's or its residents' health, safety and welfare. Notwithstanding the grant of authority set forth in this Franchise, no Street shall be used by Grantee if the City, in its sole discretion, determines that such use is inconsistent with the terms, conditions, or provisions by which such Street was created or dedicated, or presently used.

(2) In case of disturbance of any Street or paved area, the Grantee shall, at its expense and in accordance with generally accepted construction practices, replace and restore such Street or paved area in as good condition as existed immediately prior to the disturbance.

(3) The Grantee shall, at its expense, protect, support, temporarily disconnect, relocate in the same Street or other public place, or remove from the Street or other public place, any Grantee Property when lawfully required by the City by reason of traffic conditions, public safety, Street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, or water pipes, or any other type of structures or improvements by the City; but, the Grantee shall in all cases have the right of abandonment of Grantee Property, subject to City ordinances, and if public funds are available to any utility company for the purpose of defraying the cost of any of the foregoing, such funds shall also be made available to the Grantee.

(4) The Grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of buildings, provided: (a) The expense of such temporary raising or lowering of wires is paid by said person, including, if required by the Grantee, making such payment in advance; and (b) The Grantee is given not less than three (3) business days advance notice to arrange for such temporary wire changes.

(5) The Grantee shall have the authority to trim trees overhanging any Streets in the Franchise Area so as to prevent branches from coming in contact with the Grantee's wires and cables, except that at the option of the City, such trimming may be done by it or under its supervision

and direction at the Grantee's expense. The Grantee shall reasonably compensate the City for any damage caused by such trimming, or shall, in the City's sole discretion and at Grantee's own cost and expense, reasonably replace all trees or shrubs damaged as a result of any construction, access, or maintenance of the Cable System undertaken by the Grantee. The Grantee shall make a reasonable effort, including written notice, to notify owners of property adjacent to trees that will be subject to significant trimming at least seventy-two (72) hours prior to doing the work. Grantee shall obtain the consent of private property owners to trim trees that are within or encroaching upon private property. As used herein, "significant trimming" is any trimming of trees beyond minor cuts that do not substantially change the aesthetic character of the tree or damage or injure the tree. All trimming and pruning of trees shall comply with the American National Standard for Tree Care Operation (ANSI A300), or comparable generally acceptable compendium, and shall be conducted under the direction of an arborist certified with the International Society of Arboriculture.

(6) Subject to any applicable state or federal regulations or tariffs, the City shall have the right to make additional use, for any public purpose, of any poles or conduits controlled or maintained exclusively by or for the Grantee in any Street, provided: (a) such use by the City does not interfere with the use by the Grantee; (b) such use by the City does not commercially compete with the Grantee; and (c) the City holds the Grantee harmless against and from all claims, demands, causes of actions, suits, actions, proceedings, damages, costs or liabilities of every kind and nature whatsoever arising out of such use of said poles or conduits.

(7) In the event the Grantee's Cable System creates a hazardous or unsafe condition or an unreasonable interference with private property, then at its own expense, the Grantee shall voluntarily, or upon the request of the City, remove that part of the Cable System that creates the hazardous condition or interference from the subject property.

Section 6. Safety Requirements. (1) The Grantee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public.

(2) All structures and all lines, equipment and connections in, over, under and upon all Streets of the Franchise Area shall be kept and maintained in a safe and suitable condition and in good order and repair.

Section 7. System Construction and Extension. (1) The Grantee is hereby authorized to extend the system within the Franchise Area to the extent that such extension is or may become technically and economically feasible. Nothing in this agreement requires Grantee to build to all areas of the Franchise Area. Grantee retains discretion to determine the scope, location, and timing of the design and construction of its network.

(2) The City agrees to include the Grantee in the platting process for any new subdivision. At a minimum, the City agrees to require as a condition of issuing a permit for open trenching to any

utility or developer that the utility or developer give the Grantee at least ten (10) days advance written notice of the availability of the open trench. Grantee shall negotiate with developer for payment of reasonable costs for such access.

(3) The Grantee is responsible for insuring that the Cable System is designed, installed and operated in a manner that fully complies with FCC rules in Subpart K of Part 76 of Chapter I of Title 47 of the Code of Federal Regulations as revised or amended from time to time. As provided in these rules, the City shall have, upon request, the right to obtain a copy of tests and records required in accordance with appropriate rules but has no authority, pursuant to federal law, to enforce compliance with such standards.

Section 8. Operational Standards; Force Majeure. (1) The Grantee shall operate and maintain its Cable System in full compliance with the standards set forth by the Federal Communications Commission.

(2) The Grantee shall have no obligation to construct or extend the system, nor to provide, repair, replace, maintain or operate Cable Service, for any cause beyond Grantee's control, including, without limitation, acts of God, fire, flood, earthquakes, hurricane, unavoidable casualty, extraordinary delays in transportation, strikes, lockouts, picketing, boycotts, embargoes, government orders or other requirements, acts of civil or military authorities, governmental restrictions, regulations or controls, enemy or hostile governmental action, civil commotion, energy shortages, acts or omissions of carriers, or activities or other emergency conditions including weather conditions incompatible with good quality workmanship.

Section 9. Office; Complaints. The Grantee shall maintain a business office or agent which Subscribers may telephone during regular business hours without incurring added message or toll charges, so that complaints regarding cable television operations may be promptly reported to the Grantee.

Section 10. Franchise Payments. (1) The Grantee shall pay the City a sum equal to five percent (5%) of the Gross Subscribers Revenues per annum derived by the Grantee from all Subscribers located within the City.

(2) Within 60 days after the first day of July of each year, during the term of this Franchise Agreement, the Grantee shall file with the City a report of such revenues as described within this section for the next preceding twelve (12) month period, which report shall include a computation of the franchise payment due. The City shall determine the accuracy of the franchise payment computation, and if it finds any errors, shall report the same to Grantee for correction. The records of the Grantee reflecting the information relevant in determining revenues described in this section shall be available for inspection by the City Council or its duly authorized representative at all reasonable hours and upon reasonable notice of not less than 15 days.

(3) The payments described in this section shall be in lieu of any and all other franchise,

occupation, privilege, pole, wire, instrument, excise or other taxes except general ad valorem property taxes, sales taxes, City license tax and other special improvement taxes lawfully levied by the City or any other subdivision of the State of Utah pursuant to law.

(4) The business of cable television is hereby classified as a "retail business" for licensing purposes and the Grantee shall pay the annual license fee for such business at the rate in effect each year for such businesses, but it will not be singled out for tax treatment different from other members of that general class of business. The Grantee is authorized to charge and collect this franchise fee from the Subscribers in addition to the charges for Cable Services heretofore or hereafter approved by the City in the same manner as such billing and collection is authorized under the utility franchises issued by the City.

