

City of Fairview

BOARD OF COMMISSIONERS

May 16, 2013

Beverly D Totty, Mayor
Stuart L Johnson, Vice-Mayor
Patti L Carroll, Commissioner
Allen Bissell, Commissioner
Toney R Sutton, Commissioner
Andrew Hyatt, City Manager
Larry Cantrell, City Attorney
Theresa Porter, City Recorder

Present: Totty, Johnson, Bissell, Carroll, Sutton

Others Present: Hyatt, Cantrell, Porter, Lovvorn, Pewitt, Cooper, Paisley, Harris,
Holsinger

1. Mayor Totty called the meeting to order at 7:00 p.m.

A. The prayer and pledge was led by Director Lovvorn.

2. Approval of the Agenda –

A. Commissioner Sutton made a motion to approve the agenda. Vice-Mayor Johnson seconded. Mayor Totty stated that she would like to add plan of services to 8B and 8C for the purpose of acknowledgement of filing and reference to the Planning Commission for recommendation on both annexations and change 8C deleting the 7124 Elrod Road that was posted and have that corrected to 2931 Fairview Boulevard. Commissioner Sutton stated he would like to add 8D discuss and/or take action on alcoholic beverages at the 4th of July celebration at City Hall. All were in favor.

3. Citizen Comments – (Limited to the first five (5) citizens to sign in and a limit of three (3) minutes each). –

A. Mr. Neil Rice stated that this week he placed in each Board members mailbox at City Hall copies of two letters that he had received from the Tennessee Historical Commission. The first letter provides absolute assurance that adding the heating and air conditioning system will not change the status. The second letter approved the architect's drawing for the kitchen and restroom and also provided an assurance that construction in that manner as illustrated will not change the status on the national registry as long as they are not constructed to indicate this was original. The second letter also indicated that the original windows must be restored. He requested that the Board grant approval for the architect to continue with whatever work he is doing, the submission of bids, and approving the donated heating and air conditioning to be installed.

B. Jim Power stated that he was here about the chickens and would like to have hens in Fairview. He stated that he will be in Nashville tomorrow building a \$1,000 chicken coop behind the Jewish Synagogue at a house worth a million dollars in downtown Nashville. He stated that when he builds these chicken coops in Nashville the people are taken aback that he can't have chickens in Fairview. He stated that hens are quiet, his dog makes more noise than chickens, he believes animals should be taken care of and chickens shouldn't

run around loose. He stated that he would like to see something like the Nashville chicken ordinance pass here in Fairview.

4. Awards and/or Recognitions –

- A. Mayor Totty stated that she has the distinct honor of swearing in one of new Police Officers - Richard Ross. Mayor Totty welcomed Officer Richard Ross and swore him in and congratulated him. Chief Harris stated that a week from Sunday he will go to the Law Enforcement Training Academy.

5. Public Announcements –

- A. Mayor Totty announced that the Keep Williamson Beautiful and the Fairview Area Chamber of Commerce is hosting our Spring Clean Sweep it was postponed due to weather but it will be this Saturday the 18th 8:00 a.m. at the Bank of America parking lot, they will have everything that is needed, just show up and show your pride. We will be picking up on identified roadways and it does start at 8:00 and will go till around noon. Commissioner Sutton stated that the city is doing such a good job along the main thoroughfares that maybe we should concentrate on other roads. Street Supervisor Holsinger stated that his crew does such a good job picking up the main thoroughfares and recommended to the Board and the people of Fairview some of side roads like Cox Pike, Cumberland and Crow Cut. The crews have cut Cumberland and Chester.
- B. City Manager Hyatt reminded everyone of the emissions testing on Tuesdays at the Hwy 96 Fire Station from 7:30 a.m. till noon.
- C. Mayor Totty wanted to inform everyone that there is a Community Garden Committee and they have met twice and if you have an interest as a master gardener or a citizen or anyone that has had experience in the past please speak with her or Commissioner Carroll so you can get in the email list and be part of the loop and be a part of that Community Garden Committee.

6. Approval of the Minutes –

- A. The minutes for the April 18, 2013 Board of Commissioners meeting were presented for approval. Commissioner Sutton made a motion to approve. Commissioner Carroll seconded. All were in favor.

