

# CITY OF FAIRVIEW

## BOARD OF COMMISSIONERS MEETING MINUTES

July 7, 2016

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

Present: Carroll, Sutton, Crutcher, Johnson  
Others Present: Hall, Cantrell, Daugherty, Johnson, Smith  
Absent: Bissell

**1. Call to order by Mayor Carroll at 7:00 p.m.**

A. Prayer and Pledge led by Mayor Carroll

**2. Approval of the Agenda** – Commissioner Crutcher made a motion for approval with Commissioner Johnson seconding. All were in favor.

**3. Citizen Comments (Limited to the first 5 citizens to sign in and a limit of 3 minutes each).** - NONE

**4. Awards and/or Recognitions**

A. Interim City Manager Hall welcomes State Representative Jeremy Durham to share some good news. Durham notes that just about 10 months ago Fairview officials met with TDOT officials and discussed needs for the city. He is excited to announce that TDOT has approved just under \$1 million to connect sidewalks in the city to improve the quality of life and safety for Fairview citizens. Hall recognizes Ron Rowe and Scott Tucker who assisted with the application for this grant. The grant will connect existing sidewalks from the south side of Bowie Lake Road all the way to Jingo Market. Hall also thanked the Mayor, TDOT officials and Representative Durham for their help in getting this project off the ground. Mayor Carroll notes we applied for this project previously and did not receive it. After that is when we requested assistance from Durham for a meeting with TDOT. Carroll thanked Durham for the great relationship he has with Fairview and for all he does for the city.

**5. Public Announcements**

- A. Interim City Manager Hall reminds of emissions testing every Monday and Tuesday from 7:30 am until noon
- B. Ron Rowe with Friends of the Library reminds of the semi-annual book sale to be held July 28-30 at the rec center. Rowe notes specific needs for donations and volunteers and asks inquiries for more details should be directed to the library.
- C. Commissioner Crutcher notes 2 Fairview softball teams (10U & 12U) are headed to the World Series and are only about half-way to their fundraising goals but have until the end of the month to complete.

**6. Staff Comments**

A. Codes Director Hall states you never know what phone calls you will get noting he received the following calls today with interest in coming to Fairview: hotel, ACE Hardware, and a new pet training/boarding facility. Hall states he hopes these possible new businesses come to fruition. Hall also notes we received 5 building permits this week just on Wednesday and have three pre-

construction meetings scheduled in the next week for Cumberland Estates, Hardee's and the third phase of Deer Valley Downs.

- B. City Recorder Johnson notes our special census has been certified by the State at 8,002. Also, Johnson thanked all the staff from the Police, Fire, Streets and Parks departments for their extra work and help bringing the Independence Day Event together for the community.
- C. Finance Director Daugherty states the 2017 budget has been sent to the comptroller and he has been busy with preliminary audit work noting auditors will be on site the week of August 8. Daugherty has also been working on year-end closeout and tying up loose ends.
- D. Parks Director Paisley notes Starlight Jam Friday night featuring Flat River Band with music from 6:30 until 9:00.
- E. Mayor Carroll recognizes Interim Police Chief Scott Smith and his wife in the audience.

**7. Approval of the Minutes** (only needed if removed from consent agenda)

**8. Consent Agenda Consisting of Items as Follows**

- A. Approval of the Minutes from the June 16, 2016 Board of Commissioners Meeting
- B. Approval of the Minutes from the June 23, 2016 Board of Commissioners Public Hearing #1
- C. Approval of the Minutes from the June 23, 2016 Board of Commissioners Public Hearing #2
- D. Approval of the Minutes from the June 23, 2016 Board of Commissioners Special Meeting #1
- E. Approval of the Minutes from the June 23, 2016 Board of Commissioners Special Meeting #2
- F. Second and Final Reading of Bill #2016-18, Ordinance No. 932, An Ordinance to Establish an Updated Occupational Safety and Health Program Plan, Devise Rules and Regulations, and to Provide for a Safety Director and the Implementation of Such Program Plan. An Ordinance to Amend Bill #2013-09, Ordinance No. 804

Vice Mayor Sutton made a motion for approval with Commissioner Johnson seconding. All were in favor.

