

FARMERSVILLE CITY COUNCIL  
MEETING MINUTES  
October 8, 2013

The Farmersville City Council met in regular session on October 8, 2013 at 6:00pm in the Council Chambers at City Hall with the following members present: Mayor Helmberger, John Klostermann, Michael Hesse and Jim Foy. Absent were Michael Carr and Russell Chandler. Staff members present were City Manager Ben White, Police Chief Mike Sullivan, Fire Chief Kim Morris, City Attorney Alan Lathrom, Finance Director Daphne Hamlin, Assistant to the City Manager Paula Jackson, Court Clerk Christi Dowdy, Librarian Trisha Dowell and City Secretary Edie Sims.

**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. Jim Foy offered the invocation with Mayor Helmberger leading the audience in the Pledge of Allegiance to the American Flag.

Mayor Helmberger offered the guests and visitors to speak on a non-agenda item with Diane Piwko coming forward. Ms. Piwko stated she came before the Farmersville Community Development Corporation Board during the August 12, 2013 Board meeting. The minutes of that meeting reflect that Ms. Piwko opposed the proposed budget regarding the National Registry project and this statement is not accurate. Ms. Piwko stated she felt the taxpayer's money is being wasted on outside sources to work on this project when the work should be completed by the Main Street Manager. Ms. Piwko requested the minutes be changed to show she has spent the past several years pursuing the National Registry project and have it active rather than sit in the file cabinet as it has been for the past two years. Ms. Piwko stated if a citizen expresses concerns during a public forum then it should be recorded accurately. Ms. Piwko is not opposing the National Registry and felt it was the highest priority of the FCDC and wanted the minutes changed to reflect her statement.

Mayor Helmberger also announced the Council meetings for November and December have been changed to the first and third Tuesdays due to the upcoming holidays.

The Chamber of Commerce's 3<sup>rd</sup> annual Trick It Up Bike Ride will begin at 9am on October 26<sup>th</sup> and the Scare on the Square event will begin at 5:30pm that same date.

Mayor Helmberger announced Governor Rick Perry will be awarding the Texas Legislative Medal of Honor to Audie Murphy posthumously on October 29<sup>th</sup> at 1pm and asked all to attend this occasion.

Mayor Helmberger expressed his appreciation for City staff who worked Old Time Saturday.

**Item II) CONSENT AGENDA**

Mayor Helmberger asked the Council if any items were needed to be pulled for discussion. With Council not requesting any items to be pulled for discussion, Mayor Helmberger requested Items B, F, G and H be pulled. Jim Foy motioned to approve Items A, C, D, E, and I with Michael Hesse seconding the motion. A poll of the Council was taken as follows: John Klostermann yes, Michael Hesse yes and Jim Foy yes. Motion passed with full Council approval.

Item B – Police Department Report: Mayor Helmberger questioned if the security system at the Onion Shed was operating properly. Chief Mike Sullivan stated the system works great as long as the power is not shut off. Mayor Helmberger stated he was performing a good

deed by turning off the lights at the Onion Shed at night, not realizing that there are specific switches to turn off the lights and leave the power active for the security system.

Also in the Police Report, 15 thefts were reported and Mayor Helmberger questioned if any progress has been made toward apprehending the individual(s). Chief Sullivan replied some criminal mischief and thefts have gone down due to recent arrests. With no further questions or comments, John Klostermann motioned to approve the Police Department Report with Jim Foy seconding the motion. A poll of the Council was taken as follows: John Klostermann yes, Michael Hesse yes and Jim Foy yes. Motion passed with full Council approval.

Item F – Municipal Court Report: Mayor Helmberger questioned when the Warrant Officer position would be filled. Court Clerk Christi Dowdy informed the Mayor and Council that a second interview has been scheduled for October 9<sup>th</sup> and it is plausible to offer the position to the candidate. With no further questions or comments, Jim Foy motioned to approve the Municipal Court Report with Michael Hesse seconding the motion. A poll of the Council was taken as follows: John Klostermann yes, Michael Hesse yes and Jim Foy yes. Motion passed with full Council approval.