7. Old Business –

- A. Discuss and/or Take Action on Bill #2013-12 Ordinance No. 807. Vice-Mayor Johnson read the caption 'Bill #2013-12, Ordinance No. 807, An Ordinance to Add Chapter 3, Section 13-301 Keeping of Chickens, To Title 14, Zoning and Land Use Control, of the Municipal code of the City of Fairview, Tennessee. Vice-Mayor Johnson moved to approve with some discussion and changes. Vice-Mayor Johnson stated that there is a type-o in the caption; Tile 14 should be Title 14, which needs to be corrected. Vice-Mayor Johnson asked Director Lovvorn about section #3 and the AR5 and AR15 zoning being agriculture and couldn't they already have chickens. Director Lovvorn stated that AR is agriculture residential and chickens are not allowed. Vice-Mayor Johnson asked if they could have horses and Mr. Lovvorn stated yes, you can have horses. Vice-Mayor Johnson stated that this should be re-written and no one from the entire city should be excluded from this, if they live in a subdivision and the subdivision says they can't have chickens, that is out of our power, but we in doing this should say that every resident has the equal right to have this, if they want it, if the subdivision says they can't have it then they have got to take it up with them not the city. Mayor Totty stated that the only foot note she would say is multiple family zoning, Vice-Mayor Johnson agreed and said any

single family dwelling zoning. City Attorney Cantrell stated that the specific zones should be listed in the ordinance so that there is no confusion when someone moves into one of those zones. Vice-Mayor Johnson made a motion to defer this to the next meeting. Mayor Totty seconded. Commissioner Carroll stated that the only thing she is concerned with is that some of the older subdivisions have smaller lot lines, they probably don't have neighborhood regulations and she worries about making a blanket ordinance and not having the lot sizes. City Attorney Cantrell stated that most of the zoning designations are going to have the lot size with it. Director Lovvorn stated that the least size is a 5,000 square foot lot or 1/8 of an acre that is a RS5 zoning, which is Town Center. City Attorney Cantrell stated that you would leave out the classification for the City Center, we would also need to revise it, the University of Tennessee study recommended two square feet per chicken inside and six square feet in the run outside so we would have to go back and change that limit on those because there were larger lots and we limited it to 40 chickens, we'll have to make that where you can only have the number of chickens based on the square footage. All were in favor to defer and this negates the original motion. Director Lovvorn asked if the Board wanted to totally exclude Town Center from allowing chickens. Vice-Mayor stated I would think so. City Attorney Cantrell stated that we could always come back and amend it and that there was a provision that he would like to leave in and it makes it very clear that is for the City enforcement and does not in any way infringe upon covenant restrictions or home owners association agreements.

- B. Discuss and/or Take Action on Recommendations from the Park Commission – Mayor Totty stated that the May 6th meeting had a recommendation that the Board of Commissioners approve an optional ADA trail in Bowie Park outside of what staff is currently working with for going from the parking lot, across the dam and down the lower side of Loblolly, in your figuring and thoughts for our ADA as a second option. Mayor Totty made a motion for approval. Commissioner Carroll seconded. *For:* Totty, Carroll, Johnson, Sutton *Against:* Bissell
- C. Discuss and/or Take Action on Recommendations from Budget Workshop – Mayor Totty stated that we had a budget workshop at 6:00 p.m. and the staff and the Board of Commissioners discussed the draft of the 2013-2014 budget. She believes it was a very healthy discussion and it was from a very conservative stand point. The point of the matter was the Wal-Mart revenue, of whether the budget would be balanced on the Wal-Mart revenue or not. The recommendation from the budget workshop is to charge the CFO, Ms. Pewitt to revise the budget draft to show no Wal-Mart money and then to bring it back to us to analyze how we can balance the budget and not spend the money we do not have. Mayor Totty made a motion for approval of the recommendation. Vice-Mayor Johnson seconded. *For:* Totty, Johnson, Carroll *Against:* Bissell, Sutton
- D. Discuss and/or Take Action on City of Fairview Projects – Project Manager Holsinger stated that this will be a medley between him and Mr. Lovvorn on the list put before the Board. He stated that he has added one new column on the projects list over on the right hand side for what phase the project is at.

The Greenway – we are still not at the NEPA phase.

Bowie Lake Road – we are currently waiting on the final inspection for the pad mounted transformers, once that is approved by Middle TN Electric and the state inspector, we can get Middle TN Electric out to go from the pole mounted transformers to the underground power service. That will free up the sidewalk work and the continuation of the project. There is one other utility, Comcast, to

get into the Fire Station and meeting with them tomorrow and hopefully that will be resolved early next week and we'll keep going.

