

FARMERSVILLE CITY COUNCIL
MEETING MINUTES
November 5, 2013

The Farmersville City Council met in special session on November 5, 2013 at 6:00pm in the Council Chambers at City Hall with the following members present: Mayor Helmberger, John Klostermann, Michael Carr, Michael Hesse, Russell Chandler and Jim Foy. Staff members present were City Manager Ben White, City Attorney Alan Lathrom and City Secretary Edie Sims.

City Secretary's Note: The order of items are not consistent with proper numbering. The items were changed to accommodate decisions regarding the Public Hearings and other items within the Regular Agenda.

Item I) CALL MEETING TO ORDER, ROLL CALL

Mayor Helmberger called the meeting to order. Edie Sims called the roll and announced a quorum was present. Mayor Helmberger welcomed all guests and visitors. Clint Brown, pastor of the Farmersville Church of Christ, offered the invocation with Mayor Helmberger leading the audience in the Pledge of Allegiance to the American Flag.

Mayor Helmberger read a Proclamation naming November 4th – November 8th as Municipal Court Week.

Election Day is today, November 5th, and is being held at the First Baptist Church Warehouse on Farmersville Parkway.

City offices will be closed November 11th to observe Veteran's Day and November 28th and 29th to observe the Thanksgiving Holiday.

Councilman Jim Foy stated the Collin County Sheriff's Office has been previously criticized for their lack of support in handling the illegal game rooms. A recent article in the Dallas Morning News declared the Collin County Sheriff's Office has recently made arrests and helped in the closure of two of the game rooms in Farmersville. Mr. Foy commended the Sheriff's Office and the City's Police Department for their support in this endeavor.

Mayor Helmberger thanked everyone for their support of the Medal of Honor ceremony and welcoming Governor Rick Perry.

Item II – A) PUBLIC HEARING – CONSIDER, DISCUSS AND ACT UPON A REPLAT FOR A NONRESIDENTIAL SUBDIVISION TO BE LOCATED AT OR ABOUT THE NORTH SIDE OF WEST AUDIE MURPHY PARKWAY AND WEST OF BOB TEDFORD DRIVE, FARMERSVILLE

Mayor Helmberger opened the Public Hearing at 6:06:10pm and asked for those FOR the replat to step forward. Rick McNealy with Smithers Merchant Builders in San Antonio, Texas, came forward introducing himself as the engineer for the project. Mr. McNealy stated the skilled nursing facility will be less than 50,000 square feet and will offer 130 new jobs to the area. Mr. McNealy offered a commendation to City staff for their cooperation and facilitating this process of this project. With no one else coming forward in favor of the replat, Mayor Helmberger asked for those OPPOSING the replat to step forward.

Aubrey Hinton, co-owner of the Hinton Home, came forward stating the Hinton Home has always been interested in the development of Farmersville. The Hinton Home made a rebuttal to the State regarding the need for another nursing facility in Farmersville. Within a 16 mile radius, the capacity of nursing facilities is at 70% and does not justify the need of another

nursing facility. The State denied their request and approved the nursing facility. The result is now up to the Council. With no one else coming forward, Mayor Helmberger closed the Public Hearing at 6:08:40pm.

Jim Foy questioned if the submittals met all the City's requirements, if the Council must approve. City Attorney Alan Lathrom indicated Mr. Foy was correct, that if all aspects of the City's Ordinances are fulfilled then the Council must approve. The Council has discretion on zoning but not on platting. City Manager Ben White indicated that all the submittals did indeed meet the City's criteria.

Russell Chandler motioned to approve the replat as presented with Michael Hesse seconding the motion. A poll of the Council was taken as follows: John Klostermann yes, Michael Hesse yes, Russell Chandler yes and Jim Foy yes. Michael Carr abstained from voting. Motion passed with 4 Council voting FOR and none opposing.

