



## City of Farmers Branch

Farmers Branch City Hall  
13000 Wm Dodson Pkwy  
Farmers Branch, Texas  
75234

### Meeting Agenda - Final

#### City Council

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Tuesday, August 9, 2016

1:00 PM

Study Session Room  
2nd Floor - City Hall

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#### Special Called Meeting

- Presiding:** 1 - Mayor Bob Phelps
- Present:** 5 - Mayor Pro Tem Harold Froehlich, Council Member John Norwood, Council Member Terry Lynne, Deputy Mayor Pro Tem Ana Reyes, Council Member Mike Bomgardner
- Staff:** - Charles Cox City Manager, John Land Deputy City Manager, Pete Smith City Attorney, Sid Fuller Police Chief, David Hale Deputy Police Chief, Sergeant Mike Hairston, Jeff Turley Detective, Jim Richardson, Kristofor Garrett Crime Prevention Coordinator, Angel Carrillo Police Officer, Richard Willborn Detective, David Barnett Detective, Erik Stokes Lieutenant, Kyle Boyce Corporal, Thinh Nguyen Officer, Jeremy Green Detective, Mike Vazquez Detective, LaJeana Thomas Executive Assistant Administration, Allison Cook Economic Development Manager, Stephanie Hall Economic Development Assistant, Andy Gillies Community Services Director, Randy Walhood Public Works Director, Hugh Pender Building Official, Shane Davis Environmental Services and Solid Waste Manager, Steve Parker Fire Chief, Tim Dedear Deputy Fire Chief/Fire Marshal, Brian Beasley Human Resource Director

#### **A. STUDY SESSION**

Mayor Phelps called the meeting to order at 1:00 p.m. and announced the meeting would be moved downstairs in City Council Chambers to allow more public seating.

##### **A.1 [16-193](#)**

**Briefing by the City Attorney regarding regulations for the sale and consumption of alcoholic beverages for onsite consumption.**

City Attorney Pete Smith provided an update regarding the City's alcohol policy. Mr. Smith provided background information and options for the City Council to consider in lessening the current regulations or enacting new regulations regarding establishments that serve alcoholic beverages for on-site consumption. In particular the City Council expressed interest in allowing "neighborhood bars". Mr. Smith noted this information is only intended to provide background information and City Council may wish to conduct a Work Session meeting at a later time.

Mr. Smith noted in 1972 the City prohibited the sale of alcoholic beverages in all zoning districts except the Light Industrial ("LI") districts (which required an SUP) and Heavy Industrial ("HI") districts (where sales were permitted by right). Presently, there are no HI zoning districts in the City. He further explained, that subsequent to that time period the City has had two local option elections regarding the sale of alcoholic beverages and enacted several ordinance regarding the same.

Mr. Smith noted as a result of the two local option elections approved by the voters of Farmers Branch the City is wet for the retail sale of beer and wine for off premise consumption; and for establishments that sell mixed beverages, beer and wine for on premise consumption. Mr. Smith noted the regulations and ordinances adopted prior to the local option elections restrict and limit the locations of such establishments.

Mr. Smith explained the City conducted a local option election on October 25, 1986, in which voters approved a proposition authorizing mixed beverage sales for on-premises consumption. Mr. Smith explained this approval authorizes the sale of mixed beverages, beer, and wine for on-premises consumption. He further stated the ballot proposition was not limited to sales in restaurants with a food and beverage. He stated this proposition allowed establishments which may be commonly referred to as bars since no food service is required. However, the City, through the Comprehensive Zoning Ordinance ("CZO"), limits the location of the sale of alcoholic beverages for on-premises consumption to "qualifying restaurants" and "private clubs." Mr. Smith noted "Qualifying Restaurant," as defined in CZO Sec. 8-400-1, means "an existing or proposed eating establishment whose gross sale of food and non-alcoholic beverages shall constitute at least 60% of the establishment's combined gross food, non-alcoholic, and alcoholic beverages for each quarterly reporting period". "Restaurant" in CZO Sec 8-400 means a Qualifying Restaurant where the operator is the holder of a mixed beverage permit or a private club permit.

