



**FARMERSVILLE CITY COUNCIL
REGULAR SESSION MINUTES
For
June 9, 2020, 6:00 P.M.**

I. PRELIMINARY MATTERS

- Mayor Wiebold called the meeting to order at 6:00 p.m. Council members, Mike Henry, Craig Overstreet, Jim Hemby, Dwain Mathers and Terry Williams were all present. City staff members Ben White, Sandra Green, Marsha Phillips, Kim Morris, Daphne Hamlin, Rick Ranspot, Oscar Mejia and City Attorney Alan Lathrom were also present.
- Prayer was led by Reverend Mack with the Mt. Calvary Missionary Baptist Church followed by the pledges to the United States and Texas flags.
 - Mayor Wiebold stated that Reverend Mack has been at the church for over 30 years and was celebrated by the Mayor giving him a framed proclamation that was read at the drive-by parade in his honor Sunday.
 - Mayor Wiebold wanted to thank the Police Chief and Fire Chief for working at the peaceful protest that took place in town the past weekend.
 - Mayor Wiebold stated that the Main Street Board announced that Farmers & Fleas will reopen on July 4th.
- Calendar of upcoming holidays and meetings.
- There will be a celebration of Audie Murphy's 75th Anniversary Homecoming to Farmersville on June 15th at 5:30 p.m. at the gazebo on the square.
- Proclamation for Audie Murphy's 75th Homecoming Anniversary Celebration
 - Mayor Wiebold read the Proclamation
 - Eddy Daniel, who is a representative of the Centennial Committee asked the Council to consider whether or not they wanted to hold Old Time Saturday this year due to Covid-19.

II. **PUBLIC COMMENT ON AGENA ITEMS (FOR NON-PUBLIC HEARING AGENDA ITEMS)**

- No one came forward in person or via teleconference to speak.

III. **CITIZEN COMMENTS ON MATTERS NOT ON AGENDA**

- No one came forward in person or via teleconference to speak.

IV. **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 Council members may request prior to a motion and vote on the Consent Agenda that one or more items be withdrawn from the Consent Agenda and considered individually.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the Consent Agenda, excepting the items requested to be removed, the City Council will consider and act on each item so withdrawn individually.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
- B. Police Department Report (OpenGov)
- C. Code Enforcement/Animal Control Report (OpenGov)
- D. Fire Department Report (OpenGov)
- E. Municipal Court Report (OpenGov)
- F. Warrant Officer Report (OpenGov)
- G. Public Works Report
- H. Library Report (OpenGov)
- I. City Manager’s Report

- Motion to approve Jim Hemby
- 2nd to approve was Terry Williams
- All council members voted in favor

V. **INFORMATIONAL ITEMS**

These Informational Items are intended solely to keep the City Council apprised of the actions and efforts of the various boards and commissions serving the City of Farmersville. Council members who serve as a liaison to a particular board or commission may report to the City Council regarding that body’s most recent and/or upcoming meetings and activities. Council members may also deliberate and/or request further information or clarification regarding any one or more of the items contained in this provision. City Council approval of, or action on, these items is not required or requested. **Matters that require City Council action shall be considered and acted on only if an item related thereto is included in the Consent Agenda or the Regular Agenda.**

Consideration and discussion regarding the following matters, minutes and reports, which consideration and discussion may also include or pertain to individual items and projects set forth in such matters, minutes and reports, as well as related background information and plans for future completion, performance or resolution as may be necessary to understand such individual items and projects and the City's related operation:

- A. City Amenities Board
 - 1. Possible Council Liaison Report

- B. Farmersville Community Development Board (Type B)
 - 1. Possible Council Liaison Report
 - Terry Williams stated Ben White reviewed the new application form. They discussed the reporting process, tracking progress and timelines for funding.

- C. FEDC Farmersville Economic Development Board (Type A)
 - 1. Possible Council Liaison Report

- D. Main Street Board
 - 1. Possible Council Liaison Report
 - Craig Overstreet stated that Farmers & Fleas will meet in July. They discussed the directional signage downtown. He said the initial interviews for Main Street Manager have started.

