

**FARMERSVILLE CITY COUNCIL  
REGULAR SESSION AGENDA  
April 22, 2014, 6:00 P.M.  
Council Chambers, City Hall  
205 S. Main Street**

**I. PRELIMINARY MATTERS**

- Call to Order, Roll Call, Prayer and Pledge of Allegiance
- Welcome guests and visitors: Anyone wanting to speak on any items that are not the subject of a Public Hearing on this agenda is asked to speak at this time, with an individual time limit of 3 minutes. This forum is limited to a total of 30 minutes. Please note that the City Council cannot comment or take any action on this item.
- Announcements relating to items of public interest: Announcements regarding local or regional civic and charitable events, staff recognition, commendation of citizens, traffic issues, upcoming meetings, awards, acknowledgement of meeting attendees, birthdays, and condolences.
  - Recognizing May 2014 as National Preservation Month Proclamation
  - Appointments for Boards and Commissions will be on May 13<sup>th</sup> and the City needs volunteers to sign up for these boards

**II. READING OF ORDINANCES**

- A. Second Reading – Consider, discuss and act upon an ordinance designating a reinvestment zone for commercial/industrial businesses
- B. Only Reading – Consider, discuss and act upon a budget ordinance to purchase a generator

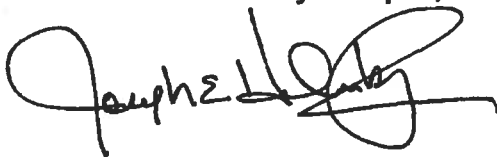
**III. REGULAR AGENDA**

- A. Consider, discuss and act upon City Financial Reports
- B. Consider, discuss and act upon a agreement with Information Management Solutions for utility bill printing and mailing services
- C. Consider, discuss and act upon issues surrounding vapor shops

**IV. REQUEST FOR CONSIDERATION OF PLACING ITEMS ON FUTURE AGENDAS**

**V. ADJOURNMENT**

**Dated this the 17<sup>th</sup> day of April, 2014.**



Joseph E. Helmberger, P.E., Mayor

*The City Council reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any matters listed on the agenda, as authorized by the Texas Government Code, including, but not limited to, Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), 551.087 (Economic Development), 418.175-183 (Deliberations about Homeland Security Issues) and as authorized by the Texas Tax Code, including, but not limited to, Section 321.3022 (Sales Tax Information).*

*Persons with disabilities who plan to attend this meeting and who may need assistance should contact the City Secretary at 972-782-6151 or Fax 972-782-6604 at least two (2) working days prior to the meeting so that appropriate arrangements can be made. Handicap Parking is available in the front and rear parking lot of the building.*

I, the undersigned authority, do hereby certify that this Notice of Meeting was posted in the regular posting place of the City Hall building for Farmersville, Texas, in a place and manner convenient and readily accessible to the general public at all times, and said Notice was posted April 17, 2014 by 5:00 P.M. and remained so posted continuously at least 72 hours proceeding the scheduled time of said meeting.



Edie Sims, City Secretary



# City of Farmersville Proclamation

WHEREAS, historic preservation in Farmersville is an effective tool for promoting economic development, supporting heritage tourism, maintaining community character, and enhancing the City's livability for Farmersville of all ages, walks of life and ethnic backgrounds; and

WHEREAS, it is important to celebrate the role of history in our lives and the contributions made by dedicated individuals in helping to preserve the tangible aspects of the heritage that has shaped us as a people; and

WHEREAS, "New Age of Preservation: Embark, Inspire, Engage" is the theme for National Preservation Month 2014, cosponsored by Farmersville Main Street and the National Trust for Historic Preservation.

NOW, THEREFORE, I, Joe Helmberger, Mayor of Farmersville, do hereby proclaim May 2014 as

## National Preservation Month

and call upon the people of Farmersville to join their fellow citizens across the United States in recognizing and participating in this special observance.

WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City to be affixed this 22<sup>nd</sup> day of April, 2014.

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Mayor Joseph E. Helmberger

## Your Community Needs YOU

If you have always wanted to be a part of the decision-making process in Farmersville, serving on one of the boards or commissions is a great way to get involved.

