



**FARMERSVILLE CITY COUNCIL  
REGULAR SESSION MINUTES  
For  
January 23, 2018, 6:00 P.M.**

**I. PRELIMINARY MATTERS**

- Mayor Piwko called the meeting to order at 6:00 p.m. Council members Craig Overstreet, Donny Mason, Mike Hurst, and Todd Rolan were all present. Michael Hesse was not in attendance. City staff Ben White, Sandra Green, Paula Jackson, Kim Morris, Mike Sullivan and City Attorney Alan Lathrom were also present.
- Prayer was led by John Hart, citizen of Farmersville's ETJ, followed by the pledges to the United States flag and the Texas flag.
  - Mayor Piwko stated that Charles Curington, a longtime resident and former Fire Chief of Farmersville died.
  - Mike Hurst indicated the Memorial Service would be on February 10<sup>th</sup> at 2:00 p.m. located at the First United Methodist Church in Farmersville.
  - The calendar of upcoming holidays and meetings were provided in the agenda packet.
    - Calendar of upcoming holidays and meetings
    - Signups for the upcoming May election will be from January 17<sup>th</sup> thru February 16<sup>th</sup> for Mayor and 2 Council seats. Applications are available thru the City Secretary.
    - There will be a 50<sup>th</sup> Anniversary celebration for the VFW Post 7426 on February 10<sup>th</sup> at 10:00 a.m.
    - City Offices will be closed on February 19<sup>th</sup> in observance of President's Day.
    - Due to the City Offices being closed on February 19<sup>th</sup>, the Planning & Zoning Commission Meeting has been moved to February 26<sup>th</sup>.
    - Mayor Piwko also stated it was Councilmember Donny Mason's birthday.

## **II. PUBLIC COMMENT**

- John Hart who resides at 18601 CR 646 addressed Council and asked about the status of the Islamic cemetery.
- Mayor Piwko stated the City had not received any information back from the Islamic Association of Collin County.
- Mayor Piwko stated she was going to move the Regular Agenda item A ahead of the rest of the agenda because Robert Medigovich had another commitment.
- Robert Medigovich from Community Waste Disposal came forward to give their annual review. He showed a PowerPoint that presented the statistics of recycling and how much material Farmersville recycled. He presented the City with a gallon of paint made from recycled paint and stated residents could pick it up at CWD. It comes in a beige color. He also presented Council an award made from recycled material to show how much the residents in Farmersville participate in the recycling effort.

## **III. CONSENT AGENDA**

Items in the Consent Agenda consist of non-controversial or “housekeeping” items required by law. Council members may request prior to a motion and vote on the Consent Agenda that one or more Items be withdrawn from the Consent Agenda and considered individually. Following approval of the Consent Agenda, excepting the items requested to be removed, the City Council will consider and act on each item so withdrawn individually.

- A. City Council Minutes 12-12-17
  - B. City Council Minutes 1-4-18
  - C. Police Department Annual Reports
  - D. Public Works Report
  - E. City Manager’s Verbal Report
- Mayor Piwko pulled item A. City Council Minutes from 12-12-17 and the Police Department Annual Reports.
  - Mike Hurst pulled the Public Works Report.
    - Motion to approve item B made by Craig Overstreet
    - 2<sup>nd</sup> to approve was Todd Rolen
    - All council members voted in favor

- Mayor Piwko stated that on the City Council Minutes from 12-12-17 under Preliminary Matters it discusses Chief Sullivan receiving a lot of news coverage over this. "This" needed to be defined as the package drop off service the police department was offering.
- Mayor Piwko asked Chief Mike Sullivan to give a summary of the Police Department's Annual Report.
- Chief Sullivan gave an overview of what cases or violations increased or decreased. He stated calls for services increased. Tier 1 crimes, such as robberies or homicides, stayed the same from the previous year. He indicated Farmersville did not have any homicides. In tier 2 crimes, which are lower class offenses, there was a reduction of 15 offenses. There was an increase in traffic stops, but less tickets were written in 2017 compared to 2016. There were reductions in alarms, major accidents, minor accidents, and agency assists. He stated there were also 20 less felony cases filed at the county in 2017, but they filed 23 more misdemeanor cases.
- Mayor Piwko stated the police only had 6 issues that were minor altercations involving officers.
- Mike Hurst wanted a follow-up on the bullet proof glass for City Hall.
- Ben White showed a piece of the bullet proof glass. He explained the bullet proof glass we received was cracked. We are waiting on the replacements to come in but we have not paid the company for the glass yet.
  - Motion to approve A, C, and D made by Mike Hurst
  - 2<sup>nd</sup> to approve was Todd Rolen
  - All council members voted in favor
- Ben White gave his City Manager Verbal Report
  - Update on the sewer system in relation to Camden Park.
    - Ben White stated the project was currently out for bid. The lift station, gravity main, and force main bids were due by January 30, 2018. The City is asking the contractors for a three month turn around on this project. There was a pre-construction meeting with contractors it was discussed how the contractors would need to hold to the schedule on the project. He stated total cost would be estimated at \$1.2 million. The big issue is the money that the City is receiving for the Texas Water Development Board is still in escrow. We are still waiting on the environmental release from the Texas Water Development Board (TWDB). We have talked to supervisors and other people higher up to try and get this turned around. There is nothing wrong with the