Lake Van Trail – There is a preliminary analysis on the asphalt walks and the boardwalks, the asphalt walks we are looking at \$115,000 and most of that will be done by a contractor. With the boardwalks and staff doing the labor, boardwalk #1 has a \$26,460 value with a distance of 105 feet, boardwalk #2 \$25,704 with a distance of 102 feet and boardwalk #3 \$18,144 with a distance of 72 feet and this is for materials only. There will be asphalt up to the dam, we are still working with the dam inspector to see what we can do there, the asphalt picks up to the first boardwalk where there is a swampy area, then the trail picks back up to the second boardwalk and the trail picks back up to the third boardwalk and the trail goes to shelter two. The prefabricated bridge over the dam had a price of \$73,500 and currently working on an alternative to get across the dam without impacting the structure. Mayor Totty asked if there has been any conversation on the asphalt and lake contamination. Mr. Holsinger stated that part of that is in the specifications that were originally developed by the engineer, and since we have gotten the original bid package we can reduce scope we can send it out to bid and maintain the environmental quality requirements of the asphalt. Commissioner Sutton stated he is glad to see this moving forward.

Roadscapes – it is in the NEPA phase and we are waiting on environmental documents.

Triangle School – Director Lovvorn stated as Dr. Rice presented to you, the letters he received from the state and Mr. Lovvorn was able to get in contact with the National Historical Commission and they said the only way it will be removed from the registry is only through a recommendation through the state and with these letters we feel comfortable that we can move forward, we haven't received a cost from the architect for the flat fee that we requested, when we receive that we will report that to the Board for the Board to decide if you want to spend the money for the plans. Mr. Lovvorn stated that we have contacted Tony Reasons in the Historic Overlay District to make the changes that were requested by Dr. Rice and the Historical Commission for the removal of the names of the buildings, just to make it a generic overlay, and where the amphitheater was, I told Tony to leave that building where it was in case they want to put something there later and just to add another building to where they want the amphitheater added and to reconfigure the sidewalk to allow for some open space between the amphitheater so you would have a place to sit in front of the stage area, Mr. Reasons said he would do this at no charge and this should go back to the Planning Commission at next month's meeting to amend that PUD and once the Planning Commission makes a recommendation to amend the PUD it will come back to this Board for approval as well.

Bowie Park Forestry - the bid is being prepared and should go out sometime next week. Mayor Totty asked if the X's are coming down or are they staying. Mr. Holsinger stated that he has spoken with Keith Paisley and the X's have not come down, the park department wants to utilize those trees as part of their resources for the craft projects but the one's with the X's are coming down.

The Welcome Signs – we have now completed the back of the sign at the Fire Station on Hwy 96, we still need the location for the third sign, and not sure if it can be part of the PUD amendment for Historical Village, Commissioner Sutton has recommended a spot down Hwy 100 on the left hand side past Givens family property, if we can get approval from them, that's an option and we would just have to look into the electrical for the future for any kind of lighting. Mayor Totty clarified that it is the corner of Southern Road and Hwy 100 and stated that her only concern is that the property is for sale and another option would be the corner of Deer Ridge Road and Hwy 100 and asked Mr. Holsinger if he could

evaluate electricity and options that would be good for us to come to a decision on this and get past this. Mr. Holsinger stated that he did receive a bid from a local electrician for lighting the sign at the Fire Station and it was roughly \$2,100 and we would have to discuss easements on the property on Hwy 100.

Safe Routes To School – we are in the NEPA phase.

Active Transportation – we are in the NEPA phase.

MPO – we are in the NEPA phase with Griggs and Maloney, out of Murfreesboro.

City Paving – we have gotten together with some of the recommendations and we are still evaluating the streets. We are getting requests through the website and some people are stopping by the office and we are evaluating those as well.

Evergreen Park – with the money we have left we are about 80% complete, we have new picnic tables and have done some grading, we cut the snake infested grass out of there and all the trees and logs out of there and it's looking really good. If we mill King Road there is a potential to use the milled materials to help make a parking lot and with a little money left maybe we can get some trash cans and some additional gravel. We have utilized an existing swing gate; we put that in a place that is usable to cut off traffic around the lake. Mr. Holsinger stated that he is working with Middle Tennessee Electric to put in some cobra lights to help with security. We are working with TWRA, we do have a partnership with them, they would like to come out and shock the lake and make recommendations on how we can improve our lake quality at Lake Van and Evergreen Lake and that should happen in the second week of June and that is no charge to the city.

The Park Five Year Strategic Plan – City Manager Hyatt stated that as a staff we are beginning to review that so we can make recommendations back to the Park Board.