Section 11. Indemnification of City. (1) The Grantee shall at all times protect and hold the City harmless from all claims, actions, suits, liability, loss, expense or damages of every kind and description, including investigation costs, court costs, and reasonable attorney's fees, which may accrue to or be suffered or claimed by any person or persons arising out of the negligence of the Grantee in the ownership, construction, repair, replacement, maintenance and operation of said Cable System and by reason of any license, copyright, property right or patent of any article or system used in the construction or use of said system, provided the City gives the Grantee prompt notice of any such claims, actions, and suits, without limitation, in writing. The Grantee shall maintain in full force and effect during the life of any franchise, comprehensive general liability insurance with limits inclusive of umbrella or excess liability coverage of not less than (a) \$2,000,000 for bodily injury or death to each person; and (b) \$3,000,000 for property damages resulting from any one accident.

(2) The City may require that any and all investigation of claims made by any person against the City arising out of any use or misuse of privileges granted to the Grantee hereunder shall be made by, or at the expense of the Grantee or its insurer. The Grantee may bring its obligations to carry any insurance required hereby within the coverage of any so-called blanket policy or policies of insurance now or hereafter carried, by appropriate amendment, endorsement or otherwise, provided, however, the interests of the City shall be as fully protected thereby as if the Grantee had obtained individual policies of insurance.

Section 12. Procedures. (1) Any inquiry, proceeding, investigation or other action to be taken or proposed to be taken by the City in regard to the operations of the Grantee's Cable System, shall be taken only after thirty (30) days written notice to the Grantee of such action or proposed action, and the Grantee has been given an opportunity to respond in writing and at any hearing which may be specified by the City.

(2) The notice required by this section shall state clearly the action or proposed action to be taken, the time provided for response and the person or persons in authority to whom such responses should be addressed, and such other procedures as may be specified by the City. If a hearing is to be held, the notice shall give the date and the time of such hearing, whether public participation will be allowed and the procedures by which such participation may be obtained.

The company shall be a necessary party to any hearing conducted in regard to its operations.

Section 13. Procedure Upon Termination. Upon expiration of the Franchise Agreement, if the Grantee shall not have acquired an extension renewal thereof and accepted the same, it may have and it is hereby granted, the right to enter upon the Streets or other property of the City, for the purposes of removing therefrom any or all of its Grantee Property or otherwise. In so removing said Grantee Property, the Grantee shall refill, at its expense, any excavation that it shall make and shall leave said Streets in as good condition as that prevailing prior to the Grantee's removal of Grantee Property.

Section 14. Approval of Transfer. The Grantee shall not sell or transfer its plant or Cable System to another, other than a person controlling, controlled by or under common control with the Grantee, nor transfer any rights under this Franchise Agreement to another, without prior written notification to the City. No sale or transfer of the Grantee's assets used in the performance of this Franchise Agreement shall be effective until the vendee, assignee or lessee has filed in the office of the City clerk an instrument duly executed reciting the fact of such sale, assignment or lease, accepting the terms of the Franchise Agreement and agreeing to perform all the conditions thereof. Neither this section nor other sections of this Franchise Agreement shall preclude the mortgaging, hypothecating, or assigning of rights in the Cable System, or the pledge of stock by the Grantee for the purpose of financing.

Section 15. Miscellaneous Provisions. (1) When not otherwise prescribed herein, all matters herein required to be filed with the City shall be filed with the City clerk.

(2) The Grantee shall assume the cost of publication of this Franchise Agreement when such publication is required by law. A bill for publication costs shall be presented to the Grantee by the City clerk.

(3) In the case of any emergency or disaster, the Grantee shall, upon request of the City make available its facilities to the City for emergency use during the emergency or disaster period.

(4) Grantee shall provide an operating Emergency Alert System ("EAS") throughout the term of this Franchise in compliance with FCC standards. Grantee shall test the EAS as required by the FCC. Upon request, the City shall be permitted to participate in and/or witness the EAS testing up to twice a year on a schedule formed in consultation with Grantee. If the test indicates that the EAS is not performing properly, Grantee shall make any necessary adjustment to the EAS, and the EAS shall be retested.

Section 16. Compliance with Applicable Laws and Ordinances. The Grantee shall at all times during the life of this Franchise Agreement be subject to all lawful exercise of the police power by the City. The City reserves the right to adopt from time to time in addition to the provisions herein contained such ordinances as may be necessary to the exercise of police power. Such regulation shall be reasonable and not in derogation of the rights herein granted, nor in conflict with the laws of the state or other local or federal laws or regulations.

Section 17. Violations; Penalties. (1) From and after the effective date of this title, it shall be unlawful for any person to construct, install or maintain within any public Street in the City, or within any other public property of the City, or within any privately-owned area within the City which has not yet become a public Street but is designated or delineated as a proposed public Street on any tentative subdivision map approved by the City, any equipment or facilities for distributing any television signals or radio signals through a Cable System, unless a franchise authorizing such use of such Street or property or area has first been obtained, and unless such franchise is in full force and effect.

(2) It shall be unlawful for any person to make any unauthorized connection, whether physically, electrically, acoustically, inductively, or otherwise, with any part of the franchised Cable System within this City for the purpose of enabling anyone to receive any television signal, radio signal, picture, sound, or other transmission, without payment to the Grantee.

(3) It shall be unlawful for any person, without the consent of the owner, willfully to tamper with, remove or injure any cables, wires or equipment used for distribution of television signals, radio signals, pictures, sound or other transmission.

(4) Any person violating or failing to comply with any of the provisions of this section shall be guilty of a class C misdemeanor.

Section 18. Line Severing. If at any time the Grantee's cable and/or other equipment is disturbed, damaged, or severed the cost of repair shall be paid by the party responsible for said damage. The Grantee may charge the responsible party for the time and materials expended for repair of said damage. The City will cooperate with the Grantee to assist in enforcing any charge or penalty arising from cable severing or other damage to Grantee Property.

Section 19. Separability. If any part of this Franchise Agreement is for any reason held invalid by the decision of any court or regulatory body of competent jurisdiction, such decision shall not affect the validity of the remaining portions. The invalidity of any portion of this Franchise Agreement shall not abate, reduce or otherwise affect any consideration or other obligation required of the Grantee.

Section 20. Approval by City Council and Effective Date. This Franchise Agreement shall be effective upon execution by the Grantee and the City's Mayor and the prior approval of this Franchise Agreement by resolution of the City Council adopted at a public meeting duly noticed under Utah law.

[SIGNATURE PAGE TO FOLLOW]

AGREED TO this ____ day of _____, 20__.

CITY OF _____

By: _____
Its: Mayor

ATTEST:

City Clerk

ALL WEST/UTAH, INC.