City government is built on the foundation of concerned and caring citizens becoming actively involved in local government. The members of the various boards and commissions help in setting the direction of Farmersville's future.

Each board or commission has a three year term, except where indicated otherwise, with two consecutive terms maximum. After two consecutive terms on a board/commission a member is eligible for re-appointment to the same board or commission after a one term lapse.

All appointees must subscribe to the City's Code of Ethics as adopted by ordinance. A copy of the Code of Ethics will be given to you upon receipt of your application.

Please complete and return the following Application for Appointment to City Boards and Commissions by indicating, in order of preference from 1-8, the boards or commissions you would most like to serve. Council will review all applications during the appointment process. If you would like a more detailed description of each board or commission, call City Hall 972-782-6151 for a copy of the handbook.

**All applications are kept for one year** so there will always be an available pool of interested citizens to fill vacancies that may arise during the year.

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**Please return your application to City Hall**

### *City of Farmersville*

#### APPLICATION FOR APPOINTMENT TO BOARDS AND COMMISSIONS

Please type or print clearly in ink

Name: \_\_\_\_\_ Home Phone \_\_\_\_\_

Home Address: \_\_\_\_\_ Work Phone \_\_\_\_\_

Mailing Address: \_\_\_\_\_ Email Address: \_\_\_\_\_

Cell Phone \_\_\_\_\_

Are you a Farmersville resident? Please circle: Yes or No If Yes, how long? \_\_\_\_\_ Are you a registered voter? Please circle: Yes or No

Occupation: \_\_\_\_\_ Employer: \_\_\_\_\_

State details of previous experience on any City Boards or Commissions (in any City):

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List memberships of any civic organizations:

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See Other Side

**In Order Of Preference from 1 thru 8** Indicate which board(s) you would like to serve. **If you do not wish to serve on a particular board please leave it blank.**

- \_\_\_\_\_ Building and Property Standards Commission
- \_\_\_\_\_ Farmersville Community Development Corporation Board (4B)
- \_\_\_\_\_ Farmersville Economic Development Corporation Board (4A)
- \_\_\_\_\_ Library / Civic Center Board
- \_\_\_\_\_ Main Street Board
- \_\_\_\_\_ Parks and Recreation Board
- \_\_\_\_\_ Planning and Zoning Commission
- \_\_\_\_\_ Senior Citizens Advisory Committee

Signature \_\_\_\_\_ Date \_\_\_\_\_

Please return your application to: City of Farmersville, Attention City Secretary, 205 South Main Street, Farmersville, TX 75442. **A copy of the City's Code of Ethics will be mailed to you upon being appointed to a board.**



**Farmersville**  
DISCOVER A TEXAS TREASURE

**TO:** Mayor and Councilmembers

**FROM:** Ben White, City Manager

**DATE:** April 22, 2014

**SUBJECT:** Second Reading – Consider, discuss and act upon an ordinance designating a reinvestment zone for commercial/industrial businesses

- An Ordinance is attached for review

**ACTION:** Approve or disapprove Ordinance as presented.

**CITY OF FARMERSVILLE  
ORDINANCE #O-2014-0422-001**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FARMERSVILLE, TEXAS, DESIGNATING REINVESTMENT ZONE NUMBER 1 FOR COMMERCIAL-INDUSTRIAL TAX ABATEMENT IN THE CITY OF FARMERSVILLE, TEXAS; ESTABLISHING THE BOUNDARIES THEREOF; APPROVING THE TERMS AND CONDITIONS OF COMMERCIAL-INDUSTRIAL TAX ABATEMENT AGREEMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City Council ("City Council") of the City of Farmersville, Texas (herein the "City") desires to promote the development or redevelopment of certain contiguous geographic areas within its jurisdiction by the creation of a reinvestment zone for commercial/industrial tax abatement, as authorized by the Property Redevelopment and Tax Abatement Act, Chapter 312 of the Texas Tax Code, as amended; and

