



**MINUTES  
CITY COUNCIL  
December 14th, 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 14<sup>TH</sup> DAY OF DECEMBER 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:**

**CITY COUNCIL**

**Mayor Joe Max Wilson  
Councilman Walter Clements  
Councilwoman Julie Burger  
Councilman Steve Misner  
Councilwoman Connie Stewart  
Councilman Patrick Gunter**

**PRESENT**

**City Administrator Ben Nibarger  
City Secretary Monica Rodriguez  
City Clerk Brooke Boller  
City Attorney Bradley Anderle**

**ITEM NUMBER I. CALL MEETING TO ORDER:**

Mayor Wilson called the meeting to order at 7:00 P.M.

**ITEM NUMBER II. ROLL CALL:**

Roll call with the above-mentioned names present

**ITEM NUMBER III. PLEDGE TO FLAGS:**

- A. United States of America:** I pledge allegiance to the flag of the United States of America, and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all.
  
- B. Texas Flag:** Honor the Texas Flag, I pledge allegiance to thee, Texas, one state under God, one and indivisible

**ITEM NUMBER IV. INVOCATION: By invitation of the Mayor**

Mayor Wilson said he was going to pass and have someone else do the invocation. Councilman Clements did not agree with doing prayer because he is Jewish and if that faith cannot be brought in for prayer then he motions against. Councilman Misner lead with prayer.

\*City Secretary administered the Oath of Office. Julie Burger was sworn into Place 1 council seat.

**ITEM NUMBER V. 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.

A. Consider approval of the November 2, 2020 City Council minutes.

B. Consider approval of the November 17, 2020 City Council minutes.

C. Consider approval of the November 2020 Financial Report.

**Councilman Misner made a motion to approve consent A, B, & C. Councilman Clements seconded the motion. Motion passed unanimously.**

- A. Consider an ordinance of the City of New Fairview, Texas, adopting Flood Damage Prevention Ordinance; providing that this ordinance shall be cumulative of all ordinances; providing a savings clause; providing a severability clause, providing for a penalty; providing a publication clause; and providing an effective date.**

The city adopted a flood damage ordinance in October 2010. Staff has been working with the developers on Fairview Meadows and Falcon Ridge regarding a letter of map revision (LOMR) regarding specific locations in each development that currently fall into the flood plain. The amendment is regarding some minor language changes in the ordinance that were discovered during this LOMR process in the ordinance adopted in 2010. **Councilman Misner made a motion to approve the ordinance adopting flood damage prevention. Motion seconded by Councilwoman Stewart. Motion passed unanimously.**

**Ordinance No.**

**AN ORDINANCE OF THE CITY OF NEW FAIRVIEW, TEXAS, ADOPTING FLOOD DAMAGE PREVENTION ORDINANCE; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; PROVIDING A PUBLICATION CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**Passed and Approved on this 14 day of December 2020**

**Consider approval of a Development Agreement for approximately 10 acres in the New Fairview ETJ waiving the current platting requirements; provided that the construction is limited to a single-family home; provided that the property owner and successors must abide by the city's design standards in the future if additional improvements or subdivision of the property is requested.**

This plat was already approved by council in 2019. The developers were going with city for platting and the roads were drawn up by county specs. The developer was told by the county no that they will not take the roads. City Admin meet with the developers and they agreed to enter in a Development Agreement. The Development Agreement is for Fairview Meadows

**ITEM NUMBER VI. 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.

**Cindy Poe-** talked about the culverts that are going to be put in by the city. She said that Monica has always been friendly, always returned her phone calls and was always quick to answer any questions she had.

**Rebeca Mcpherson-** Ben and Monica – She said Ben was excellent and it was about time the city had someone like him. He is doing a great job. He should not even be on the agenda for discussion. Monica is great. She has always done her best with what the city had. She knows everything around here. She should not be on the agenda either. Both Monica and Ben are great assets to the city.

