

CITY OF FAIRVIEW

BOARD OF COMMISSIONERS SPECIAL MEETING MINUTES

February 25, 2016

Patti L Carroll, Mayor
Toney R Sutton, Vice-Mayor
Allen Bissell, Commissioner
Shannon L Crutcher, Commissioner
Stuart L Johnson, Commissioner
Wayne Hall, City Manager
Larry Cantrell, City Attorney
Brandy Johnson, City Recorder

Present: Carroll, Sutton, Bissell, Crutcher, Johnson
Others Present: Hall, Cantrell, Johnson

1. **Call to order by Mayor Carroll at 6:30 p.m.**
2. **Approval of the Agenda** – Vice Mayor Sutton made a motion for approval with Commissioner Crutcher seconding. All were in favor.

3. New Business

- A. Discuss and/or Take Action On Whether Board of Commissioners Will Conduct a Public Hearing and Set Parameters For Hearing – Commissioner Crutcher states he requested a special meeting to discuss a public hearing surrounding issues in the Police Department. The citizens are entitled to a fair, ethical, accountable local government and the employees are entitled to a fair, ethical, accountable employer. Right now I submit we have neither. As a government we should apply the letter and spirit of the laws and we have been reactive rather than proactive. The purpose is not to indict Mr. Hall or to publicly embarrass or make a spectacle to further weaken our community foundation. Crutcher states he wants to hear the process and the public has a right to the findings, evidence of the findings and to ensure the policy failure that brought us here doesn't happen again. The goal is to improve processes through open, transparent dialogue. We need to know how it happened, who was a part of it and how to fix it. Monday will be four weeks since Williams resigned and I'm not happy with how this has played out. I don't think it's fair to not have released anything to the citizens and the goal is to have better policy and processes.

Commissioner Crutcher makes a motion to approve holding a public hearing based on the comments he shared. Commissioner Bissell seconds for discussion. Vice Mayor Sutton questions whether this will focus on a singular individual or department as a whole. Crutcher states he doesn't consider an individual but a public hearing for all to understand. Bissell states he has concern and thinks we should discuss all as one item as he doesn't know how to vote without knowing the parameters on the proceedings such as who will chair and how it will proceed. Crutcher states the hearing would be conducted by the Board with the Mayor as chair. He thinks the Board should have anyone involved in the process of hiring of Williams testify under oath about the process including Mr. Hall as well as any individual with information in the Police Dept. about what happened after Williams resigned and those involved in the internal investigation to discuss process, findings, written report with evidence and actions taken or will be taken based in the findings. It is limited to those directly involved or impacted.

Mayor Carroll states a fear of the potential timing when we are not finished with the investigation and appeals process and the potential for lawsuits. She agrees with a lot of Crutcher's introduction but is it wise to conduct a hearing when we could be sued and they could use our own information against us? Maybe it would be better timing when this is all completed rather than set ourselves up for the opportunity of lawsuits. Crutcher states he is concerned about that very thing. The fact we don't have a solid record of what has occurred leaves no solid integrity. This is an opportunity for the information under oath, the how, why, what happened since with evidence to substantiate and if someone wants to file a lawsuit we will have established from an evidentiary standpoint all we need. We have heard conflicting information for three weeks about where we are and I am very concerned so we may be at two different places about how to go forward. Carroll states this has all gotten a lot of attention from the media. We are only in our 3rd week and in my experience no agency is expected to complete an investigation in 10 days. We don't get to handle personnel. Crutcher states we get to handle how that man handles the investigation and I want transparency in the process. Carroll states it is our obligation to have concerns about the liability and I don't think there has been enough time for answers. Carroll states she wants the attorney's opinion on these items and the process. Commissioner Johnson states we do need the attorney's opinion but the timing needs to be figured out and he doesn't think this needs to be done while the investigation is still on and within the appeal time frame. Crutcher states he thinks they have the same concern but for different reasons. He continues that Mr. Hall needs to go forward with his process and this is separate and apart from that. Commissioner Bissell states he agrees with part of the opening 100% and believes it is clear there has been a breakdown in the process noting the information flow does not seem connected. He believes a hearing on how to approve process and protocol needs to be in effect as well as who reports what and when but while the investigation is pending it is not good to be calling employees and putting them under oath as that could be a misstep in many ways. He agrees with the Mayor that people are hungry for answers and thinks it is important to do the right thing. If the investigation is nearing the end he thinks it is worth waiting to look at how to fix things.