**WHEREAS**, on or about January 13, 2009, the City designated Reinvestment Zone #2009-01 of the City of Farmersville, Texas, in strict compliance with the Property Redevelopment and Tax Abatement Act, Chapter 312 of the Texas Tax Code, as amended; and

**WHEREAS**, on the 11<sup>th</sup> day of March, 2014, a public hearing was held, such date being at least seven (7) days after the date of publication of the notice of such public hearing and the delivery of written notice to all taxing entities within its boundaries regarding the real property that is to be included in the proposed reinvestment zone, Reinvestment Zone Number 1 (which zone is a renewal of Reinvestment Zone #2009-01), as required by Section 312.201(d) of the Texas Tax Code; and

**WHEREAS**, the City at such public hearing invited any interested person to appear and speak for or against the designation of the reinvestment zone and whether all or part of the territory described should be included in the proposed reinvestment zone, and any concerns regarding the offering of tax abatement incentives; and

**WHEREAS**, the proponents of the reinvestment zone offered evidence, both oral and documentary, supporting and relating to the creation of the zone, and no opponents of the reinvestment zone appeared to contest the creation of the reinvestment zone;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FARMERSVILLE, TEXAS THAT:**

**Section 1:** The facts and recitations contained in the preamble of this Ordinance are hereby found and declared to be true and correct factual and legislative findings of the City, and are fully incorporated into the body of this ordinance.

**Section 2: Definitions.**

- (a) *Improvements* - Improvements shall include any activity at the location, including but not limited to new construction.
- (b) *Taxable Real Property* - Taxable real property shall be as defined in the Texas Tax Code and shall not include personal property as defined in said Code.
- (c) *Base Year* - The base year for determining increased value shall be the taxable real property value assessed the year in which the agreement is executed.
- (d) *Personal Property* - Personal property shall be as defined in the Texas Tax Code and shall include all equipment, office furnishings, and inventory, and other items contained within the confines of the reinvestment zone.

**Section 3:** The City, after conducting such hearing and having heard such evidence and testimony, has made the following findings and determinations based on the evidence and testimony presented to it:

- (a) The public hearing regarding adoption of the reinvestment zone has been properly called, held, and conducted, and that notices of such hearings have been published at least seven (7) days before the hearing in a newspaper of general circulation within the Town, and mailed to all taxing units overlapping the territory inside the proposed reinvestment zone at least seven (7) days prior to the hearing; and
- (b) The boundaries of the reinvestment zone should be and include the area described in attached Exhibit "A" and depicted on the map attached hereto as Exhibit "B"; and
- (c) The creation of the proposed zone with boundaries as described in Exhibit "A" and Exhibit "B" will result in benefits to the City and to land included in the zone, and that the improvements sought are feasible and practical; and
- (d) That the investment zone as defined in Exhibit "A" and as depicted in Exhibit "B" meets the criteria for the creation of a reinvestment zone as set forth in Section 312.202(a) of the Texas Tax Code in that it is "reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property and that would contribute to the economic development of the City"; and
- (e) The reinvestment zone as defined in Exhibit "A" and depicted in Exhibit "B" meets the City's policy of Guidelines and Criteria for the creation of a tax abatement zone and eligible for tax abatement.



**Section 4:** Pursuant to the property Redevelopment and Tax Abatement Act, Section 312.201 of the Texas Tax Code, as amended, the City hereby creates a reinvestment zone for commercial-industrial tax abatement encompassing only the territory described in Exhibit "A" and depicted in Exhibit "B" and such reinvestment zone is hereby designated and shall hereafter be referred to as Reinvestment Zone Number 1 of the City of Farmersville, Texas.

**Section 5:** The zone shall take effect on May 1, 2014, and shall remain designated as a commercial/industrial reinvestment zone for a period of five (5) years from the date of such designation. The expiration of the designation does not affect an existing tax abatement agreement. Prior to or upon the date of expiration, the City Council may renew such designation for additional successive period(s) not exceeding five (5) years each; provided no agreement may be extended beyond ten (10) years from the date of the original agreement.