Cities information, but it is just taking time to get approval. The TWDB needs to achieve two things which are the environmental release and the FONSI (Finding of No Significant Impact). The FONSI goes out to the public and the TWDB look for comments from citizens. So far working with their management they have indicated they will get the environmental assessment processed by Feb. 15<sup>th</sup>. So, that means the City is in a one month waiting period for the FONSI to get processed. Once those two items are complete the TWDB can release funds. The FONSI is placed in the newspaper to receive feedback. We have been told the City can go out for construction, but we would do that at our own risk. There would be a risk if the environmental comes back with any issues. But, that would mean someone commented regarding the way the TWDB conducts business. He stated he is getting ready for the possibility of using funds the City put into escrow in the amount of approximately \$400,000.00 for the lift station. Also, the City has money in the wastewater reserves that would get replenished when the escrow gets released.

- Mayor Piwko asked if the check she saw for \$45,000.00 to Kimley-Horn was part of the \$400,000.00.
  - Ben White stated technically that was for the wastewater plant and the money is coming out of the City's reserves. He explained it may not be coming directly out of the wastewater reserves but there has not been a budget amendment to handle that. We thought the City would have all the environmental clearances by last summer.
- Hamilton Street Update
    - Ben White stated he received an appraisal for Mr. Feagin's property and Mr. Feagin is considering his options. He explained the City has obtained a right-of-way surveyor for the Hendrix property, but the surveyor indicated it would be approximately six weeks before it could be surveyed.
  - Update of Historical Preservation Ordinance
    - Ben White stated the new Main Street Manager, Reagan Rothenberger, would be working on the Ordinance when he starts working at the City. The Ordinance has been started by Sandra Green and reviewed a little by the Planning & Zoning Commission. He indicated he would like to see the Ordinance go before Planning & Zoning and City Council in March.

- Riding Club Area Agreement Update
  - Ben White stated the Little League Agreement was on the agenda and once that was signed all the other club agreements would be updated to match the Little League Agreement.
  
- Recent EDC activity
  - Ben White stated there had been some good activities taking place regarding economic development for the City. He showed a drone video that advertised Farmersville. He also passed around a fact book that showed Farmersville's demographics and other important information for businesses who want to locate here. He explained the Chamber of Commerce was instrumental in getting the fact book published. He stated that logistically the City is in a great location with State Highway 78 and U.S. Highway 380. Also, the City has access to several airports in the area.
  - Mayor Piwko asked if Ben White used the website as well to advertise the City.
  - Ben White explained that it was being utilized. He said there is an interactive map on the website. It shows commercial property that is for sale in the City and it provides basic parcel information. He explained he wanted to let the Council know that meetings with potential businesses are taking place.

#### **IV. REGULAR AGENDA**

- B. Consider, discuss and act upon JW Spain Little League Baseball Agreement.
  - Mike Hurst asked about the insurance and whether the Little League had what was required in the agreement. He explained the agreement called for an umbrella policy and the Little League's insurance did not have that checked as being covered.
  - Alan Lathrom stated the insurance does not meet the requirements set forth in the agreement. He explained they did not provide umbrella coverage or excess liability coverage. They have more aggregate than what is required, but that does not satisfy the umbrella or liability.
  - Mike Hurst inquired if the City would be safe if those coverages were not required.
  - Alan Lathrom stated he was not a risk manager, but there are limitations on the amounts that are available and there was no endorsement for

participant's accident coverage. He indicated there should be a waiver of subrogation on the coverage or an additional insured endorsement.