- E. Planning & Zoning Commission
 - 1. Possible Council Liaison Report

VI. READING OF ORDINANCES

- A. Consider, discuss and act upon the second reading of Ordinance #O-2020-0609-001 amending Section 65-83 of the Subdivision Ordinance authorizing the City Manager to release building permits for up to six (6) single-family residential lots in a subdivision that is then being platted before all of the required public improvements have been constructed and final accepted by the City and before the final plat is recorded with the county.
 - Mayor Wiebold read the caption of the Ordinance.
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FARMERSVILLE, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF FARMERSVILLE, TEXAS, BY AMENDING CHAPTER 65 "SUBDIVISIONS," OF THE CODE OF

ORDINANCES OF THE CITY OF FARMERSVILLE, TEXAS, THROUGH THE AMENDMENT OF ARTICLE V, "REQUIREMENTS FOR COMPLETION, ACCEPTANCE AND MAINTENANCE OF IMPROVEMENTS," BY DELETING SECTION 65-83 "ISSUANCE OF BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY," IN ITS ENTIRETY AND REPLACING SAID SECTION WITH A NEW SECTION 65-83 THAT IS ALSO ENTITLED "ISSUANCE OF BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY"; REPEALING ALL CONFLICTING ORDINANCES; RESERVING ALL EXISTING RIGHTS AND REMEDIES; PROVIDING FOR IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING A PENALTY; PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE

This Ordinance shall take effect immediately upon its adoption and publication in accordance with and as provided by Texas law.

- Ben White stated this is the same ordinance that was brought to the City Council at the last meeting, with the exception of the one item the Council wanted to be removed. He explained the developer has asked for the Council to consider releasing ten (10) homes instead of six (6). He stated staff recommends approval.
- Mike Henry stated he would not be opposed to raising the numbers of homes to ten (10) as long as they meet all the other requirements set out in the Ordinance.
- Dwain Mathers wanted to know if there was a down side to allowing them to construct ten (10) homes instead of six (6).
- Ben White stated there was not a down side that he could see. He said he felt the ordinance protected the city.
- Jim Hemby asked what would happen if they had a subdivision to develop in the city that only had 80 houses.
- Ben White explained that according to the ordinance they would fall under the 10% rule and they could only build eight (8) homes.
 - Motion to change ordinance to requested ten (10) units and approve made by Mike Henry
 - 2nd to approve was Jim Hemby
 - All council members voted in favor

B. Consider, discuss and act upon the first and only reading of Ordinance #O-2020-0609-002 regarding Disaster Declaration.

- Mayor Wiebold read the caption of the Ordinance.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FARMERSVILLE, TEXAS, AMENDING AND SUPERSEDING ORDINANCE #O-2020-0512-001 IN RESPONSE TO THE COVID-19 VIRUS OUTBREAK, PURSUANT TO THE TEXAS DISASTER ACT OF 1975, CHAPTER 418, TEXAS GOVERNMENT CODE AND CHAPTER 122 OF THE TEXAS HEALTH AND SAFETY CODE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING A PENALTY; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF

- Ben White stated the city was going to keep the ordinance open so we could apply for grants and it would match up to the Governor's requirements.
- Alan Lathrom stated this does extend the hazardous duty pay until July 17th, if the ordinance is not passed the hazardous duty pay would expire this Friday.
- Craig Overstreet asked about the funds the city is supposed to receive from Collin County.
- Ben White stated the Council would vote later in the evening about approving the CARES Act interlocal agreement with Collin County regarding the funds related to Covid-19 relief.
 - Motion to approve made by Craig Overstreet
 - 2nd to approve was Mike Henry
 - All council members voted in favor

VII. REGULAR AGENDA

- A. Update on Financial Reports from last meeting.
- Daphne Hamlin stated the capital expenditures regarding the \$298,000.00 was for the Palladium wastewater line. She explained there was a budget amount for \$150,000.00 in the electrical fund capital expenditures. She said we collect those from surcharges and we can only spend that on utility line improvements.
- B. Consider, discuss and act upon recommendation from DBI Engineers regarding the Collin Parkway/Farmersville Parkway expansion.
- Eddy Daniel announced Jacob Dupuis as the project manager/engineer for the project.
 - Jacob Dupuis stated they opened bids on Thursday, June 4th at 10:00 a.m. and there were ten (10) total bids for the project. He stated the lowest bidder was RPM Construction in the amount of \$3,519,492.00. He said DBI Engineers had not worked with the contractor before so they contacted references and reviewed financial information that could verify their quality

of work and to make sure they could fund the project. He indicated everything checked out fine with the references and financials. He explained that DBI Engineers felt comfortable with the company if the city awarded the contract to them.

