

**MINUTES  
CITY COUNCIL MEETING  
January 6, 2020  
7:00 P.M.**

**STATE OF TEXAS  
COUNTY OF WISE  
CITY OF NEW FAIRVIEW**

**THE CITY COUNCIL CONVENED INTO A CITY COUNCIL MEETING , THE SAME BEING OPEN TO THE PUBLIC, THE 6TH DAY OF JANUARY 2020 IN THE NEW FAIRVIEW CITY HALL AND NOTICE OF SAID MEETING GIVING THE TIME, PLACE AND SUBJECT THEREFORE HAVING BEEN POSTED AS PRESCRIBED BY ARTICLE 5 OF THE TEXAS GOVERNMENTAL CODE, WITH THE FOLLOWING MEMBERS PRESENT:**

**Pursuant to Section 551.071 of the Texas Government Code, the Council may convene into Executive Session(s) from time to time as deemed necessary during the meeting for any posted agenda item and may receive advice from its attorney as permitted by law.**

**CITY COUNCIL  
Mayor Joe Max Wilson  
Mayor Pro Tem Scott Johnson  
Councilman Rick White  
Councilwoman Rebecca McPherson  
Councilman Charlie Stumm  
Councilman William Payne**

**PRESENT  
City Secretary Monica Rodriguez  
City Clerk Brooke Boller  
City Attorney Bradley Anderle  
County Engineer Chad Davis  
Aqua Spokesman Stephen Dunnahoe  
Aqua Spokesman Eric Collier  
City Engineer Barry Hudson**

**ITEM NUMBER 1. CALL TO ORDER:**

**Mayor Wilson called the meeting to order at 7:06 PM**

**ITEM NUMBER 2. ROLL CALL:**

**Roll call with the above-mentioned names present**

**ITEM NUMBER 3. CONSENT AGENDA:**

All matters listed as Consent Agenda are considered to be routine by the City Council and will be enacted by one motion. There will not be a separate discussion of these items. If discussion is desired, that item will be removed from the consent agenda and will be considered separately.

**ITEM NUMBER 4. OPEN FORUM:**

The City Council invites persons with comments or observations related to city issues, projects, or policies to briefly address the City Council. Anyone wishing to speak should sign-in with the City Secretary before

the beginning of the City Council meeting. In order to expedite the flow of business and to provide all citizens the opportunity to speak, there is a three-minute limitation on any person addressing the City Council. State law prohibits the City Council from discussing or taking action on any item not listed on the posted agenda.

A. Steve Misner – states he believes it is cruel to want to hire more city employees because when those who are running against the three open city council positions win, they will undo all that has been done. They will fire the new employees and that is cruel. Misner also states the city does not need more acreage. It is supposed to be a small town.

a. Mayor Pro Tem Scott Johnson states the city council accepts the challenge and thanked Misner for his input.

## **ITEM NUMBER 5. NEW BUSINESS**

### **A. Discuss, consider and act on Petitions.**

City Attorney Bradley Anderle was asked to speak about petitions received by city hall.

Anderle only knows about five petitions that were submitted. The mayor asked that he explain the law surrounding these petitions.

Chapter 22 of the Government Code sets out state law generally governing Type A general law Municipality. In that Chapter and in Any other state law there is no relief established or providing authority for relief for a petition that is submitted to a city. Therefore, there is no requirement that a city take action. Most of the petitions were requiring that the city take an action

- i. To freeze the tax until the election
- ii. To fix the existing roads before constructing new roads.
- iii. To uphold the 1-acre requirement for a single-family home ordinance with no exceptions.
- iv. To remove and replace the city attorney

All of these four falls under the law that does not require the city to take action. However, they could be brought up to the city council for consideration and votes from the city council members.

The 5<sup>th</sup> petition requests for the recall of the mayor and there is no authority under law that would require action even if it is desired by the board. There is no authority that requires action be taken even if it is desired by council.