Item II – B) PUBLIC HEARING – CONSIDER, DISCUSS AND ACT UPON A REQUEST FOR REZONING FROM HIGHWAY COMMERCIAL (HC) DISTRICT USES TO HIGHWAY COMMERCIAL (HC) DISTRICT SUBJECT TO A SPECIFIC USE PERMIT FOR A SKILLED NURSING FACILITY TO BE LOCATED AT OR ABOUT THE NORTH SIDE OF WEST AUDIE MURPHY PARKWAY AND WEST OF BOB TEDFORD DRIVE, FARMERSVILLE

Mayor Helmberger opened the Public Hearing at 6:12:15pm and asked for those FOR the rezoning/Specific Use Permit to step forward. With no one coming forward, Mayor Helmberger asked for those OPPOSING the rezoning/Specific Use Permit to come forward. With no one coming forward, Mayor Helmberger closed the Public Hearing at 6:12:40pm.

Mayor Helmberger stated the Planning & Zoning Commission met on this issue last night, November 4th, and recommended approval to the City Council. Jim Foy stated with the State approving the license, the City should approve. Mr. Foy clarified that he is not voting against a local business. Mr. Foy continued to state the Hinton Home has fulfilled a great service for decades; however the City should not keep other businesses out or offer the right to operate. Jim Foy therefore motioned to approve the rezoning with the Specific Use Permit with Russell Chandler seconding the motion. A poll of the Council was taken as follows: John Klostermann yes, Michael Hesse yes, Russell Chandler yes and Jim Foy yes. Michael Carr abstained from voting. Motion passed with 4 Council voting FOR and none opposing.

ITEM IV – E) CONSIDER, DISCUSS AND ACT UPON A SITE PLAN FOR A SKILLED NURSING FACILITY TO BE LOCATED AT OR ABOUT THE NORTH SIDE OF WEST AUDIE MURPHY PARKWAY AND WEST OF BOB TEDFORD DRIVE, FARMERSVILLE

The site plan for the nursing facility has met all the City's requirements according to City Manager Ben White. The Planning and Zoning Commission approved the plan and recommended approval to the City Council. The previous plans had stucco as the main exterior wall construction due to the Restrictive Covenants for Murphy's Crossing; however after confirming the City's requirements, the City's Comprehensive Zoning Ordinance takes precedence over the Restrictive Covenants. Therefore the elevations were changed to accommodate the masonry requirement. The plans are now in full compliance with under 20% stucco as accents only as required by City Ordinances.

John Klostermann motioned to approve the site plan as presented with Jim Foy seconding the motion. A poll of the Council was taken as follows: John Klostermann yes, Michael Hesse yes, Russell Chandler yes and Jim Foy yes. Michael Carr abstained from voting. Motion passed with 4 Council voting FOR and none opposing.

Russell Chandler left the meeting at 6:19pm; a quorum was still present to continue the meeting.

ITEM III – A) ONLY READING – CONSIDER, DISCUSS AND ACT UPON ALL MATTERS INCIDENT AND RELATED TO THE ISSUANCE AND SALE OF “CITY OF FARMERSVILLE, TEXAS, NOTES, SERIES 2013”, INCLUDING THE ADOPTION OF AN ORDINANCE AUTHORIZING THE ISSUANCE OF SUCH NOTES

David Medanich with FirstSouthwest came before the Council informing of bids that were opened on Friday November 1st for the sale of the note for Farmersville Electric. Zions Bank was the lowest bidder offering 1.3844% interest. Jim Foy expressed 1.38% interest deserves re-emphasizing. The note will be used for the purchase of equipment for Farmersville Electric and is planned for a short recovery period. Jim Foy motioned to approve the ordinance as presented with Michael Carr seconding the motion. A poll of the Council was taken as follows: John Klostermann yes, Michael Carr yes, Michael Hesse yes, and Jim Foy yes. Motion passed with full Council approval.

ITEM IV – A) CONSIDER, DISCUSS AND ACT UPON ACCEPTING THREE DONATIONS FROM THE FARMERSVILLE CHAMBER OF COMMERCE. ONE FOR THE USE ON THE CHAPARRAL TRAIL, ONE FOR THE FIRE DEPARTMENT AND ONE FOR THE POLICE DEPARTMENT

Emily Dillard, one of the Farmersville Chamber of Commerce Board of Directors, came before the Council to present three donation checks. The Chamber of Commerce is donating \$1,000 to the City for use on the Chaparral Trail. The Chamber of Commerce is donating \$100 to the Fire Department and \$100 to the Police Department for their support and cooperation during the Trick It Up Bike Ride event. John Klostermann motioned to accept the donations from the Farmersville Chamber of Commerce with Michael Carr seconding the motion. A poll of the Council was taken as follows: John Klostermann yes, Michael Carr yes, Michael Hesse yes and Jim Foy yes. Motion passed with full Council approval. Jim Foy stated the Bike Ride brought a lot of people into Farmersville. Mayor Helmberger stated 185 riders signed up for the Ride.