By: Matthew Waller
Its: President

FARMINGTON CITY – CITY COUNCIL MINUTES

MAY 16, 2023

WORK SESSION

Present:

*Mayor Brett Anderson,
City Manager Brigham Mellor,
Mayor Pro Tempore/Councilmember Scott
Isaacson,
Councilmember Melissa Layton,
Councilmember Amy Shumway,
City Attorney Paul Roberts,
City Recorder DeAnn Carlile,*

*Community Development Director Dave
Petersen,
Assistant Community Development
Director/City Planner Lyle Gibson,
Assistant City Manager/City Engineer Chad
Boshell,
Finance Director Greg Davis,
Accountant Kyle Robertson, and
Public Works Director Larry Famuliner.*

Mayor **Brett Anderson** called the work session to order at 5:06 p.m. Councilmembers **Roger Child** and **Alex Leeman**, as well as Recording Secretary **Deanne Chaston** were excused.

BUDGET PRESENTATIONS AND DELIBERATION

The work session was held to consider a presentation made by Finance Director **Greg Davis** regarding the upcoming Fiscal Year 2023 Budget. Tonight's discussions will assume a 30% increase on property taxes. Payroll has a market adjustment, cost of living budget, and merit budget in it. The General Fund was pulled way down for large projects. Also, there is a lack of one-time revenue sources compared to recent prior years. A transfer out will go to the quasi-government recreation fund, which is subsidized at a high level.

Tonight the fund balance will be budgeted to drop down to 20% from where it used to be in the 40% area. The State limit is 35%. If there is too little, the City is not protected against rainy days. If there is too much at the same time the City is asking for a property tax increase, it looks suspicious. The property tax will pay for three new police officers and some one-time expenditures.

The utility budgets includes 13%-14% increases on utility billing. It makes sense to do a property tax increase every year. Otherwise the City is losing ground with inflation increasing every year. The City has been hit very hard in the last few years with payroll increases. This should be applied to utilities also. The garbage hauler has contractual increases every year, and these should be passed on to the residents. Central Davis Sewer District is passing on an increase as well. It is a budget cut if revenue is not increased.

Revenue sources for the Redevelopment Agencies (RDAs) are property tax. City Manager **Brigham Mellor** said the Highway 89 RDA lasts until the bond is paid off. It is being used to pay the debt service on the \$1 million gym bond, which goes through Fiscal Year 2025. **Davis** said some cash is in the Station Park RDA. There is some responsibility to do some affordable housing.

Debt services funds: There is discussion to increase the Recreation, Arts and Parks (RAP) tax. There is a bond payment for the gym. The police station build-out bond was paid off. The bond for City Hall and public safety building was recently paid off. The 20-year \$6 million obligation bond voted for by residents is part of the property tax assessment and will go until FY 2035.

Capital improvement funds: Class C money can be used for streets and sidewalks. A local transportation sales tax helps out. Resurfacing projects, as well as chip and slurry seals are paid for out of this budget. Everything coming in is used. There is a balance of \$600,000 that needs to be paid out. There are some larger projects that require a cash build-up. The City faces some liability if it doesn't get some sidewalks taken care of. Some sidewalks have been marked for replacement. Following litigation against that fee, the City now feels good having a balance in the Class C and transportation utility fee fund.

Improvement fund: Money is transferred from the General Fund for materials, storage, building and Public Works. There was some design and construction expenses. Assistant City Manager/City Engineer **Chad Boshell** said if the City is audited for the storm water, there could be trouble. **Mellor** said the City is not following Environmental Protection Agency (EPA) standards with the salt shed. Salt should not only be covered, but drained as well so salt is not added to the storm water system. There could be a state fine. A shed with concrete walls needs to be built to store salt, road base, sand, baseball dirt, gravel, and equipment. **Boshell** said it could be phased and doesn't cover all the expenses. Public Works Director **Larry Famuliner** said this has been needed for 20 years. The \$950,000 in the budget is the complete cost.

Capital improvements: The City is planning on \$12 million coming in before June 30, 2023, for the business park. Staff hopes to be done with the 950 North project by this fiscal year. Whatever is not spent, a budget amendment will be sought. Early next year, an amendment will be sought for the business park. Millions of the \$13 million have been spent already. The expenditure budget will need to be re-established. **Boshell** said by July, Maker Way should be all paved. Curb and gutter is being done now. Impact fees will pay for the 1100 West widening to be completed before school starts.

Capital equipment fund: There are \$1.8 million in expenditures in this fund. The fund balance is more than \$400,000. Money will be transferred from the General Fund to purchase a lot of vehicles. It is critical to collect enough money, including property taxes, to annually fund capital replacement. It needs to be built in. Balancing the budget includes collecting enough to pay for capital each year. \$350,000 is needed annually to replace police vehicles every six years. Adding three new police officers will increase what is needed to provide them with vehicles. The fire apparatus for \$515,000 is a carry forward. It was originally budgeted at \$450,000, but prices kept increasing. In the past, installment payments would have been required, but because there is such a demand for fire apparatus and equipment, it is no longer required.

Mellor said Farmington paid \$800,000 for a \$1.2 million ladder truck, which was a significant saving. This was paid for with impact fees. When the ladder truck needs to be replaced, impact fees can't purchase the replacement. The primary source needs to be the General Fund. If it is related to new growth, vehicles over \$500,000 can be paid for with impact fees. There needs to be a cash balance going forward. \$350,000 of the property tax increase needs to be set aside and reserved for this fund because of those big equipment purchases, especially for a new fire station. It takes a long time to order and then receive equipment. For example, money set aside for new equipment by this Council may not be delivered until a new Council is elected.

Mayor Anderson said he had a text recently from Police Chief **Eric Johnsen** saying he offered \$25.95 per hour to a new hire, which he declined because Orem is paying him \$31. So, Farmington is \$5 an hour below Orem. Farmington is on the low end now, despite recent increases. In FY21, there was a 5% increase for police officer pay. In FY22, there was a 24% increase. FY23, there was a 17% increase. Between market rate adjustments and Cost of Living Adjustments (COLA), this proposed budget includes a total increase of 5%. **Davis** is collecting information on what other cities are increasing wages to. It is a moving target while Farmington is trying to catch up. The Council may want to add in even more.

The proposed 30% property tax increase would increase the average Farmington homeowner's taxes by \$10 a month. If the Council wanted to add another 3% in increased wages, it would cost the average homeowner \$13 a month. Property taxes are used mostly for public safety such as fire and police. Utility fees pay for administration and services such as water and sewer. Any cost increases should be passed on to the users.

Water fund: Restricted amounts (from impact fees) are for growth projects. The non-growth projects include operating expenses and replacement of water lines. Customer utility billings are the only source of revenue for that. Lines are millions of dollars of value in infrastructure under the ground. It is not a choice, but an absolute need. The recommended budget has between 13% to 14% rate increase. The City is now having to play a significant catch-up to upgrade aging water lines. **Mellor** said not raising utility rates while making due over the last few years now has costs that outweighs the benefits. The requested \$71,000 covers increased costs for pipes, fittings, and brass due to inflation. Any revenue that comes into enterprise funds must be used in that enterprise fund, and cannot be transferred to the General Fund. It is earmarked by law for that use. Staff needs to update future Councils with what projects money is being saved for. A new computer program can keep track of this, including replacement funds, future inflation, information to back up rate increases, etc. It will protect the Council from the public.