The Transportation Plan – Director Lovvorn stated that we are still working with Griggs and Maloney and probably in the next two or three months we should have recommendations back to this Board.

Farmer's Market – City Manager Hyatt stated that we understand there have been some changes in the leadership and we are not sure how we want to proceed at this point we don't seem to have as much interest as stimulated in the past due to the death of Mr. Jones but we are having the building placed on that piece of property.

The City Center Overlays – Director Lovvorn stated that from the last meeting this Commission decided that there was no need to revisit this if we were going to build the roads in Town Center and there wouldn't be a need to revise that plan. Mayor Totty stated that she agreed with the revising but the word not to revisit, she feels we are definitely going to keep it on a front burner and revisit it as need be and as development comes our way, so it is going to be revisited but not necessarily revised which we all agreed would not be the best use of the money.

The City Survey – City Manager Hyatt stated that he has prepared some questions and general type information to be given out or somehow assimilated to the public and maybe after the budget we can come back to a commission meeting or possibly a workshop to see how we want to do this. Mayor Totty stated that she sent out to Mr. Hyatt and the Commissioners a survey with the Williamson County Chamber, it was Survey Monkey but it also had the person working on the survey and asked Mr. Hyatt to look at that resource and decide if she can help, is there a fee or is it a volunteer position and to evaluate if we can get help if we can't get past this stage. Mr. Hyatt stated that he has utilized them with MTAS and quite a few surveys they have put out and TML, some of those are the same type of surveys and is very useful tools and he will look further into that.

Project Manager Holsinger stated that one thing he forgot to mention on item 12, Evergreen Park is that the actual distance around that lake is about 200 feet shy

of a half mile and when complete would be a good half mile walking track and maybe we can get a little creative with the paving and make it a complete half mile.

Commissioner Sutton asked the City Manager to put a notice out, as far as interest in the Farmers Market; he stated that he has had a lot of people tell him they would love to have a Farmers Market here, he has spoken with Mrs. Jones and she is dedicated in moving forward with it, and put a notice out and ask for people to contact us if they are interested in it. Mayor Totty stated that the Community Garden did discuss the opportunities once the garden takes off, that would maybe create an interest of the vegetables and whatever comes out of the garden, that base could be part of the Farmers Market, if it does not get new wind. She stated that she did see Mrs. Jones there and one other person and we may see a new face but she feels there is a great interest and it will pick up a new life.

- E. Discuss and/or Take Action on Audit RFPs – CFO Pewitt stated that we received three Audit RFPs, one being Parsons and Associates, they were our previous auditor, their bid was \$8,000, Patterson, Hardee & Ballentine PC at \$9,000 and Alexander Thompson Arnold PLLC at \$13,000. She stated that we are looking for guidance from the Board as to whether you would like to take the lowest proposal or if you would like to interview all three and then make a choice. Mayor Totty stated that she would like to see if Patterson, Hardee & Ballentine would negotiate their fee. Commissioner Bissell asked how long Parsons and Associates have been our auditor. Ms. Pewitt stated that she has an audit that goes back to 2002 but Mr. Parsons has mentioned that he has done this audit for around twenty years. Commissioner Bissell stated that he is not interested in the high bidder and there is not much difference in Parsons and the second bidder, a \$1,000. Commissioner Bissell made a motion to approve the second bidder. He stated that it is good to change auditors every once in a while and twenty years is probably too long. Commissioner Carroll seconded. Mayor Totty amended the motion for Ms. Pewitt to negotiate with Patterson, Hardee & Ballentine that we had three bids and they were a \$1,000 high and will they negotiate. City Attorney Cantrell stated that he thinks once you have the bids if you are going to interview them, you will have to interview all three and you are either going to have to take the bid as submitted or you won't be able to negotiate a bid that is open in public, you either accept it or reject it, you don't have to take the low bid but you have got to have a reason for not doing it. Mayor Totty withdrew her amendment. Commissioner Carroll stated she would like to know Ms. Pewitt's opinion are we getting a better value from one or another, hopefully they are all the same and would rather interview them. Vice-Mayor Johnson suggested taking the lowest bidder and that Parsons and Associates have been doing the audit for a long time and not been charging us crazy. Ms. Pewitt stated that with the current auditor the audit has not been timely, however the RFP stated that it has to be completed by December 31st and they have to start no later than August 31st and if he didn't finish on time he would be breaking his contract with us. City Attorney Cantrell stated that you would have to include the RFP and the bid in the contract by reference. Commissioner Carroll stated that she agreed with Commissioner Bissell that we have the same auditor for twenty years but then also valid point we've had someone doing this for twenty years giving us a good value and not raising the rates. She asked is there anything in particular besides that he didn't get it back in a timely manner, is there anything else that would be a concern? Ms. Pewitt stated no that she has worked well with him both years and the difference in the firms would be the size, Parsons and Associates is two people, Patterson Hardee & Ballentine is