Local Government Code Chapter 21 outlines general law municipalities and still does not provide authority to remove any member of council at the request by petition or other means.

Attorney Anderle asked if anyone has questions with no one initially standing up.

Mayor Joe Wilson asked Monica where the petitions will be held at city hall and she indicated the safe. These have also been filed for public information.

The other petition requests the city retain the 600 foot ordinance between gas sites and residences.

Mayor Joe Wilson requested the citizens be made aware of these petitions and the laws governing them, however the law only states these petitions be filed and kept, These petitions have been filed with the county and they are being held in the state.

When asked if anyone had any questions or statements a female in the audience stated “we want you to abide by them.”

Mayor Wilson suggested the individuals speak at the podium and speak their name.

Male subject named Rick (last name inaudible) stated since the Attorney basically stated it doesn't matter what they turned in but it is what they request of the council he would like to know what course of action they are going to take on any of them since the attorney stated they do not have to take any action. He wants to know if the citizen voices even matter in the democracy that they live in.

Councilwoman Rebecca McPherson stated their voices do matter and she respects their position however, her view on the taxes is that they city is no longer receiving sales tax on the gas wells which was keeping the city afloat, but she believes the taxes are needed.

Rick states he is concerned for the elderly who did not have the chance to get the elderly discount due to the tax issue being rushed.

Councilman Scott Johnson stated the taxes were not rushed they have been talking about them for five years. At that time a male voice (believed to be Steve Misner) in the audience yelled “blah blah blah” and was told to sit down by Councilwoman Rebecca McPherson.

Johnson continued and stated they have painstakingly sat there for five years knowing they had to fix several issues with the city and knowing they couldn’t without any money. Rick stated he understood.

Johnson stated when the oil and gas wells dried up the city had no money, they wanted to do what is best for the citizens. Johnson stated he is a resident also and only wants what is best for all.

Rick stated he believes most everyone here would agree to that taxes are necessary and that satisfies that but what about changing the ordinance for gas wells from 600 ft from residences to 200 ft? He is certain no one wants to hear semi-trucks coming in at 3 am. Johnson stated “nor do I “but put it this way at 600 ft I can throw a stone from one well pad to the next.

Rick stated our slogan is “a city with a view” and we are about to get a city with a view of more city is all they are going to get. As citizens they do not know what is going on because the city can change things as they want. The website hasn’t been updated for 10 years.

Rick also stated what about the acreage? It is supposed to be 1 acre a home but the city is trying to bring in a subdivision that is only ½ acre lots. Scott Johnson stated that they have no control at this time of the land outside of the city limits.

Mayor Wilson asked Rick if he had any other comments on the petitions and he stated he did not.

In reference to the gas wells, Engineer Barry Hudson stated the first ordinance was 2002 and it was changed to 600 ft, in 2003. Then later in 2003 it was extended to 1000 ft. Then in 2007 it was reduced down to 150 ft, then later in 2007 it was extended to 200 ft.

Mayor Wilson asked again if there were any other questions about the petitions and Jessica McKinney stated the point of the petitions is because the council is not listening to the citizens and request to speak before the council started yelling stating “because I know yall get uppity about that.” Back when they were going to implement the taxes they had 100 people at the meeting and council just said they did not care and now they are going to do it again with the petitions. As the council you have ordinances you are not following like the 1 acre. For instance, in Montana Court you allowed the builders to put one acre lots on the outside but on the inside they are only ¾ acre lots. And with the gas wells even at 600 ft the noise can be heard 6-7 residences down. Someone could mess something up, they could leak gas and it is not safe. They believe the city council does not believe the citizens matter. The whole part about a democracy is for the citizens to say this is what we want and the council would consider it but you guys don’t.

Male voice in the audience stated when they ignore the ordinance and allow the builders to reduce the acreage, they make more money and that makes the citizens believe the council are getting kickbacks like John Wiley Price.