- Mayor Wiebold asked why there was such a large difference between some of the costs in the line items.
- Jacob Dupuis explained that with a project of this scope you do have some unknowns and some contractors may think it would be a more costly item to remove the existing concrete than another contractor.
- Eddy Daniel stated we wanted to make it a unit price contract in case we needed to adjust the scope. He stated overall the top four bidders were very close.
- Terry Williams stated that RPM Construction, LLC stated they would have the project completed in 150 – 170 days.
- Jacob Dupuis stated the one thing they wanted the contractors to know about this project was that there were deadlines that follow those of Collin College. He said the Collin College contractors are estimating being finished by the end of this year. They told the bidding contractors that at a minimum they wanted the north-south run of the roadway to be completed by the end of this year. The next deadline would be the east-west run and that would go from the intersection to Welch Drive and that would need to be completed by April of next year. He said then 100% completion would be May of next year. He stated that RPM Construction indicated they could finish the entire project by the end of this year.
- Eddy Daniel stated the second lowest bidder were upfront and said they would not be able to finish the project by the end of the year.
- Ben White stated he would like signing authority on the contract after the award is made by Council. He also stated the available funds is less than the contract amount, so they are going to have to work on the scope of the project to meet the amount we have now. He indicated he would need to go before the TIRZ board and FEDC (4A) to try and get some more funding.
- Mike Henry asked what funds were available right now to construct the roadway.
- Alan Lathrom asked if the Add/Alternate Bid Items were included in the total costs.
- Jacob Dupuis stated at this time they were not including those in the base bid. He stated the total project cost which included engineering design, project administration and project inspections would be \$4,453,000.000. He indicated that the city has available funds from TIRZ of \$1.75 million and a Collin County Bond from 2007 in the amount of \$1.88 million. He said that

amount would be \$488,000.00 over available funds. He explained that is why they are looking at cutting scope. He indicated they are lacking two right-of-way easements. They are working with current utility companies for line relocation and they are operating with the assumption that those utilities are within the right-of-way and they would be relocated at the utility companies cost.

- Eddy Daniel stated they need to award the contract as soon as possible so they can remain on track with the deadline.
- Dwain Mathers asked how the portions of the roadway were picked to be constructed.
- Eddy Daniel stated we have an agreement with Collin College that we have to build the road around the College.
- Mike Henry asked about the timeframe in regards to discussing more funds with 4A and TIRZ.
- Ben White stated it would be July and August. He explained it would take a little while to get the contracts completed and signed for the roadway.
- Eddy Daniel stated if the Council would award the bid they would be awarding the base bid amount. Then, after the contracts were executed we could issue a change order and lower the final contract amount. We would send out notice of award tomorrow, if awarded tonight, and then complete the contracts. He indicated they would not even get started for a few months. He said that gives Ben White time to speak to the boards about more funding.
- Mayor Wiebold asked if 4A and the TIRZ board typically supported the College.
- Ben White stated he does not know what the 4A board or TIRZ board might say regarding additional funding.
- Jacob Dupuis stated there is no contingency included in the \$4.45 million. He said they are operating as if all the utilities and everything are in the right-of-way and are not including any costs that might occur that were not planned for.
- Eddy Daniel stated if they dig up something they do not know about then that could affect the project. He indicated that it is a street so they do not dig too deep.
- Ben White stated he would try to build that contingency back with the 4A and TIRZ board.
- Mike Henry asked about the soil conditions under the current road.
- Jacob Dupuis stated it was clay type soil and very deep pockets of rock.
- Mike Henry asked if there was any remediation taking place before the concrete goes down.

