

**CITY OF FARMERSVILLE
PLANNING AND ZONING COMMISSION AGENDA
SPECIAL CALLED MEETING
FEBRUARY 21, 2013
6:30 P.M., COUNCIL CHAMBERS, CITY HALL**

I. PRELIMINARY MATTERS

- Call to Order, Roll Call, Prayer and Pledge of Allegiance
- Welcome guests and visitors and Citizen Comments: 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 Planning and Zoning Commission cannot respond to, discuss or take any action regarding citizen comments made hereunder because of the limitations established by the Texas Open Meetings Act, Texas Government Code Chapter 551, violations of which Act carry criminal penalties.)*

II. ITEMS FOR DISCUSSION AND POSSIBLE ACTION

- A. Consider, discuss and act upon minutes from February 21, 2013 P&Z Meeting
- B. Consider, discuss and act to amend Section 56-31 of the Sign Ordinance pertaining to digital signs


III. ADJOURNMENT

- No action may be taken on comments received under "Recognition of Visitors".
- The Commission may vote and/or act upon each of the items listed in the Agenda.

The Planning and Zoning Commission 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).

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 on January 18, 2013, by 5:00 P.M. and remained so posted continuously at least 72 hours proceeding the scheduled time of said meeting.



Tom Waitschies, Chairman

Dated this the 15th day of March, 2013.



Edie Sims, City Secretary



TO: Planning and Zoning Commission
FROM: Edie Sims, City Secretary
DATE: March 18, 2013
SUBJECT: Discuss, approve or disapprove minutes from February 21, 2013 Planning and Zoning Meeting

Minutes can be found at the -following website:

http://www.farmersvilletx.com/government/agendas_and_minutes/planning_and_zoning/index.jsp

ACTION: Approve, make changes or disapprove minutes

(II - A)

FARMERSVILLE PLANNING & ZONING COMMISSION
SPECIAL SESSION MINUTES
February 21, 2013

The Farmersville Planning and Zoning Commission met in special session on February 21, 2013 at 6:30 p.m. at the City of Farmersville Council Chambers with the following members present:, Mark Vincent, Craig Overstreet, Betty Sergent, Bill Nerwich, Lee Warren and Tom Waitschies. Bryce Thompson was absent. Staff members present was City Manager Ben White, City Attorney Alan Lathrom and City Secretary Edie Sims. Council Liaison Michael Carr was present.

CALL TO ORDER AND RECOGNITION OF CITIZENS/VISITORS

Chairman Tom Waitschies called the meeting to order at 6:30pm. Edie Sims called roll and announced that a quorum was present. Chairman Waitschies offered the invocation and the Pledge of Allegiance.

Item II – A) PUBLIC HEARING TO CONSIDER, DISCUSS AND ACT UPON A SPECIFIC USE PERMIT FOR TRIPLE CRAZY GAME ROOM LOCATED AT 865 WEST AUDIE MURPHY PARKWAY, FARMERSVILLE

The item presented is a continuance of the Public Hearing that was held on January 24, 2013 with the time called at 6:33pm. Linda Story came before the Commission with a certificate that reflects Lucky Spin via Jack Fairchild as the owner of the gaming machines used at Triple Crazy Game Room. During the Public Hearing, no one else came before the Commission to speak. Chairman Waitschies closed the Public Hearing at 6:34pm.

Craig Overstreet questioned the certificate presented. Linda Story explained that she is a vendor of Lucky Spin and she does not own the gaming machines, she only allows them to be used in her game room. Lee Warren stated that neither Triple Crazy or Lucky Spin is listed with the Texas Comptroller's Office. City Attorney Alan Lathrom indicated that either name may not be required if filing under a corporation, partnership or self-proprietor since that entity is paying the franchise taxes. The owner of the gaming machines is responsible to pay all taxes regarding the machines. Lee Warren expressed concerns of accountability since there is no documentation showing Triple Crazy as an owner or entity.

6:44pm an Executive Session was called in accordance with Texas Government Code Section 551.071; deliberate a legal matter which pertains to seeking the advice of the City Attorney.

7:04pm the Planning and Zoning Commission reconvened to Regular Session from Executive Session to consider, discuss and act on matters discussed in Executive Session.

Craig Overstreet made a motion to recommend approval to the Council the Specific Use Permit for Triple Crazy Game Room for 6 months with 40 machines with the hours specified on the ordinance. Lee Warren seconded the motion. Motion carried unanimously.

Item III – A) CONSIDER, DISCUSS AND ACT UPON MINUTES FROM JANUARY 24, 2013 P&Z MEETING

Craig Overstreet motioned to approve the minutes as presented with Betty Sergent seconding the motion. Motion carried unanimously.

Item III – B) CONSIDER, DISCUSS AND ACT TO AMEND SECTION 56-31 OF THE SIGN ORDINANCE PERTAINING TO DIGITAL SIGNS

City Manager Ben White came before the Commission and stated that the current Sign Ordinance regarding digital signs needs to be updated to be more with the times and changes in the sign world. After having staff review other cities, an excerpt from the City of McKinney's Sign Ordinance was presented as a guide.

Mr. White recommended changing the square foot size of an electronic sign to 50 square feet which is slightly larger than a sheet of plywood. The Commission discussed footcandles and how this type of measurement is not efficient for Farmersville. With pole signs not being allowed, the rotation of a sign is not relevant. Mr. White indicated that the City should not limit the colors used for electronic signs as this is a personal choice.