**Section 6:** To be considered eligible for execution of an agreement for tax abatement, a proposed commercial/industrial project shall:

- (a) Be located entirely within the designated zone;
- (b) Provide a breakdown of the types and numbers of local jobs along with total annual payroll that will be created;
- (c) Have a minimum expenditure of \$500,000.00 for the proposed improvements or repairs;
- (d) Describe project environmental impacts upon beginning operations to include air, water, noise, and such other matters as may be required by the "City;"
- (e) Not include property that is owned or leased by a member of the City Council of the City of Farmersville, Texas, or by a member of the City's Planning and Zoning Commission;
- (f) Conform to all requirements of the City's zoning ordinance and all other applicable laws and regulations;
- (g) Conform to all other requirements of the City of Farmersville Tax Abatement Policies and Guidelines as adopted May 11, 2001, or the then-current version of the City of Farmersville Tax Abatement Policies and Guidelines.

**Section 7:** Written agreements under Section 312.205 of the Texas Tax Code with the property owner(s) located within the Tax Abatement Zone shall include, but not be limited to, the following provisions:

- (a) Terms regarding the duration of exemption and share of eligible taxable real and personal property value from taxation;
- (b) A listing of the kind, number, location, and costs of all proposed improvements of the property;

- (c) A statement that access to the project shall be provided to allow for inspection by City inspectors and officials and such other governmental personnel reasonably deemed necessary to ensure that the improvements or repairs are made according to the specifications and conditions of the agreement.
- (d) Limiting the use of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that property tax exemptions are in effect.
- (e) That property tax revenue lost as a result of the tax abatement agreement will be recaptured by the City if the owner of the property fails to make the improvements as provided by the agreement.

**Section 8:** If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

**Section 9:** It is hereby found, determined and declared that a sufficient notice of the date, hour, place, and subject of the meeting of the City Council at which this Ordinance was adopted was posted at a place convenient and readily accessible at all times as required by the Texas Open Meetings Act, Section 551.001, et seq. of the Texas Government Code, and that a public hearing was held prior to the designation of such reinvestment zone and that proper notice was in fact delivered to the presiding officer of any affected taxing entities as prescribed by the Property Redevelopment and Tax abatement Act, as amended.

**Section 10:** This Ordinance shall take effect upon the 1<sup>st</sup> day of May, 2014, following its passage by the City Council of the City of Farmersville.

**PASSED** on first reading on the 8<sup>th</sup> day of April, 2014, and second reading on the 22<sup>nd</sup> day of April, 2014 at properly scheduled meetings of the City Council of the City of Farmersville, Texas, there being a quorum present, and approved by the Mayor on the date set out below.

**APPROVED THIS 22<sup>nd</sup> DAY OF APRIL, 2014.**

BY: \_\_\_\_\_  
Joseph E. Helmberger, P.E., Mayor

ATTEST:

