

May 16, 2014

To: City Manager Gary Greer

Subject: Agenda Item-Landowner Recommendations-5-20-2014 Council Meeting

Dear Gary,

As discussed by phone earlier today, please include the attached Landowner Recommendations in today's council packet. We want this presented at Council Meeting so it can be voted on with the TRC Study. We feel that the attached will give more definitive language to the TRC report particularly pertaining to action, timeline and enforcement.

Very much appreciate your supporting comments and you are correct, we are ALL in this together.

Kind Regards,

A handwritten signature in black ink, appearing to read "Todd Womble", with a stylized flourish at the end.

Todd Womble

Attachment: Recommendations for Consideration and Approval by the City Council at the May 20, 2014 Council Meeting

Cc City Council

Re: Farmers Branch Creek

Recommendations for Consideration and Approval by the City Council at the May 20, 2014 Council Meeting:

In order to protect the landowners and address the concerns and issues identified in the TRC Report, the City of Farmers Branch should take the following actions based on the TRC Report and the information and documents supplied by the downstream landowners:

1. Request that the Town of Addison review the Conclusions and Recommendations in the TRC Report, and agree to meet with the Texas Commission on Environmental Quality (TCEQ) within thirty (30) days of the May 20, 2014 City Council meeting to develop an agreement with the TCEQ as to steps (discussed below) the Town of Addison will take to address the failure to comply with Water Use Permit 5383A (the Permit);
2. Request a meeting with the TCEQ and forward a copy of the TRC Report to the TCEQ within five (5) days of the City Council meeting;
3. Meet with the TCEQ, and the Town of Addison (if they are willing to meet) to resolve compliance with the permit through an order issued by the TCEQ (and signed by the Town of Addison if it is willing to enter an agreed order), and representatives of the impacted landowners downstream on Farmers Branch Creek, and, as necessary, seek an amendment from the TCEQ to the Permit to achieve the following:
 - a. to address all of the issues, Conclusions, and Recommendations identified in the TRC Report;
 - b. to ensure on a weekly basis and to demonstrate through publicly available records posted weekly on the Town of Addison's website that adequate water is pumped into the reservoirs and that stream flow is maintained in Farmers Branch Creek downstream of the Town of Addison reservoirs, including, but not limited to, installation of flow meters to monitor stream flow;
 - c. Given Addison's history of pump failures and slow repair times, the new well and pump shall have redundant capabilities built in to the system to ensure that Creek flows are maintained. Pump failures shall be repaired within 48 hours with a log kept and posted to the Addison website. The City of Farmers Branch shall have reasonable approval rights of the well and pump design.

d. Addison shall designate qualified personnel to be available & responsible for the on-going operation and implementation of the agreement.

4. In the interim, while arranging and meeting with the TCEQ, the Town of Addison shall immediately take steps to repair & maintain the existing Woodbine pump to maintain stream flow per the TRC report until the well to the Trinity aquifer is drilled with a reliable pump system installed (with redundancy in the event of pump failure) to ensure that the flows and water quality required under the Permit are met at all times. The new Trinity Aquifer pump design and specifications shall be reviewed and approved by TRC or other qualified engineer retained by Farmers Branch. Landowner representatives shall be allowed to participate in this process. Addison would be required to have the existing Woodbine well and pumps repaired (or replaced, as necessary) and operating reliably not later June 6, 2014, and install the new well and pumps to the Trinity Aquifer as soon as possible but not later than August 20, 2014;
5. If Addison does not acknowledge and accept all of the terms & timeframes of these Recommendations in writing by June 6, 2014, and work in good faith to meet with the TCEQ and Farmers Branch by June 20, 2014 to develop and issue an order that documents the steps to be taken by Addison, Farmers Branch would then contact the TCEQ to request imposition of specific action by the Agency to investigate and enforce the Permit and impose any applicable fines and penalties. Representatives of landowners shall be allowed input in the process.
6. Engage a water rights attorney among other things to evaluate compliance by the Town of Addison with the water use permit, assist in working with the TCEQ to address the flow in the creek and, as necessary, seek an appropriate amendment to the Permit.