Davis said he has prepared a list of requested expenditures organized from largest dollar to smallest dollar. This can be consulted if the Council doesn't want to increase property taxes or leave 20% in fund balance. This list includes such items as permanent Christmas lights on the gym and pool, water line replacement, xeriscaping, etc. Mayor Pro Tempore/Councilmember **Scott Isaacson** noted that xeriscaping was the largest item, which is ironic. Other Councilmembers pointed out that it will save not only water, but money in the long term. **Mellor** said it will save significant maintenance costs and man hours usually spent on hauling equipment to mow grass.

Utility bills: Farmington has low utility rates (water, sewer, garbage, storm water, and transportation) compared to other cities. The City has to pass on the 13% Central Davis Sewer District increases that Farmington has no control over. **Famuliner** said the contract with the garbage hauler went up due to volatile fuel expenses, as they have a fuel surcharge that has been up and down this past year. **Mayor Anderson** said those rates need to be revisited, as the costs to ship waste out of Wasatch Integrated Waste will continue to go up. Waste drivers haul the garbage 100 miles north. Savings can be realized with increased recycling, which should be incentivized City-wide. **Boshell** said West Davis Corridor (WDC) will change drainages, causing an increase in storm water maintenance. A bobtail truck will be needed in the budget. **Mellor** said all rates should be raised at the same time instead of piecemeal.

Ambulance fund: A third party bills the customers and collections are the best they can be. A new gurney has been ordered as a capital item. A new station alerting system is being added.

Recreation: The budget is higher because of payroll and changes in wage allocation. Reclasses and promotions have occurred over the year. They are requesting a full-time recreation coordinator. The pool may have some savings due to part-time scheduling optimization. The General Fund regularly subsidizes Recreation for ongoing requests.

Permanent Christmas lights for the gym and city pool are included in the budget. **Issacson** said he would like to take the \$55,000 for Christmas lights out of the budget. Councilmember **Melissa Layton** said she doesn't like them. Councilmember **Amy Shumway** said this was the only fun thing in the proposed budget. **Mayor Anderson** said the \$55,000 would be better used to hire a police officer at a better hourly rate. **Mellor** said the money to put permanent lights on the Community Center will come from the funds that were usually used to put up and take lights down each year. **Shumway** said the Community Center is much more visible year-round to residents compared to the pool, which is only seasonal. The gym is packed every winter night with Junior Jazz participants. **Issacson** said it is a wonderful idea, but something has to be cut if the City is asking to raise residents' property taxes. **Layton** said she got six or seven emails objecting to the recent raises to the pool rates, so putting lights on the pool may not look good.

Mayor Anderson said an electric car charging station is in the budget for \$24,000, and the City is seeking a grant to pay for that. **Famuliner** said a lot of things have already been cut before the budget got to this point. **Mellor** said the biggest increases in budgets going forward will be employees' wages. He doesn't anticipate laying any employees off in the future, even during hard financial times.

The next time the budget will be discussed is a public hearing on June 20, 2023, when the Council may vote to adopt the proposed budget and fees. The consolidated fee schedule will be on the agenda that day as well.

REGULAR SESSION

Present:

*Mayor Brett Anderson,
City Manager Brigham Mellor,
Mayor Pro Tempore/Councilmember Scott
Isaacson,
Councilmember Melissa Layton,
Councilmember Amy Shumway,
City Attorney Paul Roberts,
City Recorder DeAnn Carlile,*

*Community Development Director Dave
Petersen,
Assistant Community Development
Director/City Planner Lyle Gibson,
Assistant City Manager/City Engineer Chad
Boshell,
Finance Director Greg Davis, and
Accountant Kyle Robertson.*

CALL TO ORDER:

Mayor **Brett Anderson** called the meeting to order at 7:05 p.m. Councilmembers **Roger Child** and **Alex Leeman**, as well as Recording Secretary **Deanne Chaston** were excused.

Roll Call (Opening Comments/Invocation/Pledge of Allegiance)

Councilmember **Amy Shumway** offered the invocation, and the Pledge of Allegiance was led by Councilmember **Melissa Layton**.

PRESENTATION:

Student Spotlight: Abigail Bennet, Farmington High School

Abigail Bennet was recognized as Farmington High School's student spotlight.

"Abby is one of the most fun and positive students I have had the pleasure of being around. Through ups and downs, she has had a great attitude and always made those around her feel special and important," said FHS Vice Principal Tim Allen. "Abby has participated in Debate and Theater during her time at FHS and is an accomplished actor. As part of the Centerpointe Academy at Centerpointe Theater, she has done multiple shows and is currently the lead in their production of Urinetown and is INCREDIBLE in it. The same great personality she shows at school comes through in her performances and leaves people better than when they came into the theater."

Motion:

After a problem with a power transformer, **Shumway** made a motion to amend the agenda to move the business portion up.

Layton seconded the motion. All Council members voted in favor, as there was no opposing vote.

Mayor Pro Tempore/Councilmember Scott Isaacson
Councilmember Melissa Layton
Councilmember Amy Shumway

X Aye ____ Nay
X Aye ____ Nay
X Aye ____ Nay

Motion:

Mayor Pro Tempore/Councilmember **Scott Isaacson** made a motion to amend the agenda to move the item under public hearings “Second Amendment to Conservation Easement for Hunters Creek Subdivision, Phase 1-3” in the agenda up above the discussion of the “Fiscal Year 2023 Quarter #3 (03/31/2023) Financial Report.”

Shumway seconded the motion. All Council members voted in favor, as there was no opposing vote.

Mayor Pro Tempore/Councilmember Scott Isaacson
Councilmember Melissa Layton
Councilmember Amy Shumway

X Aye ____ Nay
X Aye ____ Nay
X Aye ____ Nay

PUBLIC HEARING:

Second Amendment to Conservation Easement for Hunters Creek Subdivision, Phase 1-3

Community Development Director **Dave Petersen** presented this agenda item. This item is connected to the following agenda item. There is a portion under conservation easement, which does not allow a trail since it is not shown on an exhibit. The Council would be amending the exhibit to display a trail. If the City were to go to all the work to put in the trail, they would want to own it in fee title. A petition from the Homeowner’s Association (HOA) agreed to that. The HOA is the grantee and Farmington City would be the grantor.

Mayor Anderson opened and closed the Public Hearing at 7:20 p.m., as nobody signed up in person or electronically to address the Council on the issue.

Isaacson said the Council met with representatives from the HOA during the work session two weeks ago to review this item. They spoke and offered their input. This is a good solution, and another amenity for the community to have the trail.