Item G – Public Works Report: Mayor Helmberger questioned if any changes have occurred regarding the Lakehaven MUD documents. City Manager Ben White was encouraged to report the documents were being prepared and to be delivered soon. No other changes have occurred with this project. The Right-of-Entry and the Sanitary Sewer Easement documents have been completed. We are awaiting the deed for escrow. Eddy Daniel has been working with Lakehaven MUD regarding the TCEQ transfer of the Wastewater Permit. Mayor Helmberger questioned if the City has suggested the escrow firm. City Attorney Alan Lathrom indicated he suggested an escrow firm to Lakehaven and he believes this firm will be used for this purpose. Mayor Helmberger requested the City confirm TCEQ's process regarding the transfer date of the Wastewater Permit. With no further questions or comments, John Klostermann motioned to approve the Public Works Report with Jim Foy seconding the motion. A poll of the Council was taken as follows: John Klostermann yes, Michael Hesse yes and Jim Foy yes. Motion passed with full Council approval.

Item H – Library Report: Mayor Helmberger requested clarification regarding the accreditation letter and how it will affect our City. Librarian Trisha Dowell informed the Mayor and Council that by having the Library being a fully qualified member of the Texas Library System, opportunities for grants are more abundant and the City will meet the requirements for the State. This accreditation is applicable for Fiscal Year 2013-2014.

Mayor Helmberger also questioned the TexShare Mobile Round 2 grant and what projects that would entail. Librarian Trisha Dowell informed the Mayor and Council this grant is funding the website redesign and utilizes the existing online catalog system. With no further questions or comments, Michael Hesse motioned to approve the Library Report with Jim Foy seconding the motion. A poll of the Council was taken as follows: John Klostermann yes, Michael Hesse yes and Jim Foy yes. Motion passed with full Council approval.

**Item III) INFORMATIONAL ITEMS**

Council did not request any information or clarification regarding Informational Items.

**Item IV – A) SECOND READING – CONSIDER, DISCUSS AND ACT UPON AN ORDINANCE REGULATING GAME ROOMS AND AMUSEMENT REDEMPTION MACHINES**

Mayor Helmberger stated the Council has reviewed and passed the first reading of the ordinance at the September 24<sup>th</sup> meeting with revisions. A revised version of the ordinance was presented to the Council with changes per the City Attorney from the Council's comments. The revisions have been corrected with the exception of Section 8-316 regarding bicycles in Parking Facilities. By taking the bicycle statement out of Section 8-316, John Klostermann motioned to approve the revised ordinance with Jim Foy seconding the motion. A poll of the Council was taken as follows: John Klostermann yes, Michael Hesse yes and Jim Foy yes. Motion passed with full Council approval.

**ITEM IV – B) SECOND READING – CONSIDER, DISCUSS AND ACT UPON AN ORDINANCE REGARDING ATMOS' 2013 ANNUAL RATE REVIEW MECHANISM**

With the Council approving the first reading of the ordinance presented at the September 24<sup>th</sup> Council meeting, Jim Foy motioned to approve the second reading of the ordinance as presented with John Klostermann seconding the motion. A poll of the Council was taken as follows: John Klostermann yes, Michael Hesse yes and Jim Foy yes. Motion passed with full Council approval.

**ITEM IV – C) SECOND READING – CONSIDER, DISCUSS AND ACT UPON AN ORDINANCE AMENDING THE NOISE ORDINANCE PERTAINING TO CONSTRUCTION NOISE**

Revisions have been corrected per the discussion from the first reading of the ordinance at the September 24<sup>th</sup> Council meeting. Michael Hesse motioned to approve the second reading of the ordinance as presented with John Klostermann seconding the motion. A poll of the Council was taken as follows: John Klostermann yes, Michael Hesse yes and Jim Foy yes. Motion passed with full Council approval.