approximately seven people and then the Alexander Thompson Arnold is a much larger firm. *For:* Bissell, Sutton, Totty *Against:* Johnson *Abstained:* Carroll Motion carries for Patterson, Hardee & Ballentine to be the bid of choice

8. New Business –

- A. Discuss and/or Take Action on Cass Fagan Property, Map 18 Parcel 47.27, in Evergreen Industrial Park – Cass Fagan thanked the Board for serving and stated she would like to retire in Fairview and that she has purchased two lots and one is in Evergreen Industrial Park. She has tried for several months to get all of the signatures to evacuate that lot from the Industrial Park and has gotten 23 out of 24; the paving company will not sign. This was taken to the Planning Commission last meeting and was a little confused as to the outcome of the proposal of not requiring 100% and whether that was understood that that is part of the Planning Commissions purview that they can do that and wanted Sharon Armstrong to talk about that. Ms. Armstrong stated that Ms. Fagan has appeared in front of the Planning Commission four times, her attempts have been unsuccessful in gaining some relief in the ownership of this property and her desire to construct a residence on it. It does lie adjacent to residential property on both its boundaries on the right. The Planning Commission was of the opinion that they did not have the right to vary the 100% requirement for signatures to have the plat or the property vacated from the plat, the subdivision regulations do allow for them to vary in extraordinary circumstances. Ms. Fagan is unable to construct on the rear of the property, it is cost prohibited, there is a creek, environmental issues, and there are issues to getting a water line and electricity to the back, the portion that lies in Williamson County. We are here to ask the City Commission if they would consider waving or granting a variance to the conveyance that exists on the property, which is Ms. Fagan's last resort. Failing that we would welcome the chance to visit with the City's Attorney and discuss the variance capabilities of the Planning Commission. Mayor Totty asked for some direction from Director Lovvorn and asked that when she addresses the covenant restrictions, do we have authority over the covenant restrictions currently. Director Lovvorn stated that the covenant restrictions can only be amended by 75% of the total lot owners along with the approval of the Industrial Board and the approval of this Board. The one residence in Evergreen Industrial Park is a caretaker's residence and not really considered a single family dwelling; it's just a caretaker's home for the kennel. Even if the covenants are amended to allow a residence you couldn't allow a single family residence because of the zoning of the property. Mayor Totty stated she wanted to visit the extraordinary circumstances. Ms. Armstrong stated that Ms. Fagan also owns the parcel to the rear that lies in Williamson County she has explored with the utility companies for water and electric the potential of building on that parcel, there is a creek on that parcel, the west prong of Brush Creek, it's their environmental issues with getting a waterline across the creek to that parcel, it is also cost prohibited to have electric located on the property, to have a line run because they have to get permission to cross the city boundaries and your right of ways and your easements in order to get that done as well. Ms. Armstrong read from the cities covenants 'the City reserves the right at any time to prove in writing minor variances or wave in writing compliance with any of the covenants conditions set forth in this instrument as may be deemed necessary' then stated you do have the authority to amend, vary or wave requirements. Ms. Armstrong stated that Ms. Fagan purchased the property and it was expressed to her that she wouldn't have an issue building a residence, this is her retirement home and she has used her savings for retirement to purchase this property. Vice-Mayor Johnson asked if she could explain and expand on that and tell the Board who told Ms. Fagan that. Ms. Armstrong stated that she believed