BY: \_\_\_\_\_  
Edie Sims, City Secretary

**Exhibit "A"**  
**Description of Reinvestment Zone Number 1**

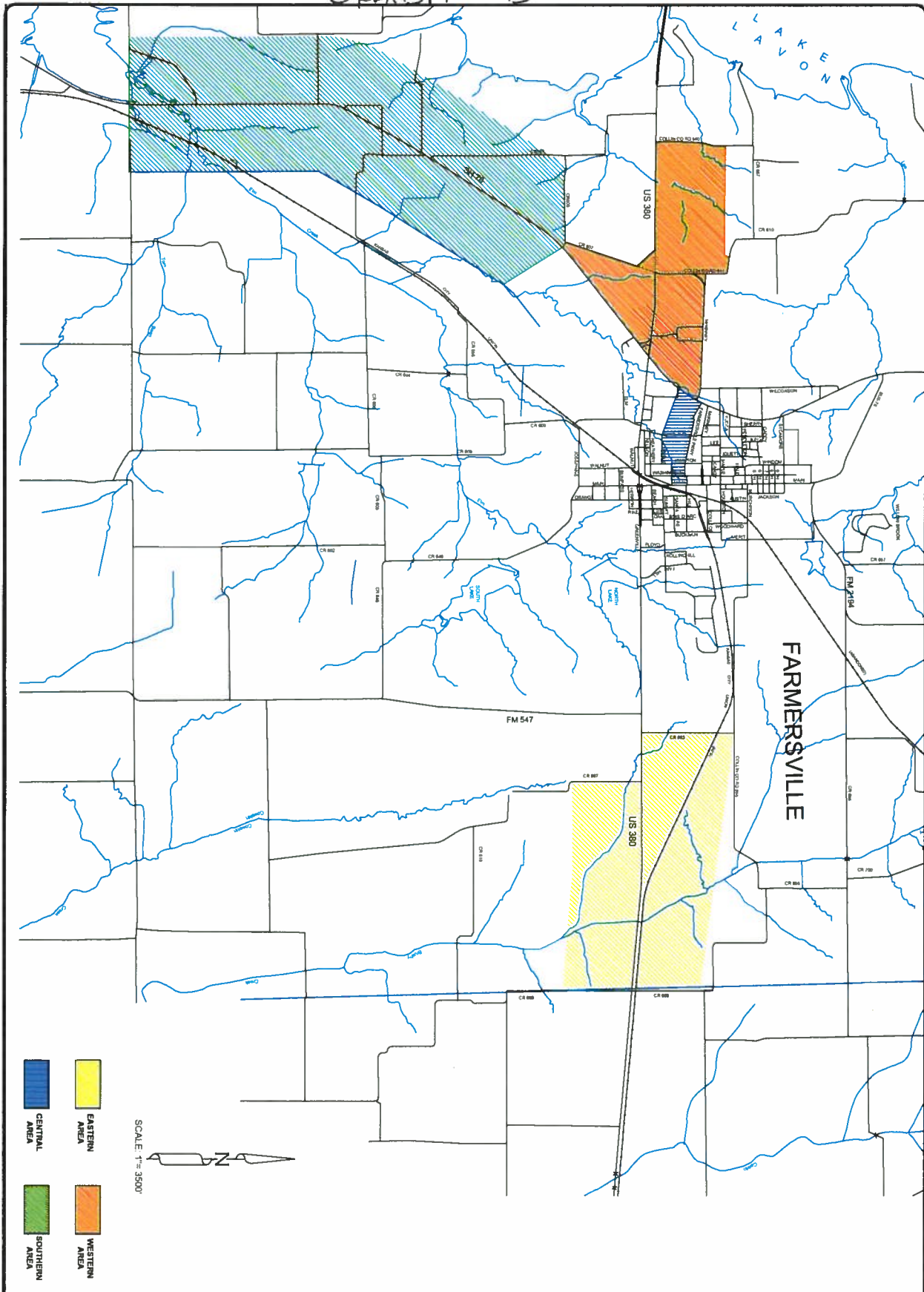
Eastern Area: Beginning at the NE corner of CR 653 and US 380 north to CR 655, SW to the Collin/Hunt County line to a point one half mile north of US 380, south to a point one-half mile south of Hwy 380, west on a line parallel to US 380 to FM 547, north to US 380, east to point of beginning at CR 653.

Central Area: Beginning at the SW corner of Main Street and Farmersville Parkway south to the NW corner of Main Street and Santa Fe Street, west to the NW corner of Santa Fe Street and Johnson Street, south to the NW corner of Haislip, west to the NW corner of Hamilton Street; northwest on a line drawn from the Haislip/Hamilton Street corner to the NE corner of Hwy 78 and Raymond Street, northeast to the SE corner of Hwy 78 and Farmersville Parkway, east to the place of beginning at the SW corner of Main Street

Western Area: Beginning at the northeast corner of Hwy 380 and CR 560, north to a point one half mile north of Hwy 380, east on a line parallel to HWY 380 to CR 611/612, south to the right angle in CR 611, east along CR 611 (also known as Old McKinney Road) to Hwy 78, southwest along Hwy 78 to the corner of CR 606/607, northwest to the right angle turn in CR 607, northeast along CR 607 to Hwy 380, west along Hwy 380 to place of beginning.