**ITEM IV – D) ONLY READING – CONSIDER, DISCUSS AND ACT UPON AMENDING THE MASTER FEE SCHEDULE FOR WATER AND SEWER RATE INCREASES FROM NORTH TEXAS MUNICIPAL WATER DISTRICT**

The ordinance presented is a duplicate of the ordinance passed last October with a pass thru rate increase from North Texas Municipal Water District. The rate increase has been affected by the pipeline, but not wholly. The pass thru is equivalent to a \$0.17 increase across the board. John Klostermann motioned to approve the ordinance as presented with Michael Hesse seconding the motion. A poll of the Council was taken as follows: John Klostermann yes, Michael Hesse yes and Jim Foy yes. Motion passed with full Council approval.

**ITEM V – A) CONSIDER, DISCUSS AND ACT UPON AN INTERLOCAL AGREEMENT WITH THE COLLIN COUNTY FIRE MARSHAL'S OFFICE**

Mayor Helmberger stated he reviewed the agreement and questioned whether the document should reflect fire inspections and the fire plan review be in accordance to the 2009 International Fire Code as this is the Code that the City is not operating under. Fire Chief Kim Morris stated the Fire Marshal's Office will inspect building using the 2009 requirements but Bureau Veritas will perform the building inspections under the 2006 International Building Code. The fees for the fire inspections will be paid to the Fire Marshal's Office rather than Bureau Veritas, so there will be no budgeting changes other than to whom the payment will be made. Presently the Fire Marshal's Office is inspecting businesses outside the City Limits and having the buildings brought up to code. Having these inspections within the City may create anxiety for the businesses, but it is a worthwhile investment. Each business will be required to pay \$25

per year for the Fire Marshal's Office to perform their annual fire inspection. The City will then charge the businesses for the service rendered. City Manager Ben White indicated the inspections will begin with the City's facilities first; inspections will then be focused outward to the schools, churches and then other businesses. The inspections will be focused on the larger gathering places first. Fire Chief Kim Morris stated he supports this effort 100%. Michael Hesse motioned to approve the Interlocal Agreement with the Fire Marshal's Office as presented with John Klostermann seconding the motion. A poll of the Council was taken as follows: John Klostermann yes, Michael Hesse yes and Jim Foy yes. Motion passed with full Council approval.

**ITEM V – B) CONSIDER, DISCUSS AND ACT UPON AMENDING THE REVENUE RECOVERY SERVICES BILLING AGREEMENT BETWEEN THE CITY OF FARMERSVILLE AND INTERMEDIX, PREVIOUSLY KNOWN AS REVENUE RESCUE**

City Manager Ben White informed the Council that Intermedix, previously known as Revenue Rescue, has not had a lot of activity collecting from insurance companies for fire apparatus and time that our fire department spends on accidents involving citizens not within the City of Farmersville. State Farm set precedence by declining payment for this expenditure when involving an accident. Other insurance companies are following suit. There is legislation to be presented at the next session of the Legislature to help facilitate fire departments being reimbursed for expenditures for aid at accident scenes. There were two issues involving payment to the City, one is the issue of the insurance companies denying claims, the other involves a database issue where Intermedix is 3 months behind which caused problems dispositioning cases.

Fire Chief Kim Morris discussed with the Council when the original contract came into effect with Revenue Rescue in 2006, the only claims filed would be with out of City accidents – not citizens within the City of Farmersville. Previous Councils have also directed the Fire Chief to have the billing company not direct bill to citizens, only to send a claim to the insurance providers. Normally Chief Morris files on vehicle accidents and structure fires as more apparatus and volunteers are used for those types of situations. With the recent fire at the Junior High School, Mr. Foy questioned if a claim was submitted for that particular call. Chief Morris stated the fire was already out and therefore a claim was not produced for the Junior High incident. Jim Foy stated it made sense to submit a claim for out-of-town residents.

City Attorney Alan Lathrom indicated in 2006 the Council agreed to charge insurance companies only and allow no litigation against the insured if the claim was declined. Police Chief Mike Sullivan stated it would be prudent to have the parameters changed regarding personnel and resources and allow a mechanism to litigate. This direction would need to come from the present City Council to have the agreement revised to allow this type of action. The personnel and resources should include the Fire Department, Police Department, Public Works, salaries, overtime, vehicles used and other resources utilized during an incident.