- Ben White asked if that was the only issue he had with the agreement.
  - Mike Hurst stated it was, but he wanted to make sure the City would be protected.
  - Ben White stated that it seemed like Mike Hurst was questioning whether or not all of the coverage listed in the agreement was necessary. He explained the only thing he could do was speak to an insurance company to see how the coverage would help the City and whether it would be necessary.
  - Mayor Piwko stated it appeared the Little League insurance would run out in March and the City just needed to ensure the new policy had all the coverages in it.
  - Craig Overstreet stated he moved to table the item.
  - Sandra Green explained that Mr. Marvin Smith was supposed to attend the meeting, but unfortunately he was not in attendance.
    - Motion to table made by Craig Overstreet
    - 2<sup>nd</sup> to approve was Mike Hurst
    - All council members voted in favor
- C. Consider, discuss and act upon Resolution #R-2018-0123-001 calling a general election for May 5, 2018 to elect a Mayor, Councilmember Place 2, and Councilmember Place 4.
- Motion to approve made by Craig Overstreet
  - 2<sup>nd</sup> to approve was Todd Rolen
  - All council members voted in favor
- D. Consider, discuss and act upon Interlocal Agreement for Public Works services with the City of Lavon.
- Mayor Piwko stated she saw Lavon had added several changes, such as equipment replacement. She did not see any issues with that.
  - Ben White explained the language in the agreement makes everything voluntary and both cities tried to cover themselves.
    - Motion to approve made by Donny Mason
    - 2<sup>nd</sup> to approve was Todd Rolen
    - All council members voted in favor
  - Mayor Piwko indicated Council was going to bundle items E, H and K on the agenda.

- E. Consider, discuss and act upon awarding materials contracts for concrete, rebar, and trench frame and grate for the Community Development Block Grant Main Street Program Project No. 7216322.
- Mayor Piwko stated the contractors selected would work on the portion of work behind the Candy Kitchen. Also, she explained they would discuss the overall scope of the work and then discuss item K on the agenda which was a rejection of a bid.
  - Alan Lathrom asked Mayor Piwko and Mike Hurst if this was the agenda item they needed to recuse themselves due to a conflict of interest.
  - Mayor Piwko indicated it was and she and Mike Hurst left the Council Chambers.
  - Ben White stated item E was for small purchase procurements associated with the grant. The scope of work is for reconstructing the storm water drainage in the Candy Kitchen area. By reconstructing this area it would help with the drainage and some utilities at the same time. For the concrete he recommended Charley's Concrete because they were the lowest bidder out of three contractors.
    - Motion to award the small purchase procurement of concrete to Charley's Concrete made by Donny Mason
    - 2<sup>nd</sup> to approve was Todd Rolen
    - All council members voted in favor
  - Ben White explained the next small purchase procurement was for rebar. He stated there had been some issues surrounding this bid. He wanted to make the approval of this bid contingent on the contractor providing more information to the City. He explained no contractor could be on the "not acceptable list" provided by the state. Greenville Steel and Daniel Steel Industry were on the list of non-acceptable contractors. The City is trying to confirm whether their companies are the same as the ones on the list. There are instances where an old company had the same name and in fact they were on the list. So in that case it would not be the current company the City is dealing with. Ben asked Jacob Dupuis from Daniel & Brown what the name of the list was.
  - Jacob Dupuis explained it is SAM.gov and it is a website the grant people use to determine if any companies, principals, or contractors were debarred in any way. He stated the lowest bidder for the rebar was on the list as being debarred, but it appears to be a different company. They have asked the owner for a letter to show it was a different company in order to award the contract to them.

- Ben White suggested Council award the contract to the lowest bidder who was not on the debarred list.
- Craig Overstreet wanted an explanation on the debarment because he had only heard that term in reference to attorneys.
- Alan Lathrom stated there is a debarment list. If a company was debarred they are unable to work on a project that has federal funding involved. It basically means they have violated some type of federal rules on a project they had previously worked on.
- Ben White stated the City knows that Gerdau is not on the list.
- Jacob Dupuis stated the lowest bidder has the same name as a guy in Virginia, so unless he has worked in Texas prior to being in Virginia it should not be hard to receive a letter from him.
- Ben White stated the contractors would have to produce a letter and if they did not the City would go to the next responsive bidder.
- Alan Lathrom explained the City Council are the only ones who can accept or reject bids. He suggested they bring the item back at a later date when the City finds out if the company was really debarred.
- Ben White stated the City would give the contractor three days to respond with a letter and if one is not received the next bidder would be chosen.
- Todd Rolen asked if \$63.00 was worth the time of waiting or would the City rather just go with Gerdau.
- Ben White stated Council had the right to do that, but it was his job as City Manager to always suggest the lowest bidder.
- Alan Lathrom stated Council could decide not to choose the two lowest bidders because they have been non-responsive.
  - Motion to award the small purchase procurement of rebar to Gerdau made by Todd Rolen
  - 2<sup>nd</sup> to approve was Donny Mason
  - All council members voted in favor
- Ben White stated the grate small procurement low bidder was Fortiline. He stated the City recommended accepting Fortiline as the contractor.
  - Motion to award the small purchase procurement of grate to Fortiline made by Todd Rolen
  - 2<sup>nd</sup> to approve was Donny Mason
  - All council members voted in favor
- City Council addressed item H which was a discussion regarding Main Street Grant #7216322 ADA plans.