Mayor Carroll states she is all for transparency and the citizens understanding but the charter is very clear on the Board's role for employees and that is nothing except Mr. Hall and she continues to have to explain this to people. Bissell comments if we bring the employees in and ask questions we are inserting ourselves into the investigation. The overall assessment of what went wrong has to wait until we see the whole process, even though it has been painful to watch. Crutcher states a week ago we had an executive session and heard that action was about to be taken by the city manager who had made up his mind. Now we are hearing tonight, for the first time, that the investigation is not complete. I, as a Commissioner, can't get a clear answer and how does that work? Crutcher states concern over the integrity of the entire ordeal and doesn't know what's going on. Carroll agrees with his frustration noting it perhaps would have been better if they hadn't known what was going on until the end. Carroll notes maybe there have been other leads or new information discovered. Bissell asks if it would be proper if he could ask Mr. Hall for some more information about where the investigation is currently. Hall states he thought the hearing was to set the process for the future and Crutcher replies we discussed investigating the police department and subpoenas noting there is a huge disconnect between your statement and mine. Hall states he does support it and thought final decisions were ready but something happened later this afternoon. Cantrell notes there was a request for additional information that there is a right to have and if that should lead to re-opening the case then we would have released prematurely. More documents need to be collected. As to a hearing, anyone with pending action does not need to come before the Board before their time for action has expired. Carroll states we can have anyone not facing disciplinary or other issues and their attorney can be present but should not interfere. Crutcher states they can invoke their 5th amendment right but we have the right to draw negative inferences based on that. Carroll reiterates her concern over the documented record the hearing would produce and the possibility of it being used against the city. Crutcher states they will do that anyway and those who want

to lawyer up have already done so. Carroll states by reviewing I feel we are saying there is a problem with the process and we are not saying that yet because we don't know what's been determined. Bissell states he has read they have subpoena powers and have heard employees can take the 5th but he didn't think they can do that if it is not a criminal matter so please clarify the procedure. Crutcher states it would be a Class C misdemeanor in general sessions court. Cantrell states if an employee is ordered to be here and they don't show they have disobeyed a lawful order of the city. Bissell asks what if they are no longer an employee? Cantrell states then you have to take the subpoena route and can have the court of record order them to appear. Bissell states the part that bothers him is in order to improve the police department we have to bring this to conclusion and move forward so we need to begin the process of hiring a new chief. Our chief has retired, that position is vacant and we need to begin the process because that is the person that will be charged with adhering to protocol and bringing the department back together with the city manager. Bissell fears jumping in too quickly will cause further fragmentation and perpetuate discord and that is not good for the department or the citizens.

Vice Mayor Sutton states he will recuse himself from the vote. Crutcher states these are the parameters he suggests: don't have to have oath or subpoena, would like all employees share info who can/want and still have a hearing to understand the process such as where we are, where we have been, where we are going and we don't have to form it like a court proceeding.

Mayor Carroll states she would like people to come forward but worries about creating a circus atmosphere and doesn't want to promote that. She states if you don't think Mr. Hall is doing a proper job then we need to look to him and things we can do to fix the policy. Bissell makes an amended motion to hold a general hearing on policies and procedures, recruitment and hiring for all departments and when discrepancies are uncovered a protocol should be established. The hearing should be set for mid to end of March allowing ample time for the appeals process. Bissell recommends not issuing subpoenas but asking any director and employee who desires the opportunity to participate so we get enough feedback on the overall hiring process. Commissioner Johnson seconded for discussion.

Commissioner Crutcher states he feels the circus atmosphere has been created by how the process has been handled and the longer it goes on it only gets bigger. In response to Bissell's amendment he doesn't think it's a bad idea mentioning his introduction to a nepotism policy which has not progressed. He states we may fix the policy issues but that doesn't really shed light on the problems. Crutcher states he can't say what he feels about how this has been handled by the administration. Mayor Carroll states she thinks this can be tackled in smaller sessions but hasn't really gotten a grasp on what is wanted out of the hearing. Carroll states on the nepotism policy she did contact MTAS who provided reference information. Carroll notes in a lot of instances we have to put out fires and deal with issues as they happen so it is not possible to fix everything all at once.