Southern Area: Beginning at County Road 606/607 and Hwy 78 southeast one-half mile on a line drawn to the intersection of CR 558 and the Kansas City RR, south and SW on a line one half mile east of and parallel to Hwy 78 to Lake Lavon, west to a point one half mile west of Hwy 78, north and northeast on a line parallel to Hwy 78 to CR 606, east point of beginning on Hwy 78

# EXHIBIT "B"



SHEET 1

**REINVESTMENT ZONE MAP  
FOR  
CITY OF FARMERSVILLE  
COLLIN COUNTY, TEXAS**

**REINVESTMENT ZONE**

**DBI DANIEL & BROWN INC.**  
ENGINEERS/CONSULTANTS/PLANNERS

118 McKinney St. Phone 972-784-7777  
P.O. Box 606 Fax 972-782-7721  
Farmersville, Texas 75442 www.DBIconultants.com

DESIGNED: E.W.D.	DATE: 12/02/2008	FIRM REGISTRATION NO.:
DRAWN: K.S.G.	REVISION: N/C	F-902225
FILE: N:\Farmersville City of\System Maps\FARMERSVILLE REINVESTMENT MAP		



**Farmersville**  
DISCOVER A TEXAS TREASURE

**TO:** Mayor and Councilmembers

**FROM:** City Manager Ben White

**DATE:** April 22, 2014

**SUBJECT:** Only Reading – Consider, discuss and act upon a budget ordinance to purchase a generator

- An Ordinance is attached for review

**ACTION:** Approve or disapprove Ordinance as presented.

**CITY OF FARMERSVILLE  
ORDINANCE O-2014-0422-002**

**AN ORDINANCE AMENDING THE BUDGET FOR THE FISCAL YEAR 2013 – 2014 IN ACCORDANCE WITH EXISTING STATUTORY REQUIREMENTS, APPROPRIATING THE VARIOUS AMOUNTS HEREIN; REPEALING ALL PRIOR ORDINANCES AND ACTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Farmersville, Texas is a Type A General-Law Municipality located in Collin County, created in accordance with the provisions of Chapter 6 of the Texas Local Government Code, and operating pursuant to the enabling legislation of the State of Texas;

**WHEREAS**, the City Manager of the City of Farmersville has reviewed the budget and which budget was adopted by the City Council for the Fiscal Year 2013 – 2014; and

**WHEREAS**, the City Manager of the City of Farmersville believes that the budget requires certain amendments and has submitted to the Mayor and the City Council proposed amendment(s) to the budget of the revenues and expenditures of conducting the affairs of said City, and providing a complete financial plan for the Fiscal Year 2013 – 2014; and,

**WHEREAS**, the City Council has determined that it is in the best interest of the City to amend the Fiscal Year 2013 – 2014 budget to adopt the proposed amendment(s) to the budget of the revenues and expenditures from the General Fund to allow the funding of capital expenditures to include generators for disaster recovery.

**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FARMERSVILLE, TEXAS:**

**SECTION 1. BUDGET AMENDMENT ADOPTION**

From and after the effective date of this Ordinance, the amendments to the budget of the revenues and expenditures for the Fiscal Year 2013 – 2014 that are attached hereto as Exhibit "A" and incorporated herein by reference are hereby adopted and the budget for Fiscal Year 2013 – 2014 is hereby accordingly so amended and the amended budget for Fiscal Year 2013 – 2014 adopted.

**SECTION 2. SEVERABILITY**

It is hereby declared to be the intention of the City Council that the several provisions of this Ordinance are severable, and if any court of competent jurisdiction shall judge any provisions of this Ordinance to be illegal, invalid, or unenforceable, such judgment shall not affect any other provisions of this Ordinance which are not specifically designated as being illegal, invalid or unenforceable.

**SECTION 3. REPEALER**

This Ordinance shall be cumulative of all other Ordinances, resolutions, and/or policies of the City, whether written or otherwise, and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this Ordinance. Any and all ordinances, resolutions, and/or policies of the City, whether written or otherwise, which are in any

manner in conflict with or inconsistent with this Ordinance shall be and are hereby repealed to the extent of such conflict and/or inconsistency.