Motion:

Isaacson moved that the City Council approve the “Second Amendment to Conservation Easement for Hunters Creek Subdivision, Phase 1-3” (enclosed in the Staff Report).

Findings 1-4:

1. The motion will help enable the establishment of a critical link in the creation of continuous east/west mile-long multi-use pedestrian and bicycle facilities connecting three north/south regional trails, and such east/west connections are few along the Wasatch Front.
2. The document will allow the City to provide an ascetically pleasing landscape buffer between existing homes in the Hunters Creek Subdivision and a future major collector street now under construction (950 North).
3. The trial will provide recreation opportunities for Farmington citizens and the region as a whole.
4. The Council’s approval complies and is consistent with Farmington City conservation easement amendment policy.

Layton seconded the motion. All Council members voted in favor, as there was no opposing vote.

Mayor Pro Tempore/Councilmember Scott Isaacson
Councilmember Melissa Layton
Councilmember Amy Shumway

X Aye ____ Nay
X Aye ____ Nay
X Aye ____ Nay

BUSINESS:

Property Acquisition and Easement Agreement – Hunters Creek Subdivision

Petersen presented this agenda item. This is a joint application between the HOA and Farmington City. There is no cost for the land exchange since the City would be doing it in exchange for long-term maintenance and operation. The HOA will grant the City a needed easement, but the City would only maintain the trail, not the easement. The HOA would do the landscaping south of the trail. The vicinity map shows this would provide a link to three major trails, providing extensive recreation opportunities. It will provide a landscape buffer for homes on 950 North that abut this. This is only a subtle change to the conservation easement. Homes still cannot be build there and it will remain held as open space.

Isaacson said after debating if the City should take over ownership of this property at the work session two weeks ago, the Council decided this was the best approach for both the citizens and the City.

Motion:

Layton moved that the City Council approve the “Property Acquisition and Easement Agreement—Hunters Creek Subdivision” (enclosed in the Staff Report) subject to the condition that the City as it installs landscaping on the property must follow its own water wise landscaping ordinances.

Findings 1-3:

1. Same findings as the previous agenda item; and
2. The agreement will ensure the long-term maintenance of the trail and landscaping now and in the future, while at the same time implementing sound water conservation practices.
3. The Property Acquisition and Easement Agreement is consistent with, and meets the purpose of, The Hunters Creek Conservation Easement and amendments No. 1 and No. 2 thereto.

Shumway seconded the motion. All Council members voted in favor, as there was no opposing vote.

Mayor Pro Tempore/Councilmember Scott Isaacson
Councilmember Melissa Layton
Councilmember Amy Shumway

X Aye ____ Nay
X Aye ____ Nay
X Aye ____ Nay

BUSINESS:

Agreement for Police Services at Lagoon Park

City Manager **Brigham Mellor** presented this agenda item. For 15 years, the agreement with Lagoon had Farmington providing police personnel during their months of operation. For the last year, this agreement was on hold to see if officers on the street could provide needed services while Lagoon provided on-site security personnel. It didn't go great for either party, and both parties came back to the negotiation table to produce a new agreement. Farmington is charging Lagoon for every police officer who goes on site to earn overtime pay. Beforehand, officers were just getting paid their hourly wage without compensation for overtime. That sort of agreement was in place for 15 years.

All parties understand there is some risk associated with the new proposed agreement. Four Farmington officers have said they are willing to work overtime at Lagoon. Farmington will provide a shirt and bring in other sworn officers in good standing from other agencies throughout Davis County to work part-time for Farmington. The risk is Farmington does not provide regular training for part-timers. In fact, Farmington usually tries to avoid hiring part-time officers. So, Farmington will take on the liability. **Mellor** said that officers can do great work but still be criticized. However, the liability would be greater if things continued how it was last year without an agreement in place.

Mellor said Farmington Police Chief **Eric Johnsen** said it caused heartburn because this is policing in a different age. In the long-run, the vision is to have full-time personnel assigned solely to Lagoon every day it is open, much like it is at the schools with resource officers. **Mellor** said there may be some seasonality to the Legacy Events Center in the future, and the new business park should also be considered. In the summer, school resource officers do other tasks such as logging inventory, etc. Something like that may need to happen with Lagoon officers in the future.

Andre Meacham, Lagoon Director of Safety and Security since 2004, addressed the Council. He has been with Lagoon for 38 years. Prior to 1989, they were with the Davis County Sheriff's Office. The agreement in front of the Council tonight is the sixth amendment of an agreement that was originally put in place in 1989. The only changes since has been the pay rate paid to Farmington. For years, Farmington hasn't had the Staff to cover the Lagoon shifts, so there has been reliance on reserve officers from other departments. With the recent changes in law enforcement, agencies are having a harder time staffing their own positions. Having a dedicated officer at the park gives a presence that deters many things. They take care of criminal matters and retail theft calls. The original agreement said that Farmington would provide an officer anytime Lagoon was open to the public. The new agreement said when Farmington provides an officer, Lagoon would pay. It does not specify certain days and hours. When any officer works at Lagoon—no matter what other agency they are from—they would wear Farmington shirts. However, the officers bring their own tactical equipment and vehicle.

Mellor said the proposed agreement is for one year, after which the situation can be re-assessed. **Isaacson** said Lagoon is an important part of Farmington. On a busy weekend, Farmington can get up to 30,000 extra people coming into their City. The City profits from the sales taxes from those visitors. At the same time, Farmington has to provide those guests with safety, fire, and

medical care. In the Lagoon agreement, there is no monthly fee. If Farmington officers don't show up, they don't get paid.

In the future, Farmington should discuss police presence at the Legacy Events Center, which will host huge, competitive events. It would be likely to have fights on site.

Motion:

Isaacson moved that the Council authorize the execution of the Sixth Amendment to the Agreement between Farmington City and Lagoon Corporation related to police services.

Layton seconded the motion. All Council members voted in favor, as there was no opposing vote.

Mayor Pro Tempore/Councilmember Scott Isaacson
Councilmember Melissa Layton
Councilmember Amy Shumway

X Aye ____ Nay
X Aye ____ Nay
X Aye ____ Nay

Fiscal Year 2023 Quarter #3 (03/31/2023) Financial Report

Accountant **Kyle Robertson** presented this agenda item. March 31, 2023, marked the end of third quarter. **Mayor Anderson** said the Council has been discussing budgets since March, and Staff is great at showing where the money is down to the last penny. **Isaacson** said interest was at \$798,000 in a \$50,000 budget. **Robertson** said that is all the interest from all bank accounts combined. By year-end, it will be \$1.1 million in interest that will be spread out to all the funds. \$114,000 came in from insurance claim proceeds.