Jim Foy mentioned the bridge being hit and shut down for several hours and all the man power that was involved with that incident. City Attorney Alan Lathrom indicated the statute of limitations is not applicable to Municipal Government. City Manager Ben White indicated he does not want to pursue claims for litigation unless they reach \$2,000 - \$3,000 which would be our trigger for litigation. The Council concurred that a new contract should be made; however Jim Foy motioned to table this item until the next meeting with John Klostermann seconding the motion. A poll of the Council was taken as follows: John Klostermann yes, Michael Hesse yes and Jim Foy yes. Motion passed with full Council approval.

**ITEM V – C) CONSIDER, DISCUSS AND ACT UPON A RESOLUTION APPOINTING THE NEWSPAPER OF MAJOR CIRCULATION**

With the Resolution a standard procedure each year, John Klostermann motioned to approve the resolution to appoint the Farmersville Times as the newspaper used as major circulation during Fiscal Year 2013-2014. Jim Foy seconded the motion. A poll of the Council was taken as follows: John Klostermann yes, Michael Hesse yes and Jim Foy yes. Motion passed with full Council approval.

**ITEM V – D) CONSIDER, DISCUSS AND ACT UPON APPOINTING A COUNCIL MEMBER AS A LIAISON TO THE FARMERSVILLE SCHOOL BOARD**

Mayor Helmberger felt the City needed to improve the communications with the Farmersville School Board and recommended a Council member be a liaison to help facilitate that effort. Mayor Helmberger recommended Jim Foy to serve as the liaison. Michael Hesse motioned to appoint Jim Foy as the liaison to the Fisd School Board with John Klostermann seconding the motion. A poll of the Council was taken as follows: John Klostermann yes, Michael Hesse yes and Jim Foy yes. Motion passed with full Council approval.

**ITEM V – E) CONSIDER, DISCUSS AND ACT UPON DETOUR OPTIONS FROM HIGHWAY 380 AND HIGHWAY 78**

John Klostermann requested the Council discuss options for detouring. This stemmed from an incident that occurred while he was on Highway 380 in Princeton and was delayed since detours were not available to maneuver around the blocked highway area. Mr. Klostermann wanted to know if any plans were in place to develop a roadway south of Highway 380 to allow people to get in and around Highway 380. Mayor Helmberger stated there are plans for development in the southern part of the City; however the realities of the plans coming to fruition are quite a few years away. Police Chief Mike Sullivan stated any issues on Highway 380 could be diverted to Highway 78 then to Farmersville Parkway and which will bring the traveler back to Main Street to connect to Highway 380. However there are no good routes south of Highway 380.

John Klostermann expressed concern of the weight from heavy trucks disturbing or destroying the bricks on the downtown square. Mayor Helmberger stated from an engineering standpoint, the bricks can withhold the weight and will not be damaged due to limited amount of heavy traffic. TxDOT has informed the City that FM 2194 is also a large vehicle detour to connect to FM 36 in Merit to then connect to Highway 380 and resume their route.

City Manager Ben White encouraged the Council that during the Comprehensive Planning process he spent an extensive amount of time on the Thoroughfare Plan for the future. When detours are necessary, our Police Department and Public Works Department will be available to facilitate the traffic by offering detour signage and personnel to help direct traffic. Mayor Helmberger stated the other option for south of Highway 380 would be South Hamilton to Southlake and over to FM 547 as a detour. Council took no action.