The Commission also discussed non conforming uses that exist such as Quick Check and Brookshire's. When the new ordinance has been adopted, the existing electronic signs will be grandfathered with the exception of requiring a dimming mechanism upon any upgrade or retrofitting of the existing sign. Lee Warren motioned for staff prepare an ordinance and return to P&Z with the changes as discussed with Bill Nerwich seconding the motion. Motion carried unanimously.

Item IV) ADJOURNMENT

Craig Overstreet motioned to adjourn with Lee Warren seconding the motion. P&Z Commission adjourned at 7:28 p.m.

ATTEST:

Tom Waitschies, Chairman

Eddie Sims, City Secretary



TO: Planning and Zoning Commission

FROM: Edie Sims, City Secretary

DATE: March 18, 2013

SUBJECT: Consider, discuss and act to amend Section 56-31 of the Sign Ordinance pertaining to digital signs

- A Draft Ordinance is presented for review

ACTION: Discuss the topic and make recommendations for changes.

NOTE: Changes recommended will be brought back to the Commission in the form of an ordinance. If changes are solidified, a Public Hearing must be called and publicized before acting on the changes which would then be recommended to the Council for final approval.

(II - B)

**CITY OF FARMERSVILLE
ORDINANCE O-2013-0409-001**

AN ORDINANCE OF THE CITY OF FARMERSVILLE, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF FARMERSVILLE, TEXAS, AS HERETOFORE AMENDED, THROUGH THE AMENDMENT OF CHAPTER 56, SECTION 31 , ENTITLED "DEFINITIONS; SIGN REGULATIONS AND REQUIREMENTS," BY DELETING THE EXISTING SECTION REGARDING "ELECTRONIC MESSAGE CENTER" IN ITS ENTIRETY AND REPLACING IT WITH A NEW SECTION CALLED DEFINITION, SIGN REGULATIONS AND REQUIREMENTS REGARDING "ELECTRONIC MESSAGE CENTER"; REPEALING ORDINANCES IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING FOR NOTICE AND IMPLEMENTATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City desires to promote growth and business opportunities in Farmersville; and

WHEREAS, the City Council of the City of Farmersville, Texas finds that all prerequisites to the adoption of this Ordinance have been met; and

WHEREAS, the City Council of the City of Farmersville, Texas finds that it is in the best interest of the public health, safety and welfare to amend the Sign Ordinance regarding Electronic Message Center signs;

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

SECTION 1. INCORPORATION OF FINDINGS

All of the above premises are hereby found to be true and correct legislative and factual determinations of the City of Farmersville and they are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2. AMENDMENT OF CHAPTER 56, SECTION 31, "DEFINITIONS; SIGN REGULATIONS AND REQUIREMENTS"

From and after the effective date of this Ordinance, Section 56-31, entitled "Definitions; Sign Regulations and Requirements," is hereby amended by deleting the existing section regarding Electronic Message Center in its entirety and replacing it with a new section regarding Electronic Message Center to read as follows:

"Electronic message center means any sign composed of lights, LEDs, or other form of illumination that displays a message or picture. An electronic message center is usually secondary to and part of the sign area of a larger freestanding sign for which a sign permit is required. Electronic message center signs shall be permitted subject to the applicable provisions within the zoning districts in which the sign is located as well as the following:

- (1) The size of the signs shall not exceed 50 square feet.

- (2) The signs shall display static images for a period of at least eight seconds. Electronic message signs shall not be animated, flash, travel, blink, fade or scroll. Electronic message signs shall transition instantaneously to another static image. Rotary beacon lights, flashing lights, strobe lights, or similar devices shall not be attached to, nor be incorporated in, any sign.
- (3) Electronic message signs shall come equipped with automatic dimming technology, which automatically adjusts the sign's brightness based on ambient light. The sign's automatic dimming capability shall adjust the brightness level so the sign is unobtrusive with regard to oncoming traffic and pedestrians. The automatic dimming capability shall present the display at nighttime so there are no negative safety impacts to traffic, pedestrians or casual observers. A sign existing prior to the adoption of this ordinance shall only be required to include automatic dimming technology upon any upgrade or retrofit of the existing sign.
- (4) Letters shall be no less than 4 inches in height.
- (5) Exception: Temporary signs required by government agencies for road and street repairs, public notifications, traffic control and similar activities.

SECTION 3. CUMULATIVE REPEALER

This Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances or parts thereof in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided however, that any complaint, action, claim or lawsuit which has been initiated shall continue to be governed by the provisions of such Ordinance and for that purpose the Ordinance shall remain in full force and effect.

SECTION 4. 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 5. SEVERABILITY

It is hereby declared to be the intention of the City Council of the City of Farmersville that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance should be declared unconstitutional by valid judgment or final decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Ordinance, since the same

would have been enacted by the City Council without incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 6. GOVERNMENTAL IMMUNITY

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Farmersville in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

SECTION 7. INJUNCTIONS

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Farmersville in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Farmersville.

SECTION 8. 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 9. EFFECTIVE DATE

This Ordinance shall take effect immediately from and after its passage and publication of the caption as required by law.

PASSED on first reading on the 26th day of March, 2013, and the second reading on the 9th of April, 2013, 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 9th DAY OF APRIL, 2013.

APPROVED:

Joseph E. Helmberger, P.E., Mayor

ATTEST:

Edie Sims, City Secretary