ITEM IV – B) CONSIDER, DISCUSS AND ACT UPON DUMPSTERS LOCATED IN RIGHT-OF-WAYS OF CITY STREETS

City Manager Ben White displayed photographs of dumpsters which were located in the right-of-way or other areas which could be improved upon. These containers have been in their present locations for years but they are becoming more of a safety issue. The dumpster located at First Baptist Church is not “in” the right-of-way but is visible from the right-of-way. Mr. White believed the screening rules were not in place at the time this dumpster area was built.

The dumpster at Tatum Elementary located on Windom Street shows the ideal example of what is trying to be corrected. The dumpster is located directly on top of the curb. There is no screening. Tatum Elementary has a private drive that is parallel to the street and thereby has another opportunity to place the dumpster without being located in the City’s right-of-way.

The dumpster at the Vet Clinic is another example where the trash trucks must load and unload while disrupting traffic on Sycamore Street. This dumpster must be removed and relocated as the Safe Routes to School project will be installing sidewalks where the dumpster now sits.

The dumpster located at James’ Auto is believed to be partially in the City’s right-of-way.

Mr. White indicated the current placement of the dumpsters makes access easy for the trash collectors; however, the City must look at the issue from a safety perspective. Although there are streets that are very narrow in this City, we must consider the safety of travelers on those city streets and the uses of the right-of-ways.

The City also has a dumpster located on Onion Alley which is unsightly and does not have screening. This dumpster could be removed completely.

Another photograph depicted a dumpster behind the Field House on the parking lot. There are better places to position these dumpsters rather than displaying them as if we are stating we are proud of our trash.

Another photograph depicted a dumpster not in the right-of-way, but at the back of the IOOF Cemetery where the dumpster must be accessed without a hard surface. The dumpster would not be easily accessed or emptied after a rain where the dump truck would sink into the mud. The area needs to have an improved surface to support the weight of the truck.

The last photograph shows the dumpsters at the Intermediate School. These are not located within the right-of-way; however they are also not screened from the right-of-way. Mr. White indicated ordinances requiring screenings were probably not in place at that time; but it is still unsightly.

The City has a variety of scenarios regarding the dumpsters and Mr. White requested guidance from the Council as to proceed. Mr. White stated he will gladly work with the customers and try to have each situation brought up to current standards, but this will be over a period of time. Jim Foy indicated the City does not currently have a requirement for screening. Even so, the City can request all dumpsters to be removed from the right-of-way. The intent of the right-of-ways are not to include dumpsters.

There are two issues at hand: 1) screening and 2) access. The refuse trucks must have access to empty the dumpsters and Mr. White understood that the dumpsters are easily accessed from the right-of-way. However, this is not an option. Mr. White stated that all the items depicted are "grandfathered"; however, the City should still make every effort to have the dumpsters relocated.

Mayor Helmberger stated the City is dumping a lot of money into the streets and to have this practice continue is not satisfactory. Polycarts may work for the IOOF Cemetery and have the dumpster removed entirely. Mayor Helmberger felt the best course of action was for the staff to work with each of these issues and strive to have these situations rectified, especially where new sidewalks will be installed through the Safe Routes to School grant. Jim Foy suggested waiting for the results of removing the dumpsters within the rights-of-way before addressing the screening needs.

ITEM IV – C) RECEIVE, DISCUSS AND ACT UPON INFORMATION PRESENTED FROM THE ENVIRONMENTAL PROTECTION AGENCY REGARDING BROWNFIELD PROPERTIES

Mary Kemp and Karen Peycke with the Environmental Protection Agency came before the City Council with information regarding Brownfield properties. These properties could be heavy industrial, gas stations, old schools or churches, underutilized or abandoned properties with a potential of contamination. The program presented is a voluntary program and is not regulatory. Pre-1970's construction could have asbestos or lead based paint which should be investigated and then properly removed. Pesticides could also be a factor for Brownfield properties. The program is not always about money but a partnership to allow a property to be developed or utilized in a safe manner. Some properties may not need any cleaning but only confirmed that no hazards exist. The greatest concern for the program is allowing revitalization.