**ITEM V – F) CONSIDER, DISCUSS AND ACT UPON DUMPSTERS LOCATED IN RIGHT-OF-WAYS OF CITY STREETS**

Mayor Helmberger brought this item to the attention of the Council as dumpsters have been sitting in the City streets for a number of years. We currently have a policy for new developments to have an enclosed gated area for dumpsters, but areas like the schools, Dr. Lane's Vet Clinic and CelloWrap have their dumpsters in the City's right-of-way. When the trash company comes to empty the dumpsters, the roadway is blocked and the trucks cause damage to the curb and street. Mayor Helmberger stated he would like to have a policy in place to have

all dumpsters kept off the City's right-of-way and allow enough area for the truck to empty from inside private property. This would mean that all businesses would need to bring their dumpsters up to current code regulations. Mayor Helmberger stated he would like to have letters sent to those who have existing dumpsters in the streets or right-of-way asking them to remove the dumpsters from their existing location and relocate the dumpster to another location within private property. This issue only affects a handful of businesses, namely Tatum Elementary on Windom Street, the Veterinary Clinic on Sycamore and CelloWrap on College Street. A list will be created and brought to the next City Council meeting for the Council to review it and the current policy for consideration.

**ITEM V – G) CONSIDER, DISCUSS AND ACT UPON CHANGES IN THE PERSONNEL MANUAL**

City Manager Ben White presented a portion of the Employee Personnel Manual with some changes. A considerable change was defining exempt and non-exempt employees. An exempt employee is one that is autonomous and may have 2 or more employees within the department that the exempt employee makes decisions and is responsible for. If there is some leeway making judgment, the position is deemed exempt. The Police are non-exempt since they can be paid overtime or compensatory time. Two of the Sergeants are non-exempt. City Administration is defined as exempt. The foregoing Personnel Manual did not have specific classifications whereas the given Manual allows the City Manager to classify each employee according to their job function. Non-exempt employees include the Public Works Department who is paid overtime. The classification is not always based on the method of salary, whether a salaried employee or hourly. City Attorney Alan Lathrom indicated the given Manual was defined by specific guidelines set by the Fair Labor Standards Act.

City Manager Ben White discussed the changes with the employees during a Staff Meeting and all questions from employees were answered. The Fair Labor Standards Act (FLSA) will be the guiding force and the City will now follow those guidelines, whether described in a job description or not. FLSA allows some gravity for exempting and non-exempting employees with the City Manager leading those decisions. Per Mr. White, the goal was to designate classifications properly.

Compensatory time was another topic discussed with Mr. White clarifying non-exempt employees will be paid 1-1/2 time, as is the procedure now, but the policy will have the classification clarified for future reference. Exempt employees will no longer receive "compensatory time" for time worked beyond 40 hours. The City Manager will manage the exempt time off and have the discretion to approve an exempt employee the use exempt time-off for up to one work day in a workweek without deducting any vacation leave. Under Chapter 4.03 Overtime and Compensatory Time in the Personnel Manual, items a thru m detail compensatory time for non-exempt and exempt employees. City Attorney Alan Lathrom indicated the items provided in a thru m follow FLSA's guidelines. The City employees use a time management system which will keep track of all time; however compensatory time will no longer be banked. City Manager Ben White firmly believed to offer a good employee time off for working above and beyond. The City Manager would be delegating the time off and will keep the position what it really is – exempt.

Termination Pay was clarified by item d in Section 4.06 so that any indebtedness to the City will be deducted from the employee's final check.

Finance Director/Human Resources Daphne Hamlin informed the City Council that other cities were evaluated and the presented changes are in line and standard in our field. City

Manager Ben White stated he modeled his changes after companies he has previously worked for.

Jim Foy stated he has salaried employees and does not offer compensatory time; however if the employee needs time off, it is not an issue as long as work has been completed. It is reasonable to be flexible. City Manager Ben White indicated the City staff has a good work ethic and does not and has not promoted abuse of any paid time off.

Chapter 5 is dedicated to Absences and Leaves. Items c, d, and e have been changed. Item c allows an employee who will work on a designated holiday to take the paid holiday 30 days prior or up to 30 days after the designated holiday with management approval. Due to the nature of their business, Police and Fire shift employees are allowed to schedule the paid holiday within 30 days of the holiday. It is also clarified that if an employee separates employment with the City, any paid holiday to the employee will be deducted from the final paycheck if the employee does not work the scheduled holiday and has already received payment for the holiday.