Commissioner Bissell states he sees two issues they are trying to fix – protocol/procedural as in how did Williams get hired without a background check and become a detective without anyone knowing and the second is a culture issue and it has been his experience that you don't change a culture issue by calling people in and putting them on the spot even if your intentions are the best. Bissell suggested a focus group so that group employee interviews might be conducted in a safe environment noting employees will not want to talk to the Board or will be guarded if they are in the position of judge and jury. Bissell states have the skills to correct the protocol issue but the culture issue is beyond their skill level and becomes an us versus them issue. We all need to pull in the same direction. Bissell states we just had \$109,000 dropped in our laps and if we really want to solve the cultural issues we should hire someone.

Commissioner Crutcher agrees that those are the two issues but feels there already exists an us versus them noting how information from executive sessions tends to leak out because some have axes to grind. Crutcher states he doesn't want an us versus them and he does think we need to change the culture. He doesn't want the riff to be perpetuated and we need someone with the skill set to help set the policies and hold

those who deviate from them accountable. We need to close the divide so the new Board can focus their attention on other matters.

City Manager Hall states there is a proposal in the Board's packet that he wants to discuss at next week's meeting. Hall asks the Board to review, give their input and they will discuss more next week but he thinks this could lead us in the proper direction.

Mayor Carroll states she has some major issues with things passed along to the police department noting she is not appreciative of trying to bring others down. Carroll states the environment is toxic and has been brought to light because of this issue. She's is not sure why we need to spend money to correct if we have the policies and procedures in place and a chief to enforce then why spend?

Bissell notes the purpose of a focus group is to allow the employees to express themselves in a safe environment where the leader compiles the information, creates a summary on why they feel the way they do. Bissell states the distrust of the BOC creates division and could prevent specific feedback. Bissell continues he feels the most concerning item is not so much the hiring of Williams but as we peel back the layers what has surfaced and that the issue wasn't raised to the City Manager and the Board. He believes it is the duty of the employees to participate. Carroll would love for the employees to feel that we are working on the same process but bad management cultivates these environments and she doesn't think we need to spend the money. Carroll would be happy to have the discussion and we should have the policies and procedures in place and enforced. Either the employees want to work here or they don't and should learn to live among what is set forth. Carroll states she doesn't know what all went on or who is behind the toxic environment.

Commissioner Crutcher states based on an anonymous tip he told Mr. Hall about a month before Williams' hire there were big problems in the police department. And Hall had no idea Williams even existed – he was here for a year before Hall knew. Carroll asked how long the auxiliary program has been in existence here and the reply was around 20 years. Crutcher asks attorney Cantrell to share a quote and he states Harry Truman stated "make the best decision based on the best information then move on to the next". Crutcher states he wants the City Manager to act swiftly and justly so we can move forward. We have allowed this to drag out and I'm interested to hear why. Crutcher fears not all has been rooted out and may rear its ugly head again if we don't figure out how to fix the cultural problem at the root of it all.

City Manager Hall states he has followed the Charter and legal advice at every step and any hold-ups have been due to legal issues. Crutcher states it's not personal and not because he doesn't like anyone it's just part of the process. People in this organization take more stuff personally than I've ever seen – it's just business decisions. Mayor Carroll agrees noting they have a job to do and there are a lot of feelings up here but she has to sleep with herself and answer to God and the citizens and she wants to do what is right. Carroll states timing is a big contender and the reason they are doing is to make a difference. Crutcher makes a second amended motion to have the hearing with the parameters discussed (no subpoenas) to be scheduled after the appeal process is complete seconded by Carroll. Crutcher states he hopes to have an open dialogue on the process of why and how it happened with the employees involved. He thinks they could be compelled to come to maintain their employment with the city and hopes for mutual understanding.

Vote on the second amended motion: FOR: Bissell, Carroll, Crutcher, Johnson, RECUSED: Sutton. Motion carried and other motions negated.

3. **Adjournment** – Commissioner Bissell made a motion for adjournment with Vice Mayor Sutton seconding and all were in favor. Meeting was adjourned at 7:53 p.m.

Brandy Johnson
City Recorder