Mayor Wilson explained about the variances which is allowed for builders. Mayor Wilson stated some of the developments were before this council’s time. Mayor Wilson stated they will end this discussion and go over maps and developments to get a better understanding and explanation.

Mayor Wilson had to tell Jessica to end that portion of the meeting several times. Jessica stated she believed every time someone makes the council mad, they put a pin in the topic and move on. Mayor Wilson attempted to explain they cannot stay on one thing all night.

Another male voice stated the 200 ft gas well ordinance is not advantageous for anyone but the developers and the gas companies. Mayor Wilson stated the 200 ft came from the railroad commission and the male voice yelled no. Mayor Wilson again attempted to move on to the next topics on the agenda.

**Legal explanations by City Attorney Bradley Anderle of Taylor Olson Adkins Sralla Elam Attorney LLP and Counselors– toase.com**

#### **B. Discuss maps of area**

Barry Hudson discussed the Maps of the Areas. This is a GIS map of the area he created for them and it shows where New Fairview is situated between Decatur and Fort Worth. It shows the current city limits and the zoning. This map shows the ETJ of New Fairview and Fort Worth. Majority of New Fairview is in Northwest ISD school district. Some is in Decatur ISD and a small portion is in Boyd ISD.

It shows existing zoning.

This map also shows the conditions of the roadways and the type of roadway.

It shows water sources.

It shows the gas well sites.

Map is on the website which became active today.

Mayor Wilson stated there is a lot of property in New Fairview that will not sell anytime soon. New Fairview will remain country for awhile.

Mayor Wilson stated some of the developments asked for variances and they were able to get them the variances.

Don Allen is doing Fairview Meadows. 630 acres will have 500 homes and he is putting in his own septic though he does not have to.

Male voice in the audience yelled that Mayor Wilson is lying about the acreage and does not mean it will be an acre a home. Mayor Wilson told the Deputy working security that if necessary, he can remove anyone for outbursts.

Most of the land in New Fairview is Ag Exempt.

Devon will be paying most of the property tax for their gas well sites.

Fairview Meadows will be another 8 years before it is complete, and it is not in the New Fairview City Limits it is in the ETJ so therefore the acre per home would not be enforced.

### **C. Discuss consider and act on Presentation from Stephen Dunnahoe with Aqua Texas**

#### **PID.**

Wise County Engineer Chad Davis needs clarification on who has the planning authority in the New Fairview ETJ. New Fairview is responsible for all the planning in the ETJ.

We do not have any plats that will be overlapping at this time. A property can be bisected in different ETJs. Inside of the blue line on the map is what they have agreed with Fort Worth to be in New Fairview ETJ in order to keep any ETJ overlap.

Chad Davis states if they grant less than an acre lots the County can not issue septic permits. This caused for cheering from the audience.

Chad Davis has been very busy in all of Wise County. Davis worked for TXDOT for 16 years and has been in Wise County 12 years.

Need a planning and Zoning committee in order to cut down regular meetings.

Stephen Dunnahoe with Aqua water. They currently have over 200,000 customers in 53 counties, 57 wastewater treatment plants, 750 wells and 480 water systems.

Rates in North Texas for a residential meter is 45.06 for every gallon of water is 2.85. Their sewer rates are a flat rate of 73.30 and it doesn't matter how many gallons you use.

One of their service areas is about 50 square miles which runs from 287 in New Fairview over to Justin. Several Operating systems in there and a sewer system.

The water comes from Grapevine Lake and it stops at Justin now but they would like to bring it into the ETJ or City limits which would be beneficial for the city and for Aqua.

Eric Collier talk about the wells and well designs they look at the impact between wells. What used to be at ground level is now 500 ft below surface. Some water at this level would be Brackish and would need more treatment to be utilized in residences.

Well construction, please see PowerPoint.

Each area would have different issues. For instance, Western Denton County as compared with Western Parker County. Due to population it would have different concerns.

