

FARMINGTON CITY – CITY COUNCIL MINUTES

August 6, 2024

WORK SESSION

Present:

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

*Recording Secretary Deanne Chaston,
Community Development Director Dave
Petersen,
Building Official Eric Miller,
Assistant Community Development
Director/City Planner Lyle Gibson, and
City Parks and Recreation Director Colby
Thackeray.*

City Manager **Brigham Mellor** called the work session to order at 6:05 p.m. Councilmember **Alex Leeman** was excused.

CONSTRUCTION MANAGEMENT/GENERAL CONTRACTOR VS HARD BID

City Manager **Brigham Mellor** said when Farmington went out to bid for the new City Park earlier this year, bids came back higher than anticipated by \$3 million. It could still be done if more Recreation, Arts, and Parks (RAP) taxes and impact fees were allocated to it. The City has done some due diligence by meeting with contractors and the architect. They have also had other contractors reach out that didn't even submit bids to offer solutions.

There are two types of bids: hard bids (which is what Farmington did), and Construction Manager/General Contractor (CM/GC) bids, where a general contractor is hired to help establish the dollar value, of which he takes a cut. The City looked at a contractor they would be interested in, and they agreed to charge a 3% flat fee for construction.

The plan is to go back out to CM/GC bid in September. Internally, **Mellor**, Assistant City Manager/City Engineer **Chad Boshell**, and City Parks and Recreation Director **Colby Thackeray** determined internally that the hard bid is not the way to go. Instead, Farmington would go out for a Request For Qualification (RFQ) to hire someone who is a contractor. They would go through it with the City. For example, one of the items in the park drawings was poles used for hammocking. The bids said they would cost \$500,000 for posts that act like tree trunks. Another example is a pavilion with bathrooms for over \$1 million. Laser cut guardrails would cost \$500,000. A 300 square foot masonry building cost \$800,000, when it could instead be a concrete masonry unit (CMU) tuff shed. Farmington wants the opportunity to do replacements or substitutes in order to meet the same intent that the architect proposed for a reduced cost. Things don't need to be that expensive.

This cost plus contract could work to both parties' benefits, as Farmington could phase construction if desired. For example, the boardwalk on the south with guard rails could be phased, or Farmington could pull the plug on the whole thing if desired. Staff would come back to the Council with RFQs to select a contractor and then determine a cost afterward. **Mellor** said

he would like to keep it capped at \$15 million for the construction elements, possibly adding \$3 million for the splash pad, art installation on the corner, and playground.

Mellor said the intention is not to do anything illegal. He anticipates that one contractor that submitted a previous bid may be aggressive and inquire about the procedure. One of the bids submitted was a valid bid, but the other two were garbage bids. Farmington's purchasing policy requires three bids, and this wasn't met. The contractor may cry foul, and wants to be aggressive about the City accepting their bid after the fact. **Mellor** said they have done a lot of due diligence, and met with contractors and architects. When other nonresponsive contractors were interviewed afterward, they said this is not how they felt comfortable doing business; a hard bid is not fair to the client or to them, and exposes them to risks they aren't comfortable with. They would rather do a percentage. They saw too many conflict points. In addition, it was not a great time to go out to bid. Some have come back and said they could take on the project, but they wanted a CM/GC bid instead. Doing so would lead to a better pool of candidates. **Thackeray** said this will help end up with a better quality product at the end of the day.

Councilmember **Scott Isaacson** said he has done a lot of construction documents in his line of work, and this sounds like preconstruction services to him. He asked who would help come up with the final construction documents.

Mellor said there would be a little bit of pre-construction services. Farmington is far down the line to the fine-tuning of the materials now, and they have the advantages of previous itemized bids. They can reduce or take substitutes. Farmington won't do another Request for Proposals (RFP). The General Contractor selected will be the one to do the build. Today, he reviewed a General Contractor's CM/GC contract with Lehi, and they are willing to do it for 3%. After **Mellor** and City Attorney **Paul Roberts** discussed it, they determined this is what they are already paying an architect.

Issacson said the cost plus contract shifts the risk to the owner, as the contractor doesn't have an incentive to keep the costs down. It is crucial to define what a cost is and what it isn't, which is harder than it sounds. He asks where the supervision would come from. A lot of temples for the Church of Jesus Christ of Latter-day Saints are done with a cost plus contract. A Guaranteed Maximum Price (GMP) contract is fair if you have good accountants watching. For a Lump Sum contract, the contractors will put in a sum that will allow for change orders. To him, 3% sounds really low. He suggested to review the architect's work, tweak it with materials, and then come up with construction documents.