- Ben White stated he wanted to present the latest plans to Council in order to keep them informed. The plans show where modifications will be made in the downtown area.
  - Jacob Dupuis from Daniel & Brown went over the plans for the downtown modification on a PowerPoint. He discussed the places that will become ADA compliant with sidewalks, curb ramps, and parking spaces.
  - Ben White stated a public meeting was held that invited business owners to give input about the ADA areas and where they wanted to see certain things.
  - Jacob Dupuis explained a TDLR specialist, Paul Glenn, was asked to come and conduct a review of the downtown area and point out what was not in compliance. The plans were designed based on his review.
- City Council then went to Item K. Consider, discuss, and act upon the rejection of the Main Street Sidewalk, Parking, and Curb Ramp Improvements bid.
  - Ben White explained there was one bid received for the project. Unfortunately, the company made assumptions that they would be re-doing parking spaces in order to level them. This made their bid very high and the parking places are not being leveled. Staff is recommending rejection of the bid and to go out for bidding again. The engineering drawings will be changed to reflect the actual work being done.
    - Motion to reject the bid made by Donny Mason
    - 2<sup>nd</sup> to approve was Todd Rolan
    - All council members voted in favor
  - Mayor Piwko and Mike Hurst entered the Council Chambers to finish the meeting.
- F. Consider, discuss and act upon placement and costs of sewer line at Summit Addition 2.
- Ben White asked to move this item to the end of the regular agenda because the Council would probably need to discuss the item in executive session.
- G. Discussion regarding the timeline of review and approval of the Comprehensive Zoning Ordinance, Subdivision Ordinance, and Comprehensive Plan.
- Ben White addressed Council and explained the timeline for the Zoning Ordinance and the Subdivision Ordinance.
  - Sandra Green showed the audience how to find the proposed Zoning Ordinance and Subdivision on the website.
  - Ben White explained the timeline for the Comprehensive Plan and that it would be reviewed in sections by each of the boards that have material in the document. After that is completed, the separate documents would come

back together as a whole and the writing of the new Comprehensive Plan would begin.

- I. Consider, discuss and act upon development agreement with big d concrete.
  - Ben White stated he, Sandra Green, Alan Lathrom, and Paula Jackson had been working on the project.
  - Mike Hurst asked if the City was putting the cart before the horse because of the WHEREAS clause that states "WHEREAS, the Owner desires to begin construction of its facilities prior to the completion of annexation proceedings". He stated he thought they would need to go through the annexation process first. He explained that deals have been known to go south at times. He stated he wants to protect the City and he has Farmersville's best interest in mind.
  - Ben White stated Bid D was going to petition the City for annexation on or before the 31<sup>st</sup> day of January.
  - Sandra Green stated the date was actually left blank in case Council wanted to give them a different date to petition the City for annexation.
  - Ben White explained if Big D does not annex into the City they would not be able to connect to the City's water line. Big D has a desire to have their business up and running by June. He stated there would be agreements with the TIRZ board and the board has requested a letter of credit to cover their investment in the water line. He stated he believes the City and TIRZ would be protected because there would be Development Agreements between Big D and the City and Big D and the TIRZ. He wanted to make the letter of credit contingent on Big D providing sustainable business. He does not want them to establish themselves one day and then walk away from everything the next day.
  - Mike Hurst asked how long the annexation process would take.
  - Alan Lathrom explained once the City receives the petition for annexation the City has 30 days for the City Council to hold a hearing on whether to accept the annexation request. From there, the annexation process begins. Two public hearings will be required, spaced at least 7 days apart. There are also newspaper notice requirements related to annexation. Then, the City has to adopt the annexation ordinance. It will take approximately three to four months to complete the annexation process. He told Mike Hurst that on page 3, paragraph four of the Development Agreement addressed his concerns of Big D never petitioning the City for annexation.
  - Ben White stated there was a complicating factors surrounding the building permits. The issue is whether they come to the City or County for building permits. At some point along the way Big D will come into the City and the City would take over the permits from the county. He explained he was going to present the Development Agreement to the county and would be asking them to allow the City to issue the building permits even if they are not in the city limits at the time of construction. In discussions with county representatives they

indicated it would be feasible, but they would have to process the request and make sure all parties at the county are okay with it.