that when Ms. Fagan was in the process of purchasing the property she discussed with the agent that sold her the property that her desire was to build a house, the agent expressed to her that it was simply a matter of rezoning and gathering some signatures something that would be easy to do, so she purchased the property, she invested her savings into that property as a retirement home. Vice-Mayor Johnson asked that at no time was that a city employee or representative of the city that told her that. Ms. Armstrong stated that it was not, like most people do, they rely on the real estate agent to guide them through the purchase of property, when Ms. Fagan expressed that she was looking for a retirement place, she liked the property, liked the location and saw the houses next door and felt fairly comfortable moving on and had no idea that it would become so complexed so quickly. Ms. Armstrong stated that she explored at Ms. Fagan's request the ability of the Planning Commission to vary that 100% requirement, it cannot violate your zoning ordinance variance when it is granted, which it does not, it cannot destroy or compromise the intent, which it does not, of the subdivision regulations. So the Planning Commission expressed that they were of the opinion that they had no variance authority at all, there are some specific requirements established by state statutory requirements of the state of Tennessee under which variances can be granted so at this point, she is kind of, to put it mildly at wits end, it has been some six or seven months she is approaching retirement and her only other option would be to place the property up for sale and begin the search all over again. Director Lovvorn stated that the subdivision regulations do allow for variances, the Planning Commission was told that they have the ability based on the subdivision regulations, they chose not to grant the variance, and it wasn't that they didn't feel like they could, they didn't want to. In the subdivision regulations it gives out the reasons for granting variances and in 1-112 of the subdivision regulations it lays out the Planning Commission can grant variances for extraordinary hardships but it also says that they cannot be self-imposed. Ms. Fagan bought the property knowing it was zoned incorrectly and then she comes in and asks for it to be zoned residential, that's a self-imposed hardship so the Planning Commission really couldn't grant the variance based on that. Vice-Mayor Johnson stated that basically what Donn was saying is during the contract phase of the purchasing of the property the due diligence wasn't done to see if what wanted to be done could in essence be done after closing. Mr. Lovvorn said yes sir. Vice-Mayor Johnson said his next question would be basically would this be the same thing Mayor just say lot 53 in Castleberry Farms all of a sudden decided they wanted to tear their house down and build a convenience store, and they wanted to go around and get signatures to be vacated from the plat so they can have a commercial building in the middle of a subdivision, would that be approximately what we are asking here. Mr. Lovvorn said basically yes and Mayor Totty said yes. City Attorney Cantrell stated that it would also be illegal spot zoning and the Planning Commission could have granted a variance but not when the condition complained of was self-imposed, both the covenant restrictions are recorded at the court house anybody could have pulled them and looked at them, there is nothing in those covenant restrictions that this Board if they chose to wave, there is nothing in there about a residence. The Planning Commission under 1-111 on vacation of plats is where the provision comes in about the 100% of the signatures, they were given additional time to obtain those signatures and try hard as it might they apparently could not do that, but even if the Planning Commission had granted a variance, the Planning Commission can't rezone, this Board would have to rezone the property and again it would be spot zoning. This Board can't help the fact nor can the Planning Commission that due diligence wasn't done on the front end because this property is all zoned commercial and industrial and there is not anything in this covenant restrictions that mentions anything about residence other than you can't have a permanent residence in there, even if you waved it you've got a spot zoning

situation and that's illegal. Vice-Mayor Johnson asked if Ms. Fagan had in writing from the real estate agent that she could build this house. Ms. Armstrong stated that the agent explained to her that she would need the signatures and to seek rezoning. Commissioner Sutton made a motion to decline this request at this time. Vice-Mayor Johnson seconded. Commissioner Bissell stated that his understanding is that Ms. Fagan knew she was going to have to secure some signatures and change the zoning when she bought the property, so there is no deception by the real estate agent and according to what the city attorney told us, even if we wanted to allow you to do that, we are prohibited by law from spot zoning and I don't see how we can change it without the zoning being changed and that's another process. Commissioner Bissell asked Director Lovvorn if she would have to go back to the Planning Commission. Director Lovvorn stated the plat would have to be vacated before you can rezone the property because it is part of an Industrial Subdivision and in order for it to be vacated you have to have 100% of the signatures. City Attorney stated that you cannot grant the variance from the 100% signatures, that is part of the subdivision regulations and if you were going to do that you would have to change the regulations and that's the purview of the Planning Commission, they would have to change it where you don't have to have 100% of the signatures to vacate the plat. Ms. Armstrong stated that part of the issue for the client Ms. Fagan is that there is a philosophical disagreement with the ability of the Planning Commission to vary regulations, in preparing for the case Ms. Armstrong consulted with George Dean who is the land use attorney who advises the Tennessee legislature on matters of land use and planning before we made that request so it's a difference of opinions between attorneys, which she respects Mr. Cantrell's opinion, had Ms. Fagan not purchased a lot adjoining all in one deed, right now she is in a catch twenty two she has no resolution to the circumstance that exists but again it's not our intent to circumvent any regulation, we understand rezoning would still have to be sought, Ms. Fagan sought rezoning, filed the application with the Planning Commission at the same time she was acquiring signatures from 23 of the 24 adjoining property owners in Evergreen Park. City Attorney stated that he was not saying the Planning Commission could not grant that variance, because they can grant that variance but they have already met on this once and said that they were not going to change from the 100% signatures, now they can go back and ask the Planning Commission to reconsider if they so desire but this Board can't grant that variance, that would have to be done by the Planning Commission. Commissioner Sutton re-stated the motion is to decline to vacate the plat. Vice-Mayor Johnson seconded. Vice-Mayor asked the City Attorney at what point can the Planning Commission say that they don't want this on their agenda. City Attorney stated that he thinks they have already considered it twice and he thinks if it goes back on this one they can say we've ruled on it this is now three times, if it comes back again they can say we have already heard it, we've already decided this issue we don't want to hear it anymore then the appeal will be to the court system. Mayor Totty called the vote. *For:* Sutton, Johnson *Against:* Carroll, Bissell *Abstained:* Totty The vote was 2 to 2, no action the motion dies.