**SECTION 4. ENGROSSMENT AND ENROLLMENT**

The City Secretary of the City of Farmersville is hereby directed to engross and enroll this Ordinance by copying the exact Caption and the Effective Date clause in the minutes of the City Council of the City of Farmersville and by filing this Ordinance in the Ordinance records of the City.

**SECTION 5. SAVINGS**

All rights and remedies of the City of Farmersville are expressly saved as to any and all violations of the provisions of any Ordinances which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such Ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

**SECTION 6. EFFECTIVE DATE**

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

**PASSED** on first reading and only reading on the 22<sup>nd</sup> day of April, 2014 at properly scheduled meeting of the City Council of the City of Farmersville, Texas, there being a quorum present, and approved by the Mayor on the date set out below.

**APPROVED THIS 22<sup>nd</sup> DAY OF APRIL, 2014.**

\_\_\_\_\_  
Joseph E. Helmberger, P.E., Mayor  
City of Farmersville, Texas

**ATTEST:**

\_\_\_\_\_  
Edie Sims, City Secretary

CITY OF FARMERSVILLE

EXHIBIT A

FY 2013-2014 General Fund Revision

GOVERNMENTAL FUNDS	ESTIMATED BEGINNING FUND BALANCE	REVENUES	EXPENDITURES	INTERFUND TRANSFERS IN (OUT)	PROPOSED ENDING FUND BALANCE
General Fund	\$ 856,821	\$ 1,604,165	\$ 2,821,600	\$ 1,069,935	709,321
Proposed expenses					
Disaster Recovery Equipment			\$ 72,500		





**TO:** Mayor and Councilmembers

**FROM:** City Manager Ben White

**DATE:** April 22, 2014

**SUBJECT:** Consider, discuss and act upon City Financial Reports

- City Financial Reports will be emailed separately from the packet

**ACTION:** Approve or disapprove the Financial Reports as presented.



**TO:** Mayor and Councilmembers

**FROM:** City Manager Ben White

**DATE:** April 22, 2014

**SUBJECT:** Consider, discuss and act upon a agreement with Information Management Solutions for utility bill printing and mailing services

- An agreement will be emailed to Council for review prior to the meeting

**ACTION:** Approve or disapprove the agreement as presented.



**TO:** Mayor and Councilmembers

**FROM:** City Manager Ben White

**DATE:** April 22, 2014

**SUBJECT:** Consider, discuss and act upon issues surrounding vapor shops

- Information is attached showing responses from other cities
- An Ordinance is attached from City of Rockwall for their review

**ACTION:** Council act or direct as deemed necessary.

<b>City</b>	<b>Ordinance in place</b>	<b>Comments</b>
Greenville	no ordinance	
Wylie	no ordinance	will be creating to restrict sale & use by minors
McKinney	no ordinance	
Anna	no ordinance	
Rockwall	ordinance	restricting use by minors

**CITY OF ROCKWALL, TEXAS**

**ORDINANCE NO. 14-05**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, AMENDING THE CITY CODE OF ORDINANCES TO ESTABLISH CHAPTER 22, ARTICLE II. OFFENSES REGARDING MINORS, SECTION 22-71. PURCHASE BY MINOR OF E-CIGARETTES, REGULATING THE PURCHASE, SALE, OFFER TO SELL, AND INGESTION OF ANY E-CIGARETTE SMOKING PRODUCT TO OR BY ANY MINOR; PROVIDING A PENALTY; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Rockwall (the "City") is permitted to establish ordinances to protect the health, safety and general welfare of its residents; and

**WHEREAS**, electronic cigarettes are devices that convert liquid nicotine into a gas that is inhaled by the consumer; and

**WHEREAS**, the National Institute for Occupational Safety and Health and the Center for Disease Control and Prevention have prepared emergency response information addressing the dangers associated with liquid nicotine. Nicotine affects the nervous system and heart and is addictive. Exposure to relatively small amounts of liquid nicotine can rapidly be fatal; and

**WHEREAS**, the Federal Drug Administration published an article in July of 2009 warning of the dangers posed by electronic cigarettes, which include nicotine addiction and the appeal to young people due to the different flavors (such as chocolate, strawberry and mint); and

**WHEREAS**, the American Medical Association addressed the risks associated with the use of electronic cigarettes and adopted a policy recommending that electronic cigarettes be classified as a drug delivery device, subject the FDA's regulations and approval;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, THAT;**

**SECTION 1. FINDINGS.** The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

**SECTION 2. PURPOSE.** The purpose and intent of this Section is to protect individuals under the age of 18 from the hazards of nicotine addiction and the dangers of ingesting products with no regulatory oversight as to their purity, contents, and potential negative health impacts.