City Manager Ben White stated he lowered the carryover hours of vacation from 240 hours to 120 hours. Mr. White concluded that he encourages employees to take their vacation time to be refreshed.

A statement under Section 5.02 that allows the City Manager to negotiate leave rates was questioned. Mr. White stated this would allow him a negotiating tool for a high-end employee. Another statement allows the City Manager to offer regular part-time employees an opportunity to earn vacation leave on a basis of 50% of the rate for full-time employees. This is another benefit Mr. White encouraged for those who are dedicated regular part-time employees. Item d was another clarification that hours are not transferrable except in emergency situations that are approved by the City Manager. Mayor Helmberger questioned how the time would be tracked. A form will be provided to those employees who wish to transfer time to a fellow employee. The form will be signed by the City Manager and the time according to the salary of the contributing employee will be offered to the receiving employee.

Item f allows employees to sell their vacation time with approval of the City Manager however the employee will not be allowed to sell below the 80 hour carryover.

Sick leave changed minimally under item g. After 3 days of sickness, the employee must provide a doctor's report. A doctor's report will be required each 7 days thereafter while the employee is absent due to illness. Sick days also do not exceed 520 hours accumulated. This item is not paid when an employee leaves the City's employment. Mr. White stated since the City does not provide short-term disability; we can offer a bank of time that will build a safety net if the employee banks the sick days.

With the paid days off, City employees receive 39 days per year which is equivalent to 15% of the working time during the year. Mr. White stated he felt the policy was to the benefit of the City and the employees and numbers were lowered. John Klostermann motioned to approve the Personnel Manual changes as presented with Michael Hesse seconding the motion. Jim Foy stated the time off is greater for municipal government employees than in the private sector; however the salaries are usually lower which compensates the difference. Mr. White stated the proposed information is commensurate to his experience with private companies as well. A poll of the Council was taken as follows: John Klostermann yes, Michael Hesse yes and Jim Foy yes. Motion passed with full Council approval.

**ITEM VI – A) EXECUTIVE SESSION: A) SECTION 551.071, CONSULTATION WITH CITY ATTORNEY, AND SECTION 551.086 COMPETITIVE MATTERS OF A PUBLIC POWER UTILITY 1) CONSULTATION WITH CITY ATTORNEY REGARDING AND 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 Executive Session to discuss items VI – A; and VI – B. Item VI – C will not be needed.

ITEM VI – B) EXECUTIVE SESSION: B) SECTION 551.071, CONSULTATION WITH CITY ATTORNEY, AND SECTION 551.072, DELIBERATION REGARDING REAL PROPERTY 1) CONSULTATION WITH CITY ATTORNEY REGARDING AND CONSIDERATION, DISCUSSION AND POSSIBLE ACTION REGARDING REAL PROPERTY

Council exited to Executive Session to discuss items VI – A; and VI – B. Item VI – C will not be needed.

ITEM VI – C) EXECUTIVE SESSION: C) SECTION 551.074, PERSONNEL MATTERS

Council exited to Executive Session to discuss items VI – A; and VI – B. Item VI – C will not be needed.

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

Council reconvened from Executive Session at 8:29pm with no action taken on any items during Executive Session.

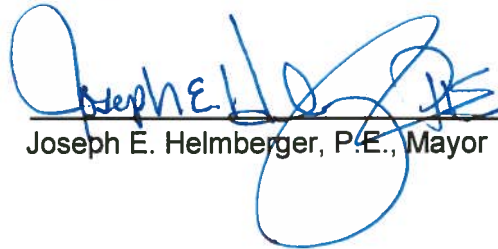
ITEM VIII) REQUEST FOR CONSIDERATION OF PLACING ITEMS ON FUTURE AGENDAS

No one requested items for future agendas.

ITEM IX) ADJOURNMENT

Council adjourned at 8:29:24pm.

APPROVED

  
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Joseph E. Helmberger, P.E., Mayor

ATTEST

  
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Edie Sims, City Secretary