Mellor said the architect is with Farmington throughout the whole process, and they will help with the construction documents. Farmington Staff will have to take on more labor to work with the contractor. Staff (including **Mellor**, **Boshell**, **Thackeray**, **Russ**, and **Levi**) will review all payment requests.

Councilmember **Roger Child** said the General Contractor will fill in the profit margin. The 3% is just the General Contractor profit margin. **Roberts** said it will be more than 3%. With preconstruction and other fees, it would be in the 5% ballpark.

Mellor said General Contractors such as Hughes and MC Green and Sons say it is a better process to do the CM/GC bid, because Farmington can get a much better product on par with their expectations for a lower cost. Farmington will still be going through its purchasing policy.

Last time Farmington did a park was five years ago. Since they are not as versed as Salt Lake City, they don't know what some things cost. Nobody really does. Farmington can postpone some things. However, grass, the detention basin, water feature, parking lot, and playground cannot be postponed.

SESSIONS/FRANCISCO'S BUILDING

Mellor said when Community Development Director **Dave Petersen** recently noticed that the County was removing all the rock from the library, he took advantage of the opportunity. He asked if they could take the siding off the Sessions/Francisco's building to see what is under it and also take samples of the stone. In the past, Farmington had budgeted \$25,000 for this, but the workers agreed to do it for \$15,000. **Mellor** said there may need to be a budget opening to accommodate this.

Petersen said years ago the metal went up on the Francisco's building, which also has two apartments on top, to modernize it in order to keep up with the suburbs. There is beautiful rock and structural brick beneath it. GSBS Architects overestimated on everything because they didn't know. The daughter of the owner is now making decisions for her incapacitated father. Renovating the entire building would be expensive.

RETAINING WALL

Petersen mentioned a recent complaint from the neighbor of a Compton Bench resident who started putting in a swimming pool and retaining walls in a no-build easement. Anything that would require a building permit is not allowed in a no-build easement because the ground is too steep, or over a 30% grade. A retaining wall over 4 feet high requires a building permit. Sports courts don't require a building permit. The resident would have to combine lots in order to have a swimming pool be accessory to something else, so he is pursuing a boundary adjustment.

Mellor said last time something like this happened, the City Manager (**Shane Pace** at the time) assessed a fee/fine and then moved on. City Building Inspector **Mike Blackham** went out and determined that it broke the rules, but nothing was in danger. **Mellor** wants to make sure that the City Council approves of assessing a fee/fine like was done last time. Many times structural and civil engineers will do an analysis on grades, then build and ask for forgiveness after the fact instead of permission before the fact. **Mellor** said the City has the authority to go back and ask the resident to fix it and change the grades. Even if they did, it would ultimately end up with a similar product. A more in-depth discussion about this may be needed in the future, as many want to build on the south side of town. The City needs to be consistent with its enforcement as people want to push boundaries up the hill.

Petersen said there is plenty of buildable area on the lots in question. The resident intends to move the boundary south of the existing sports court. In other cases that involved building on a steep grade (The Muscle), Farmington has made it clear with documentation that the City was absolved of all liability. But that was a different scenario than a basketball court. It is sobering how much Farmington residents will pressure to continue violating the ordinance, and Staff is not sure how much to charge for a fine/fee. People will push it to the limit.

Mellor said Staff's preference is to assess a fine, although they can be as Draconian as the Council desires. He does not want Farmington to find itself in a situation similar to those in Draper and North Salt Lake. The road above is not in jeopardy. **Child** said it seems excessive to

tear it out. **Isaacson** said he doesn't like that there are Bountiful homes that are built on steeper areas than this.

CLOSED SESSION

Present:

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

*Recording Secretary Deanne Chaston,
Community Development Director Dave Petersen,
Assistant Community Development Director/City Planner Lyle Gibson, and
City Parks and Recreation Director Colby Thackeray.*

Motion:

At 6:46 p.m., Councilmember **Roger Child** made the motion to go into a closed meeting for the purpose of acquisition, sale, purchase, exchange or lease of real property. Councilmember **Melissa Layton** seconded the motion. All Council members voted in favor, as there was no opposing vote.

Councilmember Roger Child	X Aye	___	Nay
Councilmember Scott Isaacson	X Aye	___	Nay
Councilmember Melissa Layton	X Aye	___	Nay
Councilmember Amy Shumway	X Aye	___	Nay

Sworn Statement

I, **Brett Anderson**, Mayor of Farmington City, do hereby affirm that the items discussed in the closed meeting were as stated in the motion to go into closed session, and that no other business was conducted while the Council was so convened in a closed meeting.

/s/ Brett Anderson

Brett Anderson, Mayor

Motion:

At 6:53 p.m., Councilmember **Amy Shumway** made the motion to reconvene to an open meeting. **Child** seconded the motion. All Council members voted in favor, as there was no opposing vote.