**ITEM NUMBER VII. EXECUTIVE SESSION:** The Council will conduct a closed session pursuant to Texas Government Code, annotated, Chapter 551, Subchapter D for the following:

- A. Section 551.074 - Personnel Matters; (a) This chapter does not require a governmental body to conduct an open meeting: (1) to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or (2) to hear a complaint or charge against an officer or employee; (b) Subsection (a) does not apply if the officer or employee who is the subject of the deliberation or hearing requests a public hearing: City Administrator

**Councilman Clemet was made a motion at 8:15p.m not to go into executive session. Motion seconded by Councilman Misner. Motion passed unanimously. City Admin was being questioned in open session**

- B. Section 551.074 - Personnel Matters; (a) This chapter does not require a governmental body to conduct an open meeting: (1) to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or (2) to hear a complaint or charge against an officer or employee; (b) Subsection (a) does not apply if the officer or employee who is the subject of the deliberation or hearing requests a public hearing: City Secretary

**Council went into executive at 11:24p.m**

**ITEM NUMBER VIII. NEW BUSINESS:** The Council will discuss and consider taking action on the following items:

- A. Consider and select the Mayor Pro Tem by majority vote of the City Council from among its own membership; providing that the mayor pro tem's term is one year; providing that the mayor pro tem retains the right to vote on all matters before the Council while performing the duties of the mayor (Local Government Code Sections 22.037 and 23.027). Council discussed. **Councilwoman Burger made a motion to appoint Councilman Gunter as Mayor Pro Tem. Motion seconded by Councilman Clements. Motion passed unanimously.**
- B. **Consider a resolution accepting the 2019-2020 annual audit report presented by William Spore, CPA.**  
William Spore made a presentation on the audit year ending September 30, 2020. Financial statements were all free of material misstatement. The audit presented fairly in all material respects. Ben said that the city can now apply for grants and all audits are up to date. **Councilman Misner made a motion to accept the 2019-2020 annual audit. Motion seconded by Councilman Burger. Motion passed unanimously.**
- C. **Consider a resolution approving and authorizing publication of a notice intention to issue certificates of obligation and resolving other matters incident and related thereto.**

**Councilman Gunter made a motion to approve resolution and authorize publication of notice intention. Motion seconded by Councilman Clements. Motion passed unanimously**

- D. Conduct a public hearing and consider the Proposed Annexation by the City of New Fairview approximately 22.22 acres of land located on the J.B. Atkinson Survey, Abstract Number 2, Wise County, Texas, being a certain called 22.22 acre tract described in Clerk's file Number 201911010, Official Records, Wise County, Texas; being contiguous to the current city limits of New Fairview in the City's Extraterritorial Jurisdiction. This came before the council in January of last year. The plat was approved. The city was not going to annex them in. After they went to the county with the roads they would not accept the roads. They were doing the roads to county standards. Mayor Wilson said that the planner is usually the one that talks about these. They were approved a plat from the city January last year. Since the county will not take the roads they voluntarily want to annex into the city. **Councilman Clements made a motion to accept as stated. Motion seconded by Councilwoman Stewart. Motion passed unanimously.**
- E. Conduct a public hearing and consider the Proposed Zoning by the City of New Fairview approximately 22.22 acres of land located on the J.B. Atkinson Survey, Abstract Number 2, Wise County, Texas, being a certain called 22.22 acre tract described in Clerk's file Number 201911010, Official Records, Wise County, Texas; being contiguous to the current city limits of New Fairview in the City's Extraterritorial Jurisdiction. This came before council in February. Plat was approved. Stay in county but then county will not accept dedication of roads. Ben asked them for an agreement and build the road to city standards and volunteer annex into the city. Councilman Misner can not believe that all these builders and development are just coming into the city. There has to be something going on. **Councilman Gunter made a motion to approve the zoning. Motion seconded by Councilman Clements. Motion passed unanimously.**
- F. Consider a resolution authorizing the City Administrator to enter into a Development Agreement with Lackland Fairview, LLC, that reimburses the City of New Fairview for the survey, engineering and design of Pioneer Road and enter into an agreement with Pacheco Koch to complete the survey, engineering, and design of Pioneer Road from FM 407 heading south for approximately 10,500 linear feet, ending at the paved section of Pioneer Road, traveling east and west. **Councilman Misner made motion to enter into a development agreement with Pacheco Koch. Motion seconded by Councilwoman Burger. Motion passed unanimously.**
- G. Consider a resolution approving a depository agreement with Wilmington Trust for the Constellation Lake Public Improvement District (PID).