- B. Discuss and/or Take Action on Bill #2013-10 Ordinance No. 805 - An Ordinance to Annex Certain Property, Located at 2950 Fairview Boulevard, Herein Described Below and to Incorporate Same Within the Corporate Boundaries of the City of Fairview, Tennessee; Belonging to Jerry E. Cary and Wife Helen A. Cary. All the Property Proposed for Annexation Lies Within the City of Fairview, Tennessee's Growth Boundary. No representation. Vice-Mayor Johnson made a motion to defer. Commissioner Bissell seconded. All were in favor.
- C. Discuss and/or Take Action on Bill #2013-11 Ordinance No. 806 - An Ordinance to Annex Certain Property, Located at 2931 Fairview Blvd, Herein Described Below and to Incorporate Same Within the Corporate Boundaries of the City of Fairview,

Tennessee; Belonging to Russell Spicer and Wife Peggy Spicer. All the Property Proposed for Annexation Lies Within the City of Fairview, Tennessee's Growth Boundary. No representation. Vice-Mayor Johnson made a motion to defer. Commissioner Bissell seconded. All were in favor.

- D. Discuss and/or Take Action on Fourth of July Celebration at City Hall – Commissioner Sutton made a motion to move forward or decline the beer sales at the Fourth of July Celebration. He stated that he hasn't seen any problems with it, the request was to find out if we are going to allow it so they can move forward with their advertising. Commissioner Bissell seconded and stated that he agrees with Commissioner Sutton that we've had no incidents in the past two years that Chief Harris and his officers have handled security very well and in addition to that he feels the vendors have done what we've asked them to do and I think we ought to allow it using the same rules and regulations that we did before and manage it the way it has been managed and it won't have much of an effect one way or the other. City Manager Hyatt asked if it passes do we limit it to the first vendor that shows up or do we go with multiple beer vendors. Commissioner Bissell amended the motion to allow one vendor. He feels one vendor should be able to handle it and that should be left up to staff on who that vendor should be; based upon the past relationships and the quality of the vendor. Commissioner Sutton seconded. Commissioner Sutton asked if we had limits on any of the other vendors. City Manager Hyatt said no sir. Commissioner Sutton stated that if we are going to have one vendor than it should go to the first vendor that qualifies. City Manager Hyatt asked if they would have to go before the Beer Board to get a permit and would any qualify if it sold during the sting operation. City Attorney Cantrell stated that the Beer Board would have to act on the permit if it's a temporary or an event permit. *For:* Sutton, Bissell, Carroll *Against:* Totty *Abstained:* Johnson Mayor Totty called for a vote on the original motion. *For:* Sutton, Bissell, Carroll *Against:* Totty *Abstained:* Johnson Motion carries.

9. City Manager Items for Discussion –

- A. Miscellaneous Updates – City Manager Hyatt stated that we are going forward with Independence Day Celebration entertainment and we anticipation just local entertainment and will be approaching those individuals in the next couple of weeks to get that secured, we have some inquires and are looking at three or four entertainment groups. The second item is that we all feel very strongly about our Veterans and I am going to put on the next agenda that we name the park at Evergreen Lake, Veterans Park and we go with possibly some donations or something to get monuments, flag poles and that type of thing. We have a Town Hall meeting coming up.
- B. Staff Comments –
CFO Pewitt presented the April financials, revenues are at 74% and expenses are at 83.54%. She asked if the Board wanted to have another budget workshop. Mayor Totty stated that we have a Town Hall meeting on the 30th we'll be focusing on the budget for public input or discussion and if there is none or runs short we can go into a workshop at that point. Commissioner Bissell asked if the Board agreed that we would have the first reading of the budget at the Town Hall meeting if so we would need to have the workshop prior to that. Ms. Pewitt stated that there has to be 15 days between the first reading and the second reading of the budget to meet Comptroller's guidelines. The Board agreed to have a budget workshop on May 30th at 5:30 p.m.
Project Manager Kevin Holsinger stated that the Street Department will be out in full force mowing the right of ways so be cognizance of our bush hogging, if you