Councilmember Roger Child	X Aye	___	Nay
Councilmember Scott Isaacson	X Aye	___	Nay
Councilmember Melissa Layton	X Aye	___	Nay
Councilmember Amy Shumway	X Aye	___	Nay

DISCUSSION OF REGULAR SESSION ITEMS UPON REQUEST

Isaacson said he is worried about the way the Recreation, Arts, and Parks (RAP) ballot language is worded. It sounds like it would be a totally new tax, not renewing a tax that has already been in effect for years. He asked if the proposed language was necessary. He is afraid if it is worded as proposed in the Staff Report, it may be voted down as just another tax at the same time the City is raising property taxes. Voters need to understand that the tax is already in existence and it is just being renewed. It would be a real blow if it doesn't pass, so it is worth a gamble to reword it. He thinks the City should push the envelope. He also wants voters to know it will be imposed on all the people who come into Farmington to shop at Station Park or go to Lagoon.

City Attorney **Paul Roberts** said the first part of the language is dictated by statute. Not using the word "impose" could be risky. It could be challenged by an opponent, who could take the City to court. The City is responsible for drafting a pro statement for the voter information pamphlet that the City Record puts together. It is sent out like a newsletter. **Mellor** said the City could include information about this in the October newsletter.

REGULAR SESSION

Present:

*Mayor Brett Anderson,
City Manager Brigham Mellor,
Councilmember Roger Child,
Councilmember Scott Isaacson,
Councilmember Melissa Layton,*

*Councilmember Amy Shumway,
City Attorney Paul Roberts,
City Recorder DeAnn Carlile, and
Recording Secretary Deanne Chaston.*

CALL TO ORDER:

Mayor **Brett Anderson** called the meeting to order at 7:09 p.m. Councilmember **Alex Leeman** was excused. **Mayor Anderson** offered the invocation, and the Pledge of Allegiance was led by Councilmember **Roger Child**.

BUSINESS:

Consideration of a Resolution submitting an opinion question to renew the Recreation, Arts, and Parks (RAP) Tax, on the November 2024 ballot and discussion regarding submission of argument in favor of ballot proposition

City Attorney **Paul Roberts** presented this agenda item. The City submitted its notice and intent to Davis County, which cleared it for inclusion on the ballot. As discussed briefly in the work session, the language was derived largely from State Code. Under State Code, the City submits its statement in favor of the ballot proposition, but it can't use City resources or Staff to do so. It is up to the City Council how the statement is prepared. The proposition language should be adopted in a public meeting. The statement should be on the Sept. 3 meeting (as a summary action item) in order to meet the Sept. 11 deadline when the 500-word arguments (both pro and con) have to be submitted to the City Recorder. However, the ballot language needs to be determined tonight.

He proposed using the following language:

Farmington City has assessed the Recreational, Arts, and Parks (RAP) sales and use tax since 2014. Shall Farmington City, Utah, be authorized to renew the imposition of a 0.1% sales and use tax for recreational, arts, and parks facilities, programs and organization for a renewed period of 10 years?

Motion:

Councilmember **Scott Isaacson** moved that the City Council adopt the resolution as presented by the City Attorney, submitting to voters the opinion question of whether to renew the Recreation, Arts, and Parks tax.

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

Councilmember Roger Child	X Aye	___	Nay
Councilmember Scott Isaacson	X Aye	___	Nay
Councilmember Melissa Layton	X Aye	___	Nay
Councilmember Amy Shumway	X Aye	___	Nay

SUMMARY ACTION:

Minute Motion Approving Summary Action List

The Council considered the Summary Action List including:

- Item 1: Authorization to Execute Agreement for LensLock panoramic and dome cameras for City facilities; specifically, the police department, gymnasium, and baseball fields. The Agreement is for five years, with annual payments of \$26,420.54 after an initial payment for \$86,467.12. **Mellor** said it is the same system the City has for the police body and dash cams that can be accessed remotely. The subscription service includes regular maintenance and repair.
- Item 2: Consideration of additional text and amendments to multiple sections of Title 12 Subdivision Regulations.
- Item 3: Surplus Property of Kustom Signals, Inc. radar trailer.
- Item 4: Consideration of an Encroachment Agreement with the Bureau of Reclamation to bury power lines and install a traffic signal along Clark Lane.
- Item 5: Approval of Minutes for July 16, 2024.

Motion:

Child moved to approve the Summary Action list items 1-5 as noted in the Staff Report.

