

CITY OF FAIRVIEW

BOARD OF COMMISSIONERS WORK SESSION MINUTES

April 19, 2018

Patti L Carroll, Mayor
Shannon L Crutcher, Vice Mayor
Derek K. Burks, Commissioner
Scott Lucas, Commissioner
Debby Rainey, Commissioner
Scott Collins, City Manager
Tom Daugherty, CFO
Tim Potter, City Attorney
Brandy Johnson, City Recorder

Present: Burks, Carroll, Crutcher, Lucas, Rainey
Others Present: Collins, Johnson, Potter

1. **Call to order** by City Manager Collins at 6:00 p.m.
2. **Items of Discussion** – Attorney Tim Potter guides the work session on the topic of the Tennessee Open Meetings Act (TOMA) highlighting the following aspects:
 - Two-pronged test: governing body and must be a meeting (where they deliberate toward a decision). Social encounters are ok but may be questioned as to what the topic of discussion was. Be careful as it can be difficult to limit discussions and any deliberation can be argued as going against TOMA.
 - Exception: executive meetings but these are limited in scope. City attorney must be present, topic can only be pending or threatened litigation, and there can be no deliberations between board members on how to solve the problem. The attorney can explain about the case and give general advice about it but there is to be no general discussion at all or deliberation.
 - Penalty for violating TOMA is civil, not criminal and anyone affected can sue. If a violation is proven, any action taken will be rendered null and void and the court can put the city under its supervision for one year. This would mean the city would have to report to the court at least twice during that year what steps they are taking to comply with TOMA.
 - A violation can be cured by acting quickly and having a thorough meeting to admit the fault and remedy the vote with a thorough discussion. The courts require a substantive curative meeting, however attorney fees may have to be paid for the prevailing party.
 - Adequate notice of a meeting is required. For a special called meeting posting to the website is not considered sufficient notice as the law requires it to be posted where a citizen might see it. Case law states two days is sufficient notice for a special called meeting but it depends on the scenario and how likely a citizen was to see the notice. Adequate notice of what the meeting is about is also required and must be specific. Notice of special called meetings should be given in an area of typical business.
 - Retreats by a governing body are acceptable as long as adequate notice is given and there is no deliberation.
 - The key to remember when sharing information among board members is to clearly define the line between information sharing and deliberation
 - If two or more members of a governing body are gathered with a third party that should be an informational only session with no deliberation.
3. **Adjournment at 6:55 p.m.**

Brandy Johnson
City Recorder