As a general premise, regardless of whether or not the sale of alcoholic beverages has been approved, restaurants without drive-in or drive through windows are allowed by right only in the Local Retail 1 ("LR-1") and Local Retail 2 ("LR-2") districts and upon approval of an SUP in the following zoning districts: Office ("O"), Commercial ("C"), Light Industrial ("LI"), Heavy Industrial ("HI"), and Planned Development ("PD"). A specific use permit for a Qualifying Restaurant (i.e. allowed to serve alcohol) may be issued only in an area zoned: Office ("O"), Local Retail 1 ("LR-1"), Local Retail 2 ("LR-2"); Commercial ("C"), Light Industrial ("LI"), Heavy Industrial ("HI"), Planned Development ("PD"), "any other zoning district where restaurants are a permitted use." Presently,

there are no other zoning districts other than the ones listed above where restaurants are permitted either by right or by SUP. City would need to review specific Planned Development ordinances to determine whether restaurant use is allowed in the particular PD. Mr. Smith noted that a SUP cannot be issued for a Qualifying Restaurant located within 300 feet of a: detached single family residence, single family zoned district, church, school (public or denominational), hospital, or developed city park (which parameters are to be determined by the City Council). He noted measurement of the 300 foot rule is to be in accordance with state law. He further stated the 300 foot rule does not apply to a Planned Development zoning district. Mr. Smith noted the 1986 Local Option Election did not authorize the sale of any alcoholic beverages for off-premises consumption.

Mr. Smith explained voters approved the sale of beer and wine for off-premises consumption in May 2014. Prior to the election, it was clarified that the City had since 1972 prohibited the sale of alcoholic beverages in all zoning districts except the Light Industrial ("LI") districts (which required an SUP) and Heavy Industrial ("HI") districts (where sales were permitted by right). Presently, there is no HI zoning district in the City. Mr. Smith noted subsequent to the May 2014 election, the City Council approved Ordinance No. 3283 establishing several beer and wine overlay districts in which retail establishments may sell beer and wine for off-premises consumption by right. The original restrictions regarding the LI and HI districts were, however, preserved. Though the 300 foot distance rule is included in the CZO relating to SUP's for qualifying restaurants, the City has not done the same for beer and wine off-premise retailers located in the beer and wine overlay zones.

Mr. Smith reviewed the Texas Alcohol Beverage Commission wet/dry status. He noted for on premise mixed beverage sales, it is showing the City as "all wet". He explained no new election would be required to allow establishments in the City that are not restaurants to serve mixed drinks, beer and wine for on premise consumption. Only a change in the City's zoning regulations would be required to loosen up the current regulations requiring an SUP. Mr. Smith reviewed definitions and reviewed types of permits issued by TABC.

Mr. Smith noted when deciding what actions to take, the City Council needs to decide and provide direction to staff as to: (i) what type of establishments are desired; (ii) when and where such establishments should be allowed; (iii) by what process whether by right or SUP; and (iv) any restrictions such a separation requirements from like establishments or schools, churches, hospitals, parks or other desired protected areas.

Mr. Smith further explained consideration should also be given to whether there will be a proliferation of such establishments, and any undesired effects or unintended consequences. He noted once the City grants zoning to allow a "bar" at a location it should be considered permanent unless the City rezones the area or changes the regulations in which case an existing use will continue until abandoned.

Mr. Smith explained a specific work session or meeting could be conducted for City Council to discuss, at which staff can answer questions and City Council can provide direction. Mr. Smith explained the following is a list of possible actions.

- (1) City could lessen the percentage of non-alcoholic sales for qualifying restaurants.
- (2) City could enact overlay district in which “bars” may be located without regard to food service or with a lesser percentage of non-alcoholic beverage sales. Will need to add definition of “bars”.
- (3) Identify target areas or properties at which bars are allowed without regard to food service or with a lesser percentage of non-alcoholic beverage sales.
- (4) Enact regulation to allow location of establishments that derive more than 75% of its gross revenue from the sale of alcoholic beverages for on premise consumption. These regulations could be restricted to certain zoning districts or geographical areas, require a specific use permit and include separation requirements from other like establishments, churches, hospitals, schools, city parks or other protected areas. Texas Alcoholic Beverage Code allows the City to enact regulations governing the location of bars. Will need to add definition of the qualifying establishment (“Bar”).
- (5) Allow establishments that derive more than 75% of its gross revenue from the sale of alcoholic beverages for on premise consumption in PD districts by right or by SUP.