Shumway said this was the first time sales tax revenues have been slightly down from what was projected. For her four years on the Council, sales tax came in at levels that exceeded projections. Staff always prepared the Council for this situation, and they are here now. **Mayor Anderson** said it may be the mark of a bad winter rather than a bad market. With the cold and snow lasting longer than usual, people may have put off their shopping. There were a lot of snow days. Lagoon had to delay their opening a couple of days. **Robertson** said the two worst sales tax revenue months were December and January this fiscal year compared to others. Those were both winter months.

REDEVELOPMENT AGENCY MEETING

Present:

*Mayor Brett Anderson,
City Manager Brigham Mellor,
Mayor Pro Tempore/Councilmember Scott
Isaacson,
Councilmember Melissa Layton,
Councilmember Amy Shumway,
City Attorney Paul Roberts,
City Recorder DeAnn Carlile,*

*Community Development Director Dave
Petersen,
Assistant Community Development
Director/City Planner Lyle Gibson,
Assistant City Manager/City Engineer Chad
Boshell,
Finance Director Greg Davis,
Accountant Kyle Robertson, and
Public Works Director Larry Famuliner.*

Motion:

Councilmember **Amy Shumway** made the motion to adjourn to the Redevelopment Agency (RDA) Meeting. The motion was seconded by Councilmember **Scott Isaacson**, and was unanimously approved.

Mayor Pro Tempore/Councilmember Scott Isaacson
Councilmember Melissa Layton
Councilmember Amy Shumway

X Aye ____ Nay
X Aye ____ Nay
X Aye ____ Nay

CALL TO ORDER:

Mayor **Brett Anderson** called the meeting to order at 8:03 p.m. Roll call established that the following members of the Governing Board of the Redevelopment Agency of Farmington City were present:

Mayor Pro Tempore/Councilmember Scott Isaacson
Councilmember Melissa Layton
Councilmember Amy Shumway

PUBLIC HEARING:

Conservation Easement Amendment Request for property in the vicinity of 500 N. 1525 W.

Assistant Community Development Director **Lyle Gibson** presented this agenda item. Part of the conservation easement is on property that will be sold. The easement will be removed from 0.26 acres and reallocated to a different portion of the park.

City Manager **Brigham Mellor** said conservation easements aren't normally put on City property, but when it was placed, Farmington was in negotiations with the Utah Department of Transportation (UDOT) on other conservation easements. How the roads would line up was not taken into account at the time. Most likely, Farmington will come back and look at a similar change to make way for a future fire station. This is an RDA issue because having the land owned by one government entity and the easement owned by another made more sense.

Mayor Anderson opened and closed the Public Hearing, as nobody signed up in person or electronically to address the Council on the issue.

Motion:

Shumway moved that the RDA approve the amendment to the conservation easement document (enclosed in the Staff Report), which adjusts the boundary of the conservation easement while maintaining the same overall area and clarifies the acceptability of roads for public travel.

Findings 1-9:

The amendment to the Conservation Easement attached hereto is a:

1. Minor or incidental change which is not inconsistent with the conservation values or purposes of the Conservation Easement and/or provides clarification to aid in the interpretation of the document;
2. Consistent with the overall purpose of the Conservation Easement and will not be detrimental to or compromise the protection of the stated conservation values of the Property;
3. Substantially equivalent to or enhances the conservation values of the Property;
4. Consistent with the City's goals for conservation of land under the Farmington City Conservation Subdivision Ordinance and will not undermine the City's obligation to preserve and enforce other conservation easements it has accepted.
5. Minimum change necessary to achieve the desired and acceptable purpose;
6. Clearly warranted and in the best interest of the public and the subject Property;
7. The granting of the amendment will no set an unfavorable precedent for future amendment requests;
8. The amendment does not adversely affect the City's qualification as a holder of conservation easements or any claimed deduction for donation of the conservation easement; and
9. The amendment does not provide a private benefit for the landowner or any private party or parties no greater than found elsewhere in the community under similar circumstances.

Councilmember **Melissa Layton** seconded the motion. All RDA members voted in favor, as there was no opposing vote.

Mayor Pro Tempore/Councilmember Scott Isaacson

X Aye ____ Nay

Councilmember Melissa Layton

X Aye ____ Nay

Councilmember Amy Shumway

X Aye ____ Nay

Motion:

Layton made a motion to adjourn and reconvene to an open City Council meeting at 8:12 p.m. The motion was seconded

Isaacson seconded the motion, which was unanimously approved.

Mayor Pro Tempore/Councilmember Scott Isaacson

X Aye ____ Nay

Councilmember Melissa Layton

X Aye ____ Nay

Councilmember Amy Shumway

X Aye ____ Nay

PUBLIC HEARING:

Cottrell Hills Planned Unit Development (PUD) Preliminary PUD Master Plan/Enabling Ordinance and Subdivision Plan

Community Development Director **David Petersen** presented this agenda item, commenting on each exhibit. On the southeast corner of 300 East and State Street, there are three parcels on the north half, and one big parcel on the south. There are two historic homes eligible for the National Register, and one that isn't. The yield plan demonstrates what they can do, but they proposed not to do that. They want to leave the three northerly lots intact as is, adding four lots to the larger parcel, for a total of seven lots. Lots 5 and 6 do not have frontage on 300 East, and will be accessed via private drive. Two of the lots are below 10,000 feet, which is the minimum lot size called for by the Original Townsite Residential (OTR) Zone. The applicant would like to preserve two of the historically contributing homes (Lots 2 and 3).

The Planning Commission wanted a street tree preservation plan, and sidewalk improvement. On the south, there is no sidewalk, although there appears to be space for it. The Commission wanted elevations provided as well. Of those provided, the first five meet the OTR underlying standards. The next three could comply with modifications, while the last three did not comply due to garage placement.

The Commission recommended the Council approve this with an agreement that they preserve the eligibility of the two historic homes, and agree to continue maintaining that eligibility. **Mayor Anderson** wants to know how this agreement can run with the land. City Attorney **Paul Roberts** said it would be agreed to, notarized, and recorded with the County. **Petersen** said they would need to be on the National Registry if the home owner wanted any tax breaks for rehabilitating the homes. However, this would not require that.

The Commission offered a cash-in-lieu option instead of sidewalk installation, with the final decision left to the City Engineer, Arborist, and Planning Department. The City Arborist still needs to issue his report on if installing a sidewalk would damage the old trees. At least one tree will have to be removed to make way for a drive. So far, Staff and the Fire Department have approved the applicant's depiction of driveway configurations and snow removal plans. The only deviation is that two lots would drop below the minimum size. The OTR allows flexibility in setbacks, so the application is in compliance. Other deviations may arise before final plat. The proposed homes have a footprint of 50x60 feet, consistent with surrounding homes in the neighborhood. With a private drive, they have to provide their own snow removal and bring garbage cans out to the public road.