- Craig Overstreet asked Alan Lathrom if he saw any problems with a performance based letter of credit.
- Alan Lathrom stated the performance criteria needed to be laid out in the document. Big D would have to meet the criteria and spell all of it out in the agreement with the TIRZ board. The City has prepared development agreements in the past by way of letter of credit or performance bonds.
- Mayor Piwko suggested the petition for annexation needed to be received by February 15<sup>th</sup>, because that would give them a little more time.
- Craig Overstreet stated he believed February 15<sup>th</sup> was sufficient, because it that would give Big D three full weeks.
  - Motion to approve the agreement with the modification of Feb. 15<sup>th</sup> being the deadline for signature for Big G and Anani made by Craig Overstreet
  - 2<sup>nd</sup> to approve was Mike Hurst
  - All council members voted in favor

J. Consider, discuss and act upon a recommendation from the Planning and Zoning Commission for the Final Plat of Robles Estates, Lots 1-3, Block A.

- Ben White stated Robles Estates would be located in the City's ETJ. It is in the far northern part by the Chaparral Trail.
- Mayor Piwko asked why the lots were platted in such odd shapes.
- Sandra Green explained the owners are three brothers, but she was not sure how they derived the acreage for each property. She indicated the owners are planning to build residences on the land.
- Craig Overstreet stated that so many times land owners in the ETJ do not come to the City for platting. He expressed his appreciation that the owners did come and plat with the City.
- Mayor Piwko stated they had to because of the 5 acre limit.
  - K. Motion to approve made by Todd Rolen
  - L. 2<sup>nd</sup> to approve was Donny Mason
  - M. All council members voted in favor

- Mayor Piwko stated Council would continue with the meeting by going back to discuss item F regarding the cost of the sewer line on Summit.
- Ben White explained that several meetings ago the City had discussed the different options to get sewer service to the lot. It would take two manholes and the sewer line to be installed. The total cost of installation would be approximately \$16,120.00.

- Mayor Piwko asked if that amount was City staff doing the work or a contractor.
- Ben White stated it is calculated as though a contractor would do the work. He explained if City staff did install the manholes and sewer line that amount would be reduced.
- Craig Overstreet stated he had some questions about the use of public funds that he would like to ask the City Attorney in executive session.
- Mayor Piwko asked the representative from Texas Vineyard Homes if she would like to come forward and address Council.
- She said there was nothing else that could be said other than what was already discussed previously.

## II. EXECUTIVE SESSION

- Mayor Piwko stated the City Council would adjourn into executive session at 7:36 p.m. to discuss three items. She indicated they would discuss the funding for the placement and cost of the sewer line at Summit Addition 2, the purchasing of property at 213 Orange Street, and the purchasing of property at 517 McKinney Street.

## III. RECONVENE FROM EXECUTIVE SESSION AND DISCUSS/CONSIDER/ACT ON MATTERS DISCUSSED IN EXECUTIVE SESSION PERMITTED BY SECTION 551.071 OF THE TEXAS GOVERNMENT CODE

- Mayor Piwko announced the City Council was reconvening at 8:19 p.m. She stated in regards to the sewer line for Summit Addition 2 she would entertain a motion.
- Craig Overstreet stated he would make a motion that the City not put forth the \$16,120.00 because it is public money that would be used solely for a private purpose.
- Mayor Piwko asked if his motion also included the waiver of impact fees if the property owners decided to install the sewer line at their own expense.
- Craig Overstreet stated it did not. He indicated the City would charge impact fees.
  - N. Motion for the City to not pay for the sewer line or manhole installation made by Craig Overstreet
  - O. 2<sup>nd</sup> to approve was Todd Rolan
  - P. All council members voted in favor
- Mayor Piwko indicated no other actions would be taken regarding the purchasing of either 213 Orange Street or 517 McKinney Street.

IV. REQUESTS TO BE PLACED ON FUTURE AGENDAS

- None

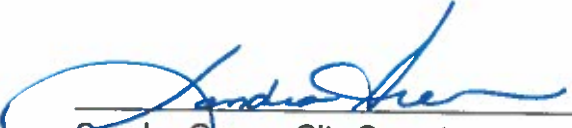
V. ADJOURNMENT

Meeting was adjourned at 8:22 p.m.

APPROVE:

  
\_\_\_\_\_  
Diane C. Piwko, Mayor

ATTEST:

  
\_\_\_\_\_  
Sandra Green, City Secretary