- Jacob Dupuis stated they would use 8 inches of lime stabilization and then 8 inches of pavement on top of that.
 - Eddy Daniel stated they have to have tests run that will tell them how much lime they will have to place in the soil to stabilize it.
 - Ben White stated he recommends approval and asked for Council to allow him to sign the contract and other documents.
 - Motion to approve staff and DBI Engineering's recommendations for Collin/Farmersville Parkway construction with the bid from RMP Construction, LLC made by Mike Henry
 - 2nd to approve was Terry Williams
 - Sandra Green wanted to clarify that the motion gave Mr. White signing authority for the contract and other documents.
 - Mike Henry indicated it did.
 - All council members voted in favor
- C. Consider, discuss and act upon an Interlocal Cooperation Agreement with Collin County regarding the Coronavirus Aid, Relief, and Economic Security Act (CARES ACT).
- Ben White stated this was an interlocal agreement that provides the city with funding for approximately \$168,644.00.
 - Dwain Mathers asked what can be bought with the funds.
 - Ben White stated it has to be unbudgeted items. He said it has to be spent before the end of the year and on Covid related expenditures. He recommended that we support the hazardous duty pay and teleconferencing items with these funds.
 - Dwain Mathers asked if it could help with utilities.
 - Ben White state he cannot use it to offset the loss in utilities for the city.
 - Motion to approve made by Craig Overstreet
 - 2nd to approve was Jim Hemby
 - All council members voted in favor
- D. Update regarding Reliable Concrete (Listocon).
- Ben White stated he did not follow up with the priority lien. He said that after speaking with the City Attorney they have lien capabilities with the signed Development Agreement, if they needed to go that route. He stated they are operating, and they have tapped in to the city's water. They are currently exceeding the original 25% capacity required per month. He said they are currently at 300-500 yards per day. He went over a list of items they have

completed and some they have not completed. He mentioned they have a certificate of occupancy for the batch plant operations.

- Craig Overstreet asked about what was showing in OpenGov regarding the certificate of occupancy and if that was for the plant or the operations building.
- Ben White stated it was for the batch plant, but they constructing the operations building. The building would allow for some overnight stays and an office building. He said they are also about to start a maintenance barn. He stated they are going to complete the paperwork for FOB Farmersville on June 19th so the taxes will come to the city. He believes they have done the paperwork through the state, but their accountant has to complete some additional paperwork. He indicated since they have received a certificate of occupancy for the batch plant they would be receiving some of their escrow back. He continued going over the list of items they have completed or are completing soon. He stated that before they can plat the property the city has to change the Comprehensive Plan to show that area to be High Impact Industrial. He indicated that certificate of occupancy for the other buildings would not be issued until the Comprehensive Plan was changed and the platting completed.
- Craig Overstreet stated he feels that a certificate of occupancy for the buildings should not be issued until they have completed all the requirements.
- Ben White asked Council what they would like for him to do in regards to the noncompliance.
- Craig Overstreet indicated he wanted Ben White to put pressure on the company to complete all the items because they were already way overdue.
- Jim Hemby stated it is a problem that they did not follow through with the Developer's Agreement. He explained that the city still has to hold people accountable and there should be consequences.
- Mike Henry stated that part of the problem was that the process started with Collin County originally and then the city annexed them. He said the certificate of occupancy that was issued was from Collin County. He stated it appears they opened without a permit and they just moved forward on their own. He explained that he hopes future Development Agreements would work out better.
- Mayor Wiebold said that he felt if all the items were finished by August 31st then all would be well.
- Mike Henry asked about releasing some of the escrow money and if we had to do that before they completed all the items.
- Ben White stated the Developer's Agreement states that once the batch plants certificate of occupancy is issued it has to be released within 10 days.
- Mike Henry asked Alan Lathrom if that was an accurate statement.
- Alan Lathrom stated it was.
- Craig Overstreet asked if the \$85,000.00 lien would be filed.

- Ben White explained that he did not feel it was necessary at this point based on discussions with the city attorney. He said they both feel the language in the Development Agreement protects the city to get what is needed.
- Mike Henry pointed out that Reliable was in agreement with the dates that Ben White has given them to complete all the items.
- Craig Overstreet stated the TIRZ board approved the waterline on the basis that the \$85,000.00 lien would be filed.
- Ben White stated he could have them put the lien in place, but he is getting the recommendation from the city attorney that it is not necessary right now. He said it was Reliable's responsibility to get the lien to us and it was not completed.
- Terry Williams asked how much sales tax we are losing.
- Ben White stated he does not believe we are losing any. What has happened is they are trying to make the connection to get it over to the state from their accounts.
- Mike Henry wanted to know how we will know when the paperwork is done so that we will receive the sales tax.
- Ben White stated he has no problem going to the Comptroller's Office to obtain the information. He said he has spoken to the owner of Reliable and the plant manager and they are standing behind the dates listed for the sales tax information.
- Terry Williams asked if the owners need to come before the Council and explain.
- Ben White stated he could have them come before the Council and the owner has said that he would.
- Craig Overstreet stated they need to have consequences because the city put in a waterline and they have not followed through with what they have agreed to in the Development Agreement.
- Ben White stated he will produce the paperwork to the Council for the sales tax.
- Dwain Mathers wanted to know if we could track how much concrete they produce.
- Ben White stated we could tell by how much water they use, but they also use a basin of runoff water as well so it would not be that accurate.
- Mayor Wiebold said the next steps would be to invite them to the next Council meeting and get the sales tax documents.