Isaacson said the Council should expect to see more and more infill projects like this in the future as land becomes scarce. While he would rather preserve the rural lifestyle, the world has changed. Legislation recently passed that garages could become Accessory Dwelling Units (ADUs) if they share a common wall with a single-family home. **Mayor Anderson** said the sentiment is if the City doesn't find ways to make land habitable, the State will come in and give landowners that right.

Representing the applicant, **Seth Faerber** (598 N. Hill Farms Lane, Kaysville, Utah) addressed the Council. The corner home on 900 South is owned by **Paul and Rebecca Hatch**, his aunt and uncle. They would like to build on one of those lots, and have a daughter live in another home on

the property. For sure one tree will come to make way for a road, but two trees may have to come out. The root cellar will also have to come out to make way for the road. The oldest home is ineligible for the National Registry because it had an addition and siding added to it. There are no present plans to tear down that home at this time.

Mayor Anderson opened the Public Hearing at 8:38 p.m.

Ralph Reeves (Farmington, Utah) lives down the street and is concerned about sidewalks. There is an elevation that may require a retaining wall. His preference is to leave it as/is.

Cherry Rowberry (Farmington, Utah) lives on this same road and has vacant property across the street and down that they hope to develop in the future. She is concerned with the sidewalk and agrees with **Reeves**. She owned a historic home that had large trees and no sidewalks right next to a school that has sidewalks ending at her property line. That street has the old irrigation gutters, which are deep and a nuisance. Children on bikes don't have an easy way to navigate from the sidewalk to the side of the street there.

Faerber said the City is requiring the applicant to pay for sidewalks either way. The issue is if the sidewalk will harm the root systems of the old trees. Since there is a lot of elevation change from 300 East to where the sidewalk would be, he would have to cut down and retain both sides of the road. That would likely damage the trees more. He believes that not having the sidewalk will be better for those trees, but they will do what the City recommends.

Paul Hatch (Farmington, Utah) lives on the corner and is an applicant. His home faces west, and he rarely sees anyone on the sidewalks. A sidewalk would look out of place there.

Mayor Anderson closed the Public Hearing at 8:51 p.m.

Petersen said there are three choices for sidewalks: extension agreement entered into with the City, take the cash in lieu of the sidewalk, or have the applicant install the sidewalk. Under ordinance, this has to be fully improved with curb, gutter and sidewalk. But with the PUD overlay, there is flexibility. **Roberts** encouraged that if sidewalks won't be installed, to make it part of the motion and part of the agreement.

Isaacson said he is predisposed to favor sidewalks, but he has an open mind and wants to hear from the arborist. Sidewalks are important for the safety of children. While he loves trees, he loves children more.

Motion:

Isaacson moved that the City Council approve the Preliminary PUD Master Plan and Schematic Subdivision plan for the proposed Cottrell Hills PUD subject to all applicable Farmington City development standards and ordinances and the following Conditions 1-10.

1. The owners must enter into an agreement with the City, including but not limited to memorializing their commitment to preserve and maintain eligibility for the national register for two existing on-site "contributing" historic homes, and in that agreement, there will also be a cash-in-lieu option for the installation of the sidewalks—with the sidewalk's actual installation decision being left to the City's Engineer, Arborist, and Planning Department.

2. The applicant must meet all requirements of the City's Development Review Committee (DRC) including, but not limited to, Fire Department approval of the private drive configuration for the two "land-locked" lots.
3. Update plans to show the location of existing trees and sidewalk on 300 East next to Lots 1 and 2 as part of a street tree preservation plan, and label this portion of the sidewalk as "Existing," and the sidewalk adjacent to Lots 3 and 6 as "Proposed" and also identify all trees the entire length of the 300 East frontage as "Existing" as well.
4. All buildings constructed within the PUD, including building elevations, shall meet the standards of the underlying OTR zone.
5. Include the existing interior lot which fronts State Street (Lot 1, Sunset Hill NO. 2 subdivision, Parcel #07-038-0001) as part of the Cottrell Hills PUD Master Plan and Schematic Subdivision Plan.
6. The front of the dwelling on Lot 3 must face 300 East. The front of the dwellings on Lots 4 and 5 shall only face the private drive or their respective west property lines.
7. Private driveways on lots in the PUD must be at least 20 feet in length to allow the parking of cars/trucks thereon so that such parked vehicles will not project into private or public Rights of Way interrupting or preventing acceptable movement of pedestrian or vehicle traffic on these Rights of Way.
8. The applicant shall provide two parking spaces for Lot 6. [Note: Section 11-32-040 requires two parking spaces per single-family dwelling unit.]
9. The area of two of the seven lots may be less than the minimum lot size in the OTR zone of 10,000 square feet (Lot 3: 9,038 square feet and Lot 5: 9,484 square feet) as shown on the Preliminary PUD Master Plan. This deviation from the standard of the underlying zone, and possible other deviations must be finalized upon consideration of a Final PUD Master Plan by the City. [Note: The private drive/"land-locked" lots and the proposed setbacks shown on the plans are not deviations because these requests maybe possible as set forth in Section 12-7-030 B. of the Subdivision Ordinance and Chapter 17 of the Zoning Ordinance.]
10. The Council must approve an enabling ordinance enacting the PUD overlay zone, but after the Planning Commission favorably considers the Final PUD Master Plan for the project.

Findings 1-8:

1. The PUD will result in the preservation of two historic homes.
2. The proposed lots are comparable in size and dimensions to other lots found in the area.
3. The density of development is consistent with what is allowed in the OTR zone [Note: The applicant had the opportunity to apply for a density bonus of 20% as per Chapter 27 of the Zoning Ordinance, which if requested and approved, would have resulted in the creation of nine lots, but the owner limited the size of the proposed development to seven lots.]
4. The applicant provided plans showing the existing trees and proposed sidewalk adjacent to Lots 3 and 6, and the proposed motion will supplement this effort by requiring the developer to show all existing trees and existing/future sidewalk the entire length of the project's 300 East frontage in one overall street tree preservation plan.

5. The application is consistent with the goals and purposes of the Farmington City General Plan and Zoning Ordinance, including but not limited to the OTR zone.
6. The first part of the condition requiring the home on Lot 3 to face 300 East complies with Section 11-28-050 A. of the Zoning Ordinance which states “Main Building To Face Front: Regardless of the shape of any building lot, the full face of a building and the full width of required side yards shall be fully exposed to the street.” Although not flag lots, the second part of the same condition regarding the front of homes on Lots 4 and 5 meets a similar standard for flag lots in Section 12-7-030 J.2.d: “The front yard shall be considered one of the two (2) sides of the flag portion that adjoins the stem and all buildings must face the front yard.”
7. The motion accommodates the possibility of unforeseen additional deviations from the standards of the underlying zone, if any, which make sense, and come about as part of the Final (PUD) Master Plan process.
8. Based on the City Arborist’s report, and the decision of the City Engineer and Planning Department, the City may not require sidewalk to be put in.