**Councilman Clements made a motion to approve depository agreement with Wilmington Trust. Motion seconded by Councilman Gunter. Motion passed unanimously.**

- H. Discuss and consider authorizing the City Administrator to negotiate a development agreement and disannexation of approximately 127 acres of land situated in the G.B. Buchanan Survey, Abstracts No. 31 and 32, bordered on the south by County Road 4730, consisting of that portion of a 141.49 acre tract described by metes and bounds and shown in Exhibit A within the New Fairview corporate limits; requested by Matt Spaethe, owner of the property.

This is going to have a development agreement. Matt Spaethe and his attorney talked to council and mayor. Wilson said that we will not act on it tonight. Mayor Wilson said that Spaethe comes in with a different story every time.

To be discussed at the next meeting.

- I. Discuss and consider authorizing the City Administrator to enter into agreement to purchase and install an electronic monument sign for installation along FM407 at City Hall. Councilman Clements made a motion to authorize the City Admin to enter into agreement to purchase and install an electronic monument sign. Motion seconded by Councilwoman Burger. Motion passed unanimously.

- J. Discuss establishing term limits for the Mayor and City Council members; providing a consecutive three-term limit for all elected positions; providing that any elected official, reaching the term limit, may seek re-election following the lapse of two-terms. Next Meeting

- K. Discuss the single-family residential zoning requirements. Next Meeting

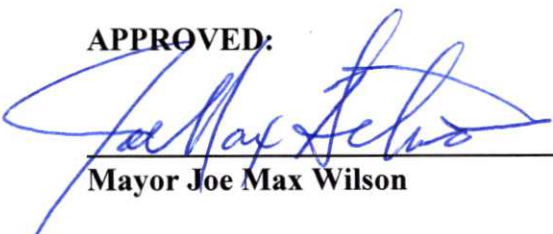
- L. Discuss the City of New Fairview property tax rate and exemptions. Next meeting

- M. Discuss the City of New Fairview hydrocarbon well setbacks. Next meeting

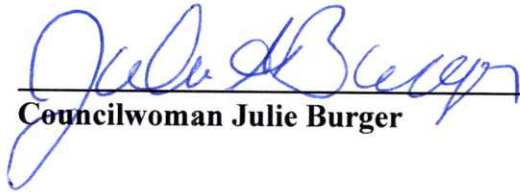
**ITEM NUMBER IX. ADJOURN:**

**Mayor Wilson adjourned the meeting at 11:55 P.M.**

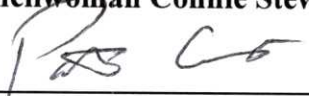
**APPROVED:**

  
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Mayor Joe Max Wilson

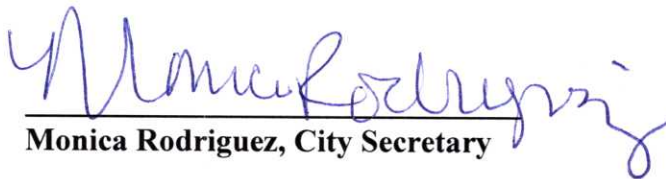
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Councilman Walter Clements

  
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**Councilwoman Julie Burger**

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**Councilman Steve Misner**

**Councilwoman Connie Stewart**  
  
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**Councilman Patrick Gunter**

**ATTEST:**

  
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**Monica Rodriguez, City Secretary**