TCEQ requires .6 gallon per minute and they try to do 1.2 gallon per minute to double the range.

300 homes or so would be serviced by utilizing Paluxy and the Trinity together.

Paluxy well is about \$200,000 a well and a Trinity Well is about ½ million dollars.

A question from the audience asking how Aqua tests their water and it is stating they have annual report, and these are published. Usually once a year is all they have unless someone has a concern.

**D. Discuss, consider and act on adopting ordinance to accept the request of approximately 700 acres of land at the corner of 407 and County Line Road to be part of the New Fairview ETJ. This property was released from Fort Worth ETJ to allow this property the option to transition. This is part of the Fort Worth and New Fairview boundary agreement we worked on for two years. The final results were presented at the last city council meeting – December the 2<sup>nd</sup>.**

202002197 Ordinance has been drawn up to accept this property into the New Fairview ETJ.

This will be in question tonight.

Question from the audience stated that an individual has to ask to be in the City of New Fairview is that the same for ETJ and it is not.

Keeping Fort Worth away is necessary to keep them from coming up here and swallowing the city up. They agree this necessary as long as the homeowners are okay with it.

Motion to approve Ordinance 202002197 was brought forth by Councilman Rick White and seconded by Mayor Pro Tem Scott Johnson. No one opposed and it was unanimously approved.

**E. Discuss, consider and act on PID, how it works and what it is. PID 101**

Attorney Bradley Anderle states there has been a request to bring the city in on a PID which has been titled PID 101 which lays out what is a PID or a Public Improvement District. We have been analyzing and enacted an engagement letter on whether a PID is beneficial for the city or not.

Today Kyle Skorski (sp) from P3 Works will speak on the PID for Mary Petty. Please see pack which will include the engagement letter.

Attorney Anderle stated no action is required on the presentation but they are to act and consider the engagement letter and the possibility on hiring a financial advisor and bond council which will be required for the PID.

Kyle is from P3 Works which is officed out of Keller and Austin.

There is no action needed tonight it was just requested by a developer for you to take this action. The council is not voting on anything tonight and also the Council is not paying for them to be here tonight for this presentation the developer has put up an agreement which is paying for their fees. Should the council choose to hire them tonight the fees will be paid by the developer. The purpose of a PID is to never cause the city a cent.

Public Improvement Districts (PID) are allowed by the Texas Local Government Code, Chapter 372 and it outlines the PID.

A PID is an economic development tool which entities could be provided the ability to have a developer finance public development. This is just another tool in your toolbox. The council would have all control over the PID. It is the council's responsibility to make all decisions. A PID can finance public infrastructure like roads, park or pay for other developments

Draw a geographical boundary, put assessment on that property but it does not change the tax rate of anyone outside of that geographical area.

Will work with county and city engineers so that no parties are injured.

This is an economic development incentive tool.

Does the PID require the developer to do all? Yes, it is a developer tool and gets a development agreement.

Page 5 line 3 – Superior plan architect design.

PID offers more oversight in the development.

If council chooses to approve a PID they will have a governing document and they have the ability to change each year.

The PID will free up city money to help the rest of the taxpayers.

PID will have a low risk assessment.

Potential Homebuyers will KNOW they are in a PID and that money will be in their mortgage.

P3 Works does not offer legal or financial assistance they only offer consulting on PID.

Four different types of PID. Please see handouts.

[www.p3works.com](http://www.p3works.com)

**F. Discuss, consider and act on approving engagement letter for P3 Works to act as a PID Consultant for the city and housing developments – Most housing additions are ten to fifteen-year developments.**

Council would like time and more information prior to making a decision.

**G. Discuss, consider and act to hire a financial advisor and bond council for PID**

P3 Works does not give financial advice. It is best for the city to have a financial legal opinion. Councilman Scott Johnson made motion to accept the engagement letter. Second was made. Four members agree one opposed.