E. Update regarding Nelson Bros. Ready Mix (Farmersville Plant, LLC).

- Ben White stated they have not began any real development yet. They have completed annexation of the property and platting is complete.
- Sandra Green stated platting is not complete yet.
- Ben White stated they are tied in to the High Impact Industrial change in the Comprehensive Plan.

- Jim Hemby asked why the city has not gone ahead and planned for the change in the Comprehensive Plan.
 - Ben White stated the goal was to finish the Thoroughfare Plan and Land Use Map update and that would take care of it. He said since the Council is wanting these changes now because of the concrete companies then he switched his approach.
- F. Update regarding the Historical Preservation Ordinance and related district boundaries.
- Ben White stated we have a Historical Preservation Ordinance draft that was created by Sandra Green and Reagan Rothenberger, but has been in that form for several years now. He recommends using a professional firm to produce the ordinance for us and create the boundaries. He explained the city does not have the money in the general fund to pay an outside firm to create the ordinance. He suggested the city go out for a quote to see how much it would cost. He indicated that he could possibly ask 4A, 4B or TIRZ to fund the project.
 - Craig Overstreet said he did not understand why 4A, 4B or TIRZ would need to fund the project when it is an ordinance for the city. He stated the draft was a large ordinance and he felt that it was very cumbersome and needed to be a smaller document that is easier to understand.
 - Ben White stated he just feels like an expert in that area should write it.
 - Dwain Mathers stated he would like to know what it would cost because he believes a professional firm should do the ordinance.
 - Ben White stated there are a lot of good reasons to have a professional firm complete the ordinance because of the new laws and to also see what other successful cities do.
 - Dwain Mathers asked if a preservation ordinance would allow the city to control items being built in the downtown area and within the designated boundaries.
 - Alan Lathrom stated it would only apply to areas were in the historic district was setup prior to April 2019 because of state law. He said you can control exterior building materials in areas that were already designated as historic architectural areas.
 - Ben White asked if we should be able to create a preservation ordinance for the boundaries that were setup prior to April 2019.
 - Alan Lathrom stated we may be able to have one.
 - Dwain Mathers stated we need to look at the cost of the ordinance so we can protect the city.

- Craig Overstreet stated staff should check with the Texas Municipal League and the Texas Historical Society to see if there are any examples that we could follow.
- Dwain Mathers stated he would like to know the possibility of expanding the historical area.
- Craig Overstreet asked for staff to bring the Historic Overlay District Map to the next Council meeting.

VIII. EXECUTIVE SESSION

- Mayor Wiebold announced the City Council would go into executive session at 7:51 p.m. and then he read the statement below.

Discussion of matters permitted by Texas Government Code Chapter 551 as follows:

- A. Discussion of Matters Permitted by Texas Government Code Section 551.071(1)(A) Pending or contemplated litigation:
 1. Petition of the Cities of Garland, Mesquite, Plano, and Richardson Appealing Wholesale Water Rates Implemented by North Texas Municipal Water District, PUC Docket No. 46662, Public Utility Commission of Texas.

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

- Mayor Wiebold stated the Council would reconvene from executive session at 8:03 p.m.
 - Craig Overstreet stated he moved for the approval of comprehensive settlement terms to resolve all of the PUCT cases styled Petition of the Cities of Garland, Mesquite, Plano and Richardson Appealing the Decision by North Texas Municipal Water District Affecting Wholesale Water Rates and further authorize and direct the City Manager and our counsel to negotiate definitive agreements, including a settlement agreement and an amendment to our current Amendatory Contract with the North Texas Municipal Water District, to be presented to this Council at a later date for final approval, as discussed in Closed Session.
 - 2nd to approve was Mike Henry
 - All council members voted in favor

IX. REQUESTS TO BE PLACED ON FUTURE AGENDAS

- Craig Overstreet asked for code enforcement to be placed on the agenda.
- Craig Overstreet also asked for a continued update on Reliable Concrete and Nelson Brothers Concrete plants

X. ADJOURNMENT

Meeting was adjourned at 8:06 p.m.

APPROVE:



Bryon Wiebold, Mayor

ATTEST:



Sandra Green, City Secretary