Through the EPA's Brownfield program, assessments will be completed to determine if contaminants, and what type, exist within the soil and offer information of cleanup procedures. Various grants are available to cities once contamination is determined to assist with the decontamination of the property. EPA has a contract with Kansas State University who analyzes the property. Ms. Peycke re-emphasized the program is voluntary and property owners cannot be forced to cooperate with this initiative. The EPA works directly with the cities and the cities then work directly with the property owners.

Mayor Helmberger suggested the property located at FM 547 and Highway 380 as a potential Brownfield property. This property has/or potentially has tax liens against the property. Ms. Peycke stated most liens have a sunset and also that EPA or TCEQ can waive liens against a property. Mayor Helmberger stated 4A could make this into a project. Even though this property is not located within the City Limits of Farmersville, Ms. Peycke stated this is still a viable project that the City of Farmersville could proceed with as it is within the City's ETJ. Jim Foy emphasized this is a voluntary program and owners must work with the City. Mayor Helmberger stated the City has limited staff and this may not be something we are ready to tackle.

Ms. Peycke stated the grant does not pay much for staff efforts, but is well worth the efforts. Targeted areas must be considered first and then assessed with the property owners' permission.

Aubrey Hinton, one of the owners of a property located on Summit Street, came before the Council stating the family's property has been used for hay and feeding cattle for years. The property is currently a non-income producing property and would like to have the property evaluated. He thought the issue of contamination had been resolved years ago; however no documentation exists to prove one way or the other.

Ms. Peycke informed the Council the assessment is a "service" provided through the EPA. Dr. Goldstein owns the old Cotton Gin and had plans for renovation and reutilization of the property but did not have an assessment done at the time he purchased the property. Mr. Goldstein also expressed interest in the program.

Again Ms. Peycke encouraged that the City have a prioritization of assistance and the properties that are targeted. The Council concurred for staff to work with the EPA to have the assessment provided as a service. Once the assessments have been completed, then further discussion can be had whether the City needs to apply for a Brownfield grant.

ITEM IV – D) CONSIDER, DISCUSS AND ACT UPON A SITE PLAN FOR A TRAVEL CENTER LOCATED ALONG HIGHWAY 380 EAST OF BOB TEDFORD DRIVE

City Manager Ben White informed the Council that the Planning and Zoning Commission approved the Site Plan at their special meeting on November 4th with five contingencies. Michael Carr motioned to approve the site plan with the contingencies as presented with Michael Hesse seconding the motion.

Jim Foy asked what restaurant will be located in the Travel Center. Eduardo Vidargas, Architect/Engineer for the project, stated the developer is talking with several different franchises but the restaurant is planned to be a nationally known franchise.

City Manager Ben White indicated the owner owns both lots 17 and 16. Lot 16 will be developed with the Travel Center. The replatting of lots 16 and 17 will be accomplished in the future. The Developer wants to build another structure, potentially a stand-alone restaurant, in the future. The reason for the replatting at a later time is due to financing for the Developer.

A poll of the Council was taken as follows: John Klostermann yes, Michael Carr yes, Michael Hesse yes and Jim Foy yes. Motion passed with full Council approval.

ITEM IV – F) CONSIDER, DISCUSS AND ACT UPON AWARDING THE BID FOR THE 12" WATER LINE BOND PROJECT

City Manager Ben White was pleased to inform the Council the bidding process for the 12" water line project came in under the budget cost of \$518,000. The bidding process was very competitive with seven bidders. Billy Cummings Construction, Inc. from Sulphur Springs, Texas was the low bidder with a total base bid amount of \$456,499.95 for the project. Mr. White stated he has had personal experience with this contractor and recommended awarding the bid as presented to the lowest bidder.

Mayor Helmberger stated with engineering and testing fees the bid still falls under the original projected cost. It is expected the contractor will start construction in February.