**ITEM NUMBER 6. OLD BUSINESS**

**A. Discuss, consider and act on permit fees**

It was enacted but then there were some problems.

One issue was sidewalks, driveways and patios were all included but it should only include living areas.

Before the holidays the builders were paying \$4000 and now they are paying \$7500 which has to be passed on to the buyers. If they are implementing fee increases, there should be a time limit not overnight.

New Fairview needs to have more transparency because it is on the cusp of growth.

Fees should be set and clear.

Councilwoman Rebecca McPherson stated she believes the permit fees should be put on hold for Falcon Ridge until the water issue is complete.

New Fairview's permits fees are considerably higher than other cities.

Builders and city council will meet at a later date to determine the fees.

Will take the cost back to where it was until they discuss it further.

**B. Discuss, consider and act on Preliminary Plat for Sunset Mesa Addition 22.22 acres**

City Attorney Bradley Anderle said that the city has a section on how the city wants the asphalt roads constructed. The developer is wanting to do what the county is asking then what the city is requiring. Mayor Wilson said that our city engineer Gary Fisher wrote the specs as he thought needed to be and that's where he wanted to stay. Mayor Wilson said that the council would have to be convinced by Chris Cha who is now our city engineer with PK to do otherwise. Developer said that our specs don't specify any flex base. The plats will be reviewed by the city engineer. City Attorney said that if the plats are submitted with the county specs and not the city then the city engineer will review them and see if they are appropriate then come back at the February meeting to be considered. The well set back is 200ft in the county so since it's in the ETJ the 200 ft setback is ok. **Mayor Pro Tem Johnson made a motion disapprove of the Preliminary Plat for Sunset Mesa Addition 22.22 acres conditional upon the requirements listed by our city planner Barry Hudson. Motion seconded by Councilman Payne. Motion passed unanimously.**

**C. Discuss, consider and act on Fairview Meadows Construction Project**

Don Allen presented to the council his concept plan for Fairview Meadows. A package with lines in red and blue. The development is in the ETJ and so the city is not obligated to provide any services. They have agreed to have the city do all the building permits. The city will not provide any services to the residences, no water, and no roads. They are in a MUD District. After 20 years the city can annex and incur any debt. Usually a city will annex after the district is debt free. They will be using the city building standards and using the county standards for road and drainage. Under the city subdivisions ordinance, they cannot file a plat until infrastructure is complete. Don Allen is asking for three things. 1. Want to file the plat that has already been approved by the council. 2. Start houses while infrastructure is under construction 3. Ask for permission to use a third-party inspection company. The third-party inspections will be covered by them.

The city will not be out any money. The city can still do inspections and the city will still be the only one that can do a final inspection.

- D. Report and discussion on roads, mowing, signs and maintenance. Discuss, consider and act.
- E. Report and discussion on city code inspections. Discuss, consider and act. Don Strange
- F. Report and discussion on housing developments. Discuss, consider and act. Don Strange
- G. Report and discussion on houses in housing additions. Discuss, consider and act. Jim Estep
- H. Report on Website. Discuss, consider and act.
- I. Discuss, consider and act on starting a City Manager search
- J. Discuss, consider and act on getting bids on repairing four sections of road that are already established in New Fairview. This is to get estimates, examples, of how much road work cost.
- K. Discuss, consider and act on goals, office responsibilities.
- L. Discuss, consider and act on hiring the third office employee replacement.
- M. Discuss, consider and act on employee insurance
- N. Election May 2, 2020

**ITEM NUMBER 7. ADJOURN**

Mayor Wilson adjourned the meeting at 10:30PM

**APPROVED:**

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Mayor Joe Max Wilson

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Mayor Pro Tem Scott Johnson

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Councilman Rick White

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Councilwoman Rebecca McPherson

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Councilman Charlie Stumm

\_\_\_\_\_  
Councilman William Payne

**ATTEST**

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City Secretary Monica Rodriguez