

CITY OF SMITHVILLE
COUNCIL MEETING MINUTES
NOVEMBER 14, 2022

Present: Mayor Sharon Foerster, Councilmembers Janice Bruno, Bill Gordon, Tom Etheredge, Joanna Morgan, and City Manager Robert Tamble. Not Present Cassie Barrientos.

Open Meeting: Call to order: Mayor Foerster called the meeting to order at 6:00 p.m. Councilwoman Morgan led the Invocation and Pledge.

Recognition/Awards/Proclamations/Announcements/Presentations:

- a) Proclamation for "Day of Thanksgiving" Mayor Foerster read the proclamation.
- b) Proclamation for "Honor Our Veterans Day" Councilwoman Bruno read the proclamation.
- c) Proclamation for "National American Indian Heritage Month" Councilman Gordon read the proclamation.
- d) Presentation from Langford on the City of Smithville's Comp Plan – Jill Phinney gave the presentation.
- e) Presentation from Janice Bruno on the Housing Huddle – Councilwoman Bruno

Citizen Comments: None

Approval of the minutes from October 17, 2022, City Council Meeting and Public Hearing. Councilman Etheredge made a motion to approve the minutes as presented. Councilman Gordon seconded and the motion passed unanimously.

Hear from the Applicant/Agent on all P&Z Application requests. Tim with BEFCO explained the final re-plat to the Council.

Hear recommendations from Planning and Zoning on:

- a) A final re-plat for 1607 E. Loop 230, property ID 8717857, McMahan Addition Lot 1, property owner George McMahan, agent Tim Sanders. Brian Riewe said the P&Z recommended approving the re-plat.

Public Hearing:

Hear Citizen Comments on:

- a) A final re-plat for 1607 E. Loop 230, property ID 8717857, McMahan Addition Lot 1, property owner George McMahan, agent Tim Sanders. No one signed up to speak for or against the final re-plat.

Open Meeting:

Discussion and Action from Council on:

- a) A final re-plat for 1607 E. Loop 230, property ID 8717857, McMahan Addition Lot 1, property owner George McMahan, agent Tim Sanders. George McMahan is replating his property to accommodate the construction of commercial property. Councilwoman Bruno made a motion to approve the final re-plat. Councilman Gordon seconded and the motion passed unanimously.

Citizen Comments: None

Discussion and Action on an Amendment to Solar Power Purchase Agreement (PPA) with Smithville Solar One, LLC. - Back in December 2019, the City Council approved a 25-year solar Power Purchase Agreement (PPA) with Smithville Solar One, LLC. Since then, Smithville Solar has built a 1-Megawatt single axis tracking photovoltaic solar array on annexed property located next to the Smithville Municipal Airport on the west side of Loop 230. Our current wholesale power agreement with LCRA allows the City of Smithville to purchase up to 15% of alternative energy through a 3rd party. The solar array will generate 2.9 Megawatt hours of clean energy per year for the City of Smithville. The City will save approximately \$350k over the 25-year term --- double this amount if battery storage is added in the future allowing the City to sell power back to LCRA / ERCOT during the summer 4CP (4 Coincident Peak) and/or the City exercises its “first right of refusal” to purchase additional solar power (Phase 2). Smithville Solar is requesting an amendment to the current PPA to remove reference(s) to the “early termination” and “option to purchase” clause(s) in order to secure and complete financing. In addition, Smithville Solar is requesting modification of the PPA to adjust (extend) the 25-year term with a start-date of January 31, 2023. Due to supply chain issues associated with the global pandemic, it took the City over a year to acquire and install an electric meter capable of reading kilowatt generation at 15-minute intervals as specified by LCRA. As such, this delayed commissioning and operation of the solar array. The 15-minute interval meter was received and installed in October and system testing shows it is functioning properly. Testing and commissioning of the system is expected to continue until January 31, 2023. The requested modifications / Amendment will not place either entity at risk nor reduce the anticipated benefit / revenue the City expects to receive over the amended 25-year PPA term. David Cox (Smithville Solar One, LLC) will be attending the meeting and can answer any questions you may have. Councilman Etheredge made a motion to approve the amendment to the PPA subject to three changes 1) the Agreement has instead of elimination of the termination provision that it has the 5 year lockout for the purchaser’s right to terminate 2) that we get a reasonable notice in cure provisions from any financing party should they default 3) City Manager determines and implements the appropriate level of liability insurance, an amount materially higher than the proposed one million dollars. Councilman Gordon seconded and the motion passed unanimously.

Citizen Comments: None

Discussion and Action on an Amendment to the 380 Agreement with Smithville Solar One, LLC and Pentric, Inc.: Smithville Solar One, LLC and Pentric, Inc. are requesting the 380 Economic Development / Annexation Agreement (approved by the City Council on December 14, 2020) be extended two (2) years beginning 2023 and ending 2027. In addition, the following modifications are being requested:

Preamble:

- Add Amendment date of November 14, 2022 to Preamble.