Mr. Smith reminded City Council that any decisions regarding bar and alcohol restrictions will have a permanent impact on designation and location.

Council Member Lynne asked who established the 60% rule, what percentage other cities have, and if a City Council vote is required to make changes. Mr. Smith explained the City of Farmers Branch has established the 60% rule, noting other cities vary on percentages. He further stated City Council approval is required for any changes.

Council Member Bomgardner asked if the City can be more accommodating to new restaurants that wish to relocate to Farmers Branch. He asked for clarification regarding the Specific Use Permit (SUP) process.

Deputy City Manager John Land explained there is a 90 day process for a restaurant SUP, noting 3Nations Brewery recently opened and is doing well.

Planning Manager Alexis Jackson explained a possible retail component for 3Nations Brewery on the east side, noting changing the alcohol restrictions may also attract restaurants, breweries, distilleries in light industrial while stimulating redevelopment boundaries on the east side.

Deputy Mayor Pro Tem Reyes asked if the City was in the process of trying to attract restaurants for the Mustang Station area and if the City is having conversations with developers.

Community Development Director Andy Gillies explained a SUP does work, however; there are three (3) areas on the east side that are trying to potentially change the alcohol restrictions. He further stated these changes could also include the Mustang Station area. Mr. Gillies explained staff is seeking City Council’s direction. Mr. Gillies noted

some potential changes would include adding bars, areas to expand alcohol sales/microbreweries, change overlay districts and to change percentages. Council Member Lynne suggested lowering requirements to stimulate the east side development.

Mayor Pro Tem Froehlich asked for clarification regarding the SUP process. Mr. Gillies explained it takes approximately 90 days to review a case which includes property owner notifications and Planning and Zoning and City Council public hearing meetings.

Mayor Phelps spoke stating he disagrees with the prospect of opening bars in Farmers Branch.

Council Member Bomgardner agrees with a tasting room idea on the east side and asked if the City could set it up ahead of an SUP by changing the restrictions of PD-86.

Council Member Norwood stated he supports the overlay district with a special exception and this includes the west side area as well.

**A.2 [16-224](#) Discussion regarding the Employee Compensation Study.**

City Manager Charles Cox briefed City Council regarding this item. Mr. Cox noted he presented a balanced budget which includes a 5% increase to median plus an additional 5% to make the City of Farmers Branch more competitive. He noted 44% of the total budget is for public safety. Mr. Cox explained the step plan and history of compensation for the Police Department.

Mayor Pro Tem Froehlich asked if the officers have received raises in the past 5 years. Mr. Cox replied they have not received a raise within the past five years, noting the last structure adjustment was made in 2013. He explained a step system was implemented which includes Fire and Police Departments. He further stated Administrative employees receive merit increases.

Council Member Lynne asked what level the Police Department is considered under "management". Mr. Cox passed out an organizational structure handout detailing structure and position summaries for Police and Fire Departments.

Deputy Mayor Pro Tem Reyes asked for a display for residents.

Mayor Phelps noted the City of Plano is hiring 10 new officers and pay \$10,000 more than the City of Farmers Branch.

Mr. Cox stated that most cities are implementing a 3% increase this year. He further stated the City of Frisco, Highland Park and Plano are our competition and a 5% over median increase would make us competitive, and in his opinion, is a fair recommendation.

Deputy Mayor Pro Tem Reyes asked how our benefits compare to other cities specifically the 20 year versus a 25 year retirement comparison.

Mr. Cox provided history of our officers, noting employees were asked if the City switched to a 20 year retirement, would they retire. He explained the majority answered "no". He further stated our health insurance benefits are lacking and not competitive noting we are not anticipating any health insurance changes in the future.

Deputy Mayor Pro Tem Reyes stated she has had many conversations with officers regarding retirement at 20 years versus 25 and does not think that retirement at 25 years keeps the City of Farmers Branch competitive and is requesting a pay increase of 10% over median.