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

Councilmember Roger Child	X Aye	___	Nay
Councilmember Scott Isaacson	X Aye	___	Nay
Councilmember Melissa Layton	X Aye	___	Nay
Councilmember Amy Shumway	X Aye	___	Nay

GOVERNING BODY REPORTS:

City Manager Report

Mellor said he, Finance Director **Greg Davis**, and **Jamie** recently went to Bryce Canyon to attend a risk conference. Among the 16 cities that belong to the risk pool, the average score is 98%. Farmington got 100%.

Mayor and City Council Reports

Isaacson said he has not had a mosquito meeting since the last Council meeting. He is concerned about a fox living near the river; it recently ate one of his neighbor's free range chickens.

Shumway said she has received a lot of emails lately, most of which she has sent on to **Mellor**. One mentioned that the City should seek local artists for future murals. She would love to brainstorm some ideas for future community art. **Mellor** said now is the time to start planning because the City needs a plan in place for art on the new pedestrian bridge.

Shumway said she got an email about parking for the golf tournament. In the past, the police have posted parking restrictions in nearby residential areas. This year the police have not put up any parking restrictions, and people are wondering if it is because the golf course is pushing back not wanting restrictions. **Mellor** said the police did put restrictions on one side of Shepard Lane, but they do not think it is a risk otherwise. It is hard to get around right now with all the construction, so there is not a need to restrict parking there. Davis County used to shuttle people from the Legacy Events Center, Farmington High School, and Knowlton Elementary.

Shumway said she got an email from a resident who lives by the Shepard Creek Trail and was one of the original organizers of the Trails Committee. The resident was made aware of encroachment on trail easements, and wants enforcement to be increased. **Shumway** said she, Assistant Community Development Director/City Planner **Lyle Gibson**, and Community Development Director **Dave Petersen** previously went out to view trail easement encroachment just off 1100 right by Bangarter Farms. **Mellor** said the City sent letters out informing residents about trail encroachment, but the letters didn't seek a response. The strategy was to notify them, not mitigate the situation. **Shumway** said the resident also complained about the condition of steep railroad ties on Shepard Creek Trail. It may be Forest Service land, but the trail is not up to Forest Service standards. **Mellor** asked **Shumway** to send him a map of the location so he can check it out.

Shumway said she would like to look for people like **Marshall Anderson** to celebrate in an upcoming City Council meeting. **Mellor** said he would like to thank Davis County Commissioner **Randy Elliott** with a plaque in September.

Child said he has had another request to raise the arms along trails. **Mayor Anderson** said he thought there was a past agreement to widen them. **Shumway** said some of the arms had been shortened in the past, but the gates were still kept closed. Maybe they should have been shortened even more.

Isaacson said he drives 1100 multiple times a day, and he is grateful for those gates. A lot of children riding electric bikes don't slow down there and zip across. **Shumway** said because the City is worried about liability, she doubts they would be opened up, but other solutions maybe could be found. Some arms may need to be moved farther apart so they can be more effectively

maneuvered around. E-bikes are becoming a big issue. **Shumway** noted that Kaysville closed theirs on 200 North. **Isaacson** said he is in favor of more safety for bicyclists and pedestrians. That should be the priority.

Mellor said he would talk with City Parks and Recreation Director **Colby Thackeray** and **Jae** to see what options are available. The arms have been up for 12 years now, and there may now be a better system or technology that can reach the same objective. He said High-intensity Activate crossWalK (HAWK) signals are \$200,000 each, and the City is not ready to make that kind of an investment yet. In the past, a bicyclist hit an arm, causing him to break his back.

Shumway said now that the City is not doing tackle football anymore, an issue has come up that since registration closes in April or May, they are not able to order uniforms by February, which is the usual deadline. The Board refused to buy new jerseys, even though parents have paid the required fees. After a request was sent out asking for donation for new Farmington phoenix jerseys, the community stepped up and raised \$5,000.

Child said since the last Council meeting with All West, they have been responsive to his home connection. **Mellor** said All West talked to Public Works Director **Larry Famuliner** after the meeting. **Mayor Anderson** said there was some pushback on areas of the City where All West said they would not build out. All West clarified that these areas were where residents don't want to connect to their service. **Mayor Anderson** asked All West to confirm that those residents were approached and refused the service. **Shumway** said they have still not gotten to his area, even though they blue-staked 9 months ago.

ADJOURNMENT

Motion:

Child made a motion to adjourn the meeting at 7:40 p.m.

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

Councilmember Roger Child	X Aye	___	Nay
Councilmember Scott Isaacson	X Aye	___	Nay
Councilmember Melissa Layton	X Aye	___	Nay
Councilmember Amy Shumway	X Aye	___	Nay

_____/s/ DeAnn Carlile

DeAnn Carlile, Recorder