**SECTION 3.** Section 22.71 is hereby established and shall read as follows:

## Sec. 22.71 Purchase by minor of E-Cigarettes

(a) **Definitions:** As used in this section, the following words and phrases shall have the following meanings:

“*Electronic cigarette*” or “*e- cigarette*” means an electronic device usually composed of a mouthpiece, a heating element or atomizer, a battery, and electronic circuits that provides a gas derived from liquid nicotine and/or other substances which is inhaled by a user simulating smoking. The term includes such devices, regardless of the details of the product appearance or marketed name, generally manufactured to resemble cigarettes, cigars, pipes, or other smoking devices.

“*Liquid nicotine*” means any liquid product composed either in whole or part of nicotine, propylene glycol and/or other similar substances and manufactured for use with an e- cigarette to be converted into a gas for inhaling.

“*Minor*” means a person less than 18 years of age.

“*Person*” means any natural person, individual, corporation, limited liability company, unincorporated association, proprietorship, firm, partnership, joint venture, joint stock association, or other entity or business of any kind.

“*Photographic identification*” means state, district, national or other equivalent government driver's license, identification card or military card, in all cases bearing a photograph and a date of birth, or a valid passport.

### (b) Prohibited Acts

1. No person may give, distribute, transfer, sell, market, or offer e-cigarettes, their components, or samples to any minor.
2. No minor may purchase or obtain e-cigarette or their components. This prohibition does not apply to activities or enforcement actions under the control of a City, state, or federal law enforcement authority.
3. No person shall sell or permit to be sold e-cigarettes or their components through any device that mechanically dispenses such products unless the device is located fully within premises from which minors are prohibited.

### (c) Penalty and Exceptions

1. The penalty for violation of this Ordinance shall be in accordance with the general penalty provision contained in the Code of Ordinances of the City of Rockwall, Texas. Each continuing day's violation under this Ordinance shall constitute a separate offense.
2. It is a defense to a prosecution for violation of subsection (b) of this section that a minor possessed an e-cigarette product in the presence of an adult parent, guardian, or spouse, or other adult to whom the minor has been committed by a court.

3. It is a defense to a prosecution for violation of subsection (b) of this section that a minor possessed a e-cigarette product while in the course and scope of the minor's employment by a person or entity in the business of being a distributor, wholesaler, bonded agent or retailer of e-cigarette products.

4. Purchase by Minor.

(A) It is a defense to prosecution under this subsection (b) that the minor purchased an e-cigarette product in the presence of an adult parent, guardian, or spouse, or other adult to whom the minor has been committed by a court.

(B) False information. It is an offense for a minor, in order to acquire an e-cigarette product, to state to any person engaged in the business of selling such products that such minor is not a minor, or to present to any such person a document or writing that purports to establish that such minor is not a minor.

**SECTION 4. SEVERABILITY.** If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or illegal, such decision shall not affect the validity of the remaining sections of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared void.

**SECTION 5. SAVINGS CLAUSE.** All ordinances or parts of ordinances, in conflict herewith are to the extent of such conflict hereby repealed. The balance of such ordinance is hereby saved from repeal.

**SECTION 6. EFFECTIVE DATE.** The Ordinance shall be effective immediately following its second reading and publication in accordance with the City Charter.

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**David Sweet, Mayor**

**ATTEST:**

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**Kristy Ashberry, City Secretary**

**APPROVED AS TO FORM:**

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**Frank Garza, City Attorney**

1<sup>st</sup> Reading: 01-06-14

2<sup>nd</sup> Reading: 01-21-14

Ord. #14-05 Prohibitions re: E-cigarettes