see our signs up and our guys out, be careful around them and anyone else. Make sure if you put brush out please put the cut end towards the roadway.

Park Superintendent Keith Paisley stated he is getting back with the Board regarding the six mile run, he spoke with Neil Dispaney with Metro Parks about the six mile run and everything that he asked about was good to go, there were no injuries reported, they did not receive any percent from the profits, they doubled the fee for using the park, the maximum number of runners was 250, they left the park in great working order, they cleaned up after themselves and are working with them for more races. Mayor Totty asked what the date of the run was on and Mr. Paisley stated July 14th from 6:00 a.m. till noon and that is a Sunday morning. We have the Fishing Rodeo on Saturday, June 8th from 7:00 a.m. till 10:00 a.m. partnered again with TWRA and we have fishing poles, tackle boxes and all kinds of good stuff to give away.

- C. City Attorney Comments – stated that he has been advised by the City Manager that it has been advertised and he wanted to remind everyone about the Executive Session after we dismiss and he promises to be short.

10. Communications from the Mayor and Commissioners –

- A. Commissioner Bissell had none.
- B. Commissioner Carroll had none.
- C. Commissioner Sutton had none.
- D. Vice-Mayor Johnson stated that it was puzzling to him and the Mayors side after the vote was taken, he doesn't see how we can have an issue and the City Attorney tell us that you absolutely cannot do it by law and then two Commissioners go against his decision, everybody has a right to vote the way they want to but he just can't imagine going against legal advice. Another thing was the \$1,000 that was wasted tonight of tax payer's money to change auditors, we've never had a problem and if there has ever been a question that anybody on this Board has known about him getting it in late tell him now. Mayor Totty stated that it was late for David for two years and it's been late for Crystal for two years. Vice-Mayor Johnson asked why nothing was mentioned that we needed to change then. Mayor Totty stated that he filed an extension and Ms. Pewitt expressed it each time.
- E. Commissioner Bissell commented on Vice-Mayor Johnson's comment by stating that legal advice is legal advice and while he respects Mr. Cantrell he doesn't always agree with Mr. Cantrell and the fact that Mr. Cantrell told him his legal opinion, he still has to apply his own judgment because he is the one held accountable, not Mr. Cantrell and he will vote as he sees to vote and feels there has been a lot of problems in the whole process as it pertains to Ms. Fagan's application, everything from the start to the end. He feels one of the things that we testify to up here is that we are trying to serve the public and he feels that instead of trying to help her solve her problem we are trying to make her problem more difficult and he didn't hear an answer saying we've done all we can to help her so he chose to vote nay. He stated that Robert's Rules of Order says when you abstain, you must state the reason that you abstained and it must be a conflict of interest, if you choose to no vote, you can do that, but tonight several of the Board chose to abstain without giving a reason and should have been called to order but he didn't because he felt like they are Commissioners and they can stand good for what they say. Now as to spending the \$1,000 basic accounting principles will tell you that it is a good practice to rotate accountants because you don't know whether or not he has done a good job because you haven't checked his work and most of us don't have enough accounting back ground and didn't do

an audit of the auditor, we just took the information at face value and stated that he was sorry if you disagreed that it was worth \$1,000.

- F. Mayor Totty reminded everyone that Clean Sweep is Saturday at 8:00 a.m. at Bank of America, and that is co-sponsored by the Chamber of Commerce and Keep Williamson Beautiful so come out and show your support. Second announcement Mayor Totty commented that on the 30th of May is the fifth Thursday which is our Town Hall meeting and she directed that to the public for the option of speaking about the budget, towards the budget and comments about the 2013-2014 proposed draft budget.

11. Mayor Totty asked for adjournment.

- A. Commissioner Sutton made a motion to adjourn. Vice-Mayor Johnson seconded. All were in favor. The meeting adjourned at 8:41 p.m. Mayor Totty requested immediate Executive Session.

Theresa Porter
City Recorder