Council Member Bomgardner spoke stating he supports a 5% + 5% for Police.

Mayor Phelps stated that he supports the City Manager's recommendation of an increase of 5% to median plus an additional 5% over median.

Deputy Mayor Pro Tem Reyes explained Farmers Branch has the very best officers and why not invest an additional 5% to retain them. She urged City Council to make the investment versus the liability.

Mr. Cox explained the citizens of Farmers Branch deserve the very best noting the cost implications of a 20 year retirement versus a 25 year retirement would be an additional \$400,000 per year for implementation. He further stated, it would affect the COLA benefits offered to retirees.

Deputy Mayor Pro Tem Reyes respectfully disagreed with Mr. Cox on 20 to 25 years retirement and noted we are not in a position to be competitive.

Police Chief Sid Fuller spoke explaining the Police Department recruitment process and lack of applicants.

Council Member Lynne noted it's difficult to compete with Plano and Frisco because they have a much larger tax base. He asked if the City has a recruitment bonus.

Council Member Bomgardner suggested reviewing recruitment efforts of other cities.

Council Member Norwood suggested moving forward with the balanced budget 5% to 5%; take a portion of the \$250k to pay Police and Fire on Sept. 1 and the rest of the employees on October 1<sup>st</sup>. He added that a mid-year review be provided and review and comparison with other cities pay including a review of the signing bonus structure. He further stated that a mid-year review of the 20 to 25 year retirement be conducted.

Resident Buford Watson, 14210 Dennis Lane, spoke stating we have the best services, he asked that we not compare our City to Dallas, he urged the Mayor and City Council to treat Departments with respect. He further stated in order to have the best you must treat them the best. He asked that we do not lose employees to other cities in order to cut taxes, noting he expects and receives good services.

After discussion, the majority of City Council agreed to move forward with the City Manager's proposed recommendation of an increase of 5% to median effective September 1<sup>st</sup> for Fire and Police Department only, plus an additional 5% over median next budget year with City Council's approval.

**A.3 [16-203](#) Discuss the City Manager's balanced budget and organizational funding requests related to the proposed 2016-17 Fiscal year Budget.**

Mayor Phelps suggested keeping the organizational funding the same as last year. Mr. Cox explained \$292,000 has been allocated for these services.

Deputy Mayor Pro Tem Reyes asked that Mr. David Moore with Firehouse Theatre be recognized. Mr. Moore spoke stating that many residents do not know about the theatre, he would like to use the additional \$15,000 funds to market the Firehouse Theatre, however; he noted if the funds could be used to assist with Police salary increases, he would differ his request.

Council Member Norwood asked if the PYRO marketing would possibly include marketing of the Firehouse Theatre. Mr. Cox noted he would need to review with the Legal Department.

Resident Dan Hurd spoke asking that we continue moving the City forward.

Mr. Cox noted the budget will be reviewed again during the August 16, 2016 City Council meeting during Study Session.

Mayor Pro Tem Froehlich noted the City is moving forward and a Bond Committee is reviewing items that will be reviewed next year, noting they are looking at items to revitalize our community, and may propose a tax increase next spring. He asked that tax be decreased by 1%. He asked to reduce the budget for fireworks at Christmas, or similar ideas to reduce the budget.

Deputy Mayor Pro Tem Reyes asked about the \$300,000 Economic Development Funds. Mr. Cox noted the Economic Development funds are used for redevelopment, noting City Council has approved several of these cases. He further stated when properties are sold, funds roll back into the fund.

City Council discussed being conservative financially, investing in the City's future and educating the public about tax rates.

**B. ADJOURNMENT**

Council Member Norwood made a motion to adjourn the meeting at 3:50 p.m. Motion seconded by Mayor Pro Tem Froehlich. Motion prevailed by the following vote:

**Aye: 5 -** Mayor Pro Tem Froehlich, Deputy Mayor Pro Tem Reyes, Council Member Norwood, Council Member Bomgardner, Council Member Lynne

The meeting adjourned at 3:50 p.m.

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Mayor

ATTEST:

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Recording Secretary