C. Economic Development Incentives:

- Section 1(b) – Reimbursements shall be in effect beginning w/ tax year as of December 31, 2022
- Section 1(c)(2) – The Project shall have an in-service start date of no later than January 31, 2023
- Section 3 – Update performance-based incentive milestones and dates (see chart below)

Chapter 380 of the Texas Local Government Code authorizes municipalities to offer incentives designed to promote economic development. The terms of the 380 Agreement required Smithville Solar One, LLC and Pentric, Inc. to voluntarily annex a 20.93-acre tract of land into the city limits for construction of a solar array. In return, the City of Smithville will provide services (e.g., fire, police, garbage, water, and sewer) and offer approximately \$30k of performance-based incentives in the form of property tax reimbursements (city only) over the next 5-years. The solar array must perform at 95% or better to qualify for the tax reimbursement incentive (see below). The cost of the incentives will be offset by the savings generated from the PPA.

CURRENT			
Year	Solar One Performance Requirement	Percent (%) Rollback Tax Reimbursement	Percent (%) Property Tax Reimbursement
2021	Construction Complete	100%	100%
2022 to 2025	95% or >	N/A	100%
	90% - 94.99%	N/A	75%
	85% - 89.9%	N/A	50%
	<85%	N/A	0%

PROPOSED			
Year	Solar One Performance Requirement	Percent (%) Rollback Tax Reimbursement	Percent (%) Property Tax Reimbursement
2022	Construction Complete	100%	100%
In Service 2023 to 2027	95% or >	N/A	100%
	90% - 94.99%	N/A	75%
	85% - 89.9%	N/A	50%
	<85%	N/A	0%

Councilwoman Morgan made a motion to approve the amendment to the 380 Agreement. Councilwoman Bruno seconded and the motion passed unanimously.

Citizen Comments: None

Discussion and Action on the 2022 Certified Tax Levy for the City of Smithville: In accordance with the Texas Property tax Code 26.09(e), the Council must approve the certified Tax Roll for 2022. Property taxes will bring in \$2,120,322.89 based on a total assessed value of \$ 394,511,444. Councilwoman Bruno made a motion to approve the Certified Tax Levy. Councilman Gordon seconded and the motion passed unanimously.

Citizen Comments: None

Discussion and Action of a license agreement with Alfred Beck at 200 Main St to place a sign on his building that would encroach into the city easement. The license agreement is needed to authorize the encroachment and indemnify the City against future liability claims should the sign fail in a manner that causes personal injury and/or property damage. Councilman Gordon made a motion to approve the license. Councilwoman Morgan seconded and the motion passed unanimously.

Citizen Comments: None

Discussion and Action on a Certificate of Appropriateness (COA) at 200 Main St. Monic Poss with the Historical Preservation and Design Standards Committee said they recommend approving the

removal of the mirrors, and the copper and adding two support beams to the awning for support. Councilman Etheredge made a motion to approve the COA as presented and to add the two support posts. Councilwoman Bruno seconded and the motion passed unanimously.

Citizen Comments: None

Discussion and Action on an Appointment to replace/reappoint members of the Smithville Housing Authority Board:- The Smithville Housing Authority Board consists of five (5) members recommended by the mayor. Board members serve two (2) year terms with two (2) members appointed in even numbered years and two (2) members appointed in odd number years. The resident board member will serve a 1-year term. The following positions are being recommended for your consideration:

Kim Roberts - Place 1 (Even Years) – Reappointment - Term expires Dec 2024

Michael Murphy – Place 2 (Even Years) – Reappointment - Term expires Dec 2024

Novalee Wolfe – Place 5 (Resident) – New Appointment (Term expires Dec 2023)

Dale Weaver – Place 3 (Odd Years) – Term expires Dec 2023 - (FYI ONLY)

Troy Streuer – Place 4 (Odd Years) – Term expires Dec 2023 - (FYI ONLY)

Councilwoman Bruno made a motion to reappoint Michael Murphy, Kim Roberts, and Novalee Wolfe. Councilman Gordon seconded and the motion passed unanimously.

At this point in the meeting, David Cox with Smithville Solar One advised City Manager Robert Tamble that he had spoken with his partner and the 5-year lockout is a no go it has to be 25 years. We needed to revisit this item “Amendment to the PPA with Smithville Solar One. Councilman Etheredge made a motion to rescind his original motion. Councilwoman Morgan seconded and all were in favor.

Discussion and Action on an Amendment to Solar Power Purchase Agreement (PPA) with Smithville Solar One, LLC.: David Cox explained that when he spoke with his partner they said they would not be able to refinance if the option to purchase were to stay in the agreement. Councilman Etheredge made a motion to approve as presented subject to two changes, that we get reasonable and appropriate notice and cure provisions from the financing party and that we have increased insurance liability levels at a minimum of two million dollars. Councilwoman Morgan seconded and the motion passed unanimously.

Citizen Comments:

Discussion and Action on an Ordinance Amending Section 12.05.001, City of Smithville Code of Ordinances, to Restrict Parking in the Rear of City Hall to City Employees From 7:00 AM to 5:30 PM and to Restrict Use of Parking Spaces Designated for Police Department Use Only: The City is experiencing an increase in unauthorized use of parking spaces dedicated for employees. Approval of this ordinance amendment will provide the ability to have unauthorized vehicles towed at the owner’s expense. Councilman Gordon made a motion to approve the ordinance. Councilwoman Bruno seconded and the motion passed unanimously.

Citizen Comments: None

Discussion and Action on the approval of the Financial Report. Councilman Etheredge made a motion to accept the Financial Report. Councilwoman Bruno seconded and the motion passed unanimously.

Adjourn 8:00 p.m.

Sharon Foerster, Mayor

Attest:

Jennifer Lynch, City Secretary