John Klostermann motioned to award the bid to Billy Cummings Construction, Inc. with Michael Carr seconding the motion. A poll of the Council was taken as follows: John Klostermann yes, Michael Carr yes, Michael Hesse yes and Jim Foy yes. Motion passed with full Council approval.

ITEM IV – G) CONSIDER, DISCUSS AND ACT UPON AWARDING THE BID FOR THE STREET OVERLAY BOND PROJECTS

City Manager Ben White informed the Council that he requested the street overlay projects be a "Request for Proposal" so the same contractor could be used for other projects. The streets have been tested for the base and the proposal had an additional 2" of base. The proposal also included curbs with a 3" overlay rather than a 2" overlay. Mr. White recommended the Council consider the award to Advanced Paving who was the lowest bidder with a cost of \$820,977.50 for the full project. With engineering costs, Mr. White felt the costs will be under budget.

Jim Foy motioned to award the bid for the street overlay bond projects to Advanced Paving with Michael Carr seconding the motion. A poll of the Council was taken as follows: John Klostermann yes, Michael Carr yes, Michael Hesse yes and Jim Foy yes. Motion passed with full Council approval.

Mr. White included that the projects are temperature dependent and asphalt cannot be poured at temperatures below 50°.

ITEM IV – H) CONSIDER, DISCUSS AND ACT UPON AN INTERLOCAL AGREEMENT BETWEEN COLLIN COUNTY AND THE CITY OF FARMERSVILLE REGARDING THE CHAPARRAL TRAIL ENHANCEMENT PROJECT

Mayor Helmberger informed the Council the funding arrangements for the \$150,000 matching funds for the 3rd phase of the Chaparral Trail are as follows: 4B is funding \$60,000 during budget year 2013-2014 and \$60,000 during budget year 2014-2015. The remainder of the matching funds will come from the City equaling \$30,000 during budget year 2014-2015.

Mayor Helmberger encouraged we not wait for those budget years fulfilling the matching funds to slow down the progress, especially work on the bridges. Jim Foy motioned to approve the ILA as presented with Michael Hesse seconding the motion. A poll of the Council was taken as follows: John Klostermann yes, Michael Carr yes, Michael Hesse yes and Jim Foy yes. Motion passed with full Council approval.

ITEM V) EXECUTIVE SESSION: SECTION 551.086, COMPETITIVE MATTERS OF A PUBLIC POWER UTILITY – CONSIDERATION, DISCUSSION AND POSSIBLE ACTION REGARDING FARMERSVILLE ELECTRIC COMPETITIVE MATTERS AS ALLOWED BY SECTION 551.086 OF THE TEXAS GOVERNMENT CODE FOR PURPOSES OF MAINTAINING THE CONFIDENTIALITY OF CERTAIN INFORMATION RELATING TO COMPETITIVE ELECTRIC

UTILITY MATTERS ENGAGED IN OR TO BE ENGAGED IN BY THE CITY OF FARMERSVILLE

Council exited to an Executive Session at 7:49:09pm.

ITEM VI) RECONVENE FROM EXECUTIVE SESSION AND CONSIDER, DISCUSS AND ACT ON MATTERS DISCUSSED IN EXECUTIVE SESSION

Council reconvened from Executive Session at 8:15:22pm with no action taken on matters discussed in Executive Session.

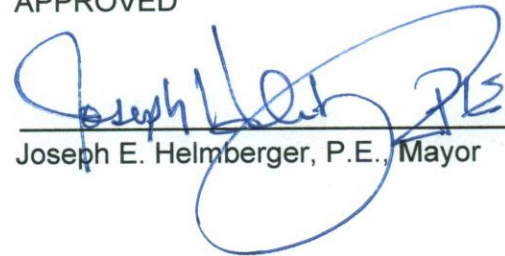
ITEM VII) REQUEST FOR CONSIDERATION OF PLACING ITEMS ON FUTURE AGENDAS

Jim Foy requested a review of the garage sale restrictions. No one else requested items for future agendas.

ITEM VIII) ADJOURNMENT

Council adjourned at 8:16:09pm.

APPROVED



Joseph E. Helmberger, P.E., Mayor

ATTEST



Edie Sims, City Secretary