Layton seconded the motion. All Council members voted in favor, as there was no opposing vote.

Mayor Pro Tempore/Councilmember Scott Isaacson
 Councilmember Melissa Layton
 Councilmember Amy Shumway

X Aye ____ Nay
 X Aye ____ Nay
 X Aye ____ Nay

SUMMARY ACTION:

Minute Motion Approving Summary Action List

The Council considered the Summary Action List including:

- Item 1: Approve the easement for Dominion Energy to provide gas services to the All West fiber hut at the Public Works location.
- Item 2: Public Works Surplus Property including: Set of three Diamond Plate Truck Tool boxes; Diamond Plate truck Toolbox; set of two tool boxes; tractor aerator, utility trailer, truck pipe rack; galvanized corrugated pipe of various sizes; reinforced concrete pipe of various sizes; shotcoat iron pipe of various sizes; steel pipe; concrete lid; concrete box section with insert for grate; and used chain link fencing.
- Item 3: Legacy Event Center Waterline Maintenance Agreement between Farmington City and Davis County.
- Item 4: UPDATED Polling Location and Vote Centers. Davis County added locations that were left off the original list.
- Item 5: Kirkham Corner Improvements Agreement between Curtis Kirkham and Farmington City. Kirkham has submitted a \$18,150 cash bond with Farmington.
- Item 6: Minutes Approval for May 2, 2023
- Item 7: CDBG Resolution & Interlocal Agreement with Davis County

Motion:

Layton moved to approve the Summary Action list Items 1-7 as noted in the Staff Report.

Shumway seconded the motion. All Council members voted in favor, as there was no opposing vote.

Mayor Pro Tempore/Councilmember Scott Isaacson
Councilmember Melissa Layton
Councilmember Amy Shumway

X Aye ____ Nay
X Aye ____ Nay
X Aye ____ Nay

GOVERNING BODY REPORTS:

City Manager Report

Mellor said an assessment was done on the swimming pool family season pass cost adjustment. There were 116 people who signed up for family passes last year. He feels in the future family passes should be eliminated in exchange for an individual season or punch pass. There are very few pools open for only a few months of the year that have a season pass element. In Phoenix, a lump sum bonus is given out at the end of the season to lifeguards who complete all their shifts. Farmington is trying a similar approach to incentivize lifeguards.

At a Utah League of Cities and Towns presentation, providing hygiene products in women's restrooms for free was discussed. Farmington decided to do it at all City buildings, but not in unisex bathrooms. The dispensers are expensive at \$600 for plastic and \$900 for steel. Dispensers should be purchased for the gym and pool. Otherwise, products will be placed in baskets.

Fire Chief **Rich Love** said the Farmington Fire Department would be recognized at a media ceremony for having the "event of the year" for their efforts when a woman was trapped on Highway 89. The police have an awards ceremony and dinner on Monday, May 22, 2023. Farmington resident and snowboarder **Jeremy Jones** will speak at the event. In 2017, he was caught in an avalanche. A fire fighter's ball will be held later in the year.

Shumway said the pool is the City's biggest expense, so an increase in admission is warranted. **Layton** would like to raise nonresident pool admission. Many nonresidents use Farmington residents' pool passes, and an identification verification may be needed to avoid cheating. **Isaacson** said the pool is part of Farmington's recreation offerings that the General Fund subsidizes. **Mellor** said passes are not the money maker for the pool. Pool revenue mostly comes from swimming lessons and private parties.

Early bird pricing was recently eliminated. Adjustments to the consolidated fee schedule can't be made official until the June 20, 2023, meeting. A one-day pass to the pool is currently \$6. The costs are proposed to be \$75 for an individual, \$150 for the first two members of household, and \$20 per additional member of a household. This is a 24% decrease from last year. **Mellor** said this discount may actually increase the number of people coming to the pool. Staff will need to keep an eye on demand for the gym and pool after Lifetime and the Legacy Events Center come in. New pool designs will need to adjust to projected future demand.

Mayor Anderson and City Council Reports

Roberts said the Flip the Strip program is being worked on by Staff, and the program is not available until next year.

Layton said **Phil Leonard** claims he leases property from the City. He wants to be paid for the alfalfa seed if the Old Farm property is sold. **Mellor** asked for **Leonard** to call him and discuss this item. **Mellor** said the City is planning to xeriscape land near U.S. Highway 89 with buffalo grass. While the land is owned by UDOT, the City has agreed to maintain the landscaping.

Layton said that Communities That Care is asking for the City contribution of 15 cents per resident to be put in writing for next year's budget.

Shumway said the Leadership Institute was excellent and she would recommend it to other employees and councilmembers. She is also concerned with neighbors in her HOA building fences that intrude on actual property lines. **Mellor** recommended that she look into the HOA bylaws about offloading HOA property for the purchase by other landowners.

The next Youth City Council meeting is Thursday at 3 p.m. They had an activity with Public Works operating machinery. **Shumway** said having a paid employee in charge has been a good change. **Mellor** said it will be more of a leadership experience now.

ADJOURNMENT

Motion:

Shumway made a motion to adjourn the meeting at 9:46 p.m. **Layton** seconded the motion. All Council members voted in favor, as there was no opposing vote.

Mayor Pro Tempore/Councilmember Scott Isaacson
Councilmember Melissa Layton
Councilmember Amy Shumway

X Aye ____ Nay
X Aye ____ Nay
X Aye ____ Nay

DeAnn Carlile, Recorder

CITY COUNCIL AGENDA

For Council Meeting:
June 6, 2023

CITY MANAGER REPORT:

- Consolidated Fee Schedule (CFS)
- Notice of Conditional Contract Award under RFP # 032423, Investment Advisor Services

FARMINGTON CITY AWARD NOTIFICATION

06/01/2023

SUBJECT: Notice of Conditional Contract Award under RFP # 032423,
Investment Advisor Services

This letter is in regard to the Request for Proposals (RFP) issued by the Farmington City Finance and Administration Department for Investment Advisor Services. The Department has evaluated the proposals received using the evaluation criteria identified in the RFP, and the Department is hereby announcing its conditional contract award to the following bidder:

Meeder Public Services

The bidder listed above received the evaluation team's highest ranking. The Department will be contacting the aforementioned bidder soon to negotiate a contract. The Notice of Conditional Contract Award is subject to execution of a written contract and, as a result, this Notice does NOT constitute the formation of a contract between Farmington City and the apparent successful vendor. The vendor shall not acquire any legal or equitable rights relative to the contract services until a contract containing terms and conditions acceptable to Farmington City is executed. Farmington City further reserves the right to cancel this Notice of Conditional Contract Award at any time prior to the execution of a written contract.

This award decision is conditional upon final approval by the City Council and the successful negotiation of a contract.

Thank you for your interest in doing business with Farmington City

Sincerely,



Shannon Harper

Farmington City Treasurer