**9. Old Business**

- A. Discuss and/or Take Action on Expiring Board Seats - Carroll
  - (1) One Tree Commission Seat – no applications received, seat still open
  - (2) Recall Vote on Planning Commission Seat – Mayor Carroll noted at the June 2 meeting the Board voted to seat someone who was not present and our rules state the person has to be here. As a formality we need to correct the issue. Attorney Cantrell notes the vote will need to be recalled and the seat reappointed. Commissioner Johnson made a motion to recall Tim Mangrum's seat on the Planning Commission and re-appoint him as he is present tonight seconded by Commissioner Crutcher. All were in favor.
  - (3) One Planning Commission Seat (see above)
- B. Discuss and or Take Action on Amending the Ordinance for the Park Commission to Add One Board Member and Suspend the Appointment Made at the Board of Commissioners Meeting Held June 2, 2016, Until the Ordinance can be Amended – Mayor Carroll noted we had one seat open but Commissioner Johnson's motion was for Dr. Rice to be appointed as a member of the Historical Association and Mr. Hendrix. Commissioner Crutcher questions whether it's possible for Hendrix to take his position. Cantrell states it would require revising the Park Commission as its set up in the Charter. Carroll questioned whether we could just add another citizen at-large position. Commissioner Crutcher made a motion to eliminate one Board of Commissioner seat on the Park Commission and give that seat to a citizen at-large seconded by Commissioner Johnson and all were in favor. Attorney Cantrell stated he will get the Ordinance prepared for the next meeting.
- C. Discuss and/or Take Action on City Manager Hiring – Mayor Carroll advised she has been in contact with the top three candidates and they are all available and interested. Carroll asks Recorder Johnson for an update on the schedule. Johnson notes the meet and greet is scheduled for 5:30 pm on Thursday, July 14 with the dinner to follow at 6:00. This will all take place here at City Hall. Interviews are Friday, July 15, at 9:00, 10:00 and 11:00 am with a special meeting to follow at 1:30 p.m. Mayor Carroll asks the candidates to be informed their spouses are welcome to attend as well. Attorney Cantrell notifies the Board he will not be present for the special meeting on Friday due to court but given the only agenda item is to discuss the hiring from the interviews it shouldn't be a problem.
- D. Discuss and/or Take Action on Status of Investigation – Mayor Carroll notes there is no update but has asked this to remain on the agenda until we receive the report. Crutcher states he has the same

question – how much longer will we pay 3 people to sit at home while waiting? There have got to be steps we can take administratively and I've never seen it so difficult to take action. Interim City Manager Hall states legal advice tells me its best not to bring the employees back until we receive the report in writing. Attorney Cantrell states if any action is taken outside of the report you will need to conduct your own investigation for what was violated and when. The employees have to be given due process and be told what, when and where to defend. Crutcher notes Tennessee is an at-will employment state. Cantrell agrees, however, Fairview Policies and Procedures gives a due process hearing. Crutcher has concerns over various classes of violations and the additional items that have come to light since the investigation that would be policy violations. Attorney Cantrell notes the Board never approved the recording policy so that would not be a violation. Crutcher states he can't believe our policies and procedures has paralyzed us. Crutcher asks that discuss and/or take action on suspending all provisions of the policies and procedures manual on the next agenda as well as discuss hiring of an HR consultant to review our policies and procedures manual. Cantrell reminds Crutcher the state has a statute and the police have due process anyway. Crutcher requested a copy of that statute and asks if the separate police policy has a recording policy. Crutcher notes he's not advocating to terminate the employees but trying to figure out why we can't take action against the administrative violations. Crutcher reminds that we voted to approve a hearing based on potential policy and procedures violations and those on leave are still employed and if we tell them to come to a meeting they are required to come and are entitled to counsel. Chief Smith requests permission to approach and questions whether Garrity rights are applicable in Tennessee where the employee would be required to answer or can be terminated. Smith states it would be best practice to complete the criminal investigation first. Mayor Carroll states we can't discuss any criminal aspect but there seem to be enough internal policy violations to address and allow due process. Crutcher notes he doesn't know the extent of any criminal investigation but if we stick to the policy and procedures violations it would be fine. His concern of using the 5<sup>th</sup> amendment would be solved by Garrity rights. Commissioner Johnson questioned whether the city could recoup any of the salaries paid to the officers on leave and Cantrell replied no. Cantrell suggested whoever has access to social media to review for policy violations. Carroll notes that everyone who watches Channel 2 news knows what some of the violations are. Cantrell warns that you want to gather as many policy and procedures violations as you can substantiate. Johnson asks Chief Smith whether he would have the hearing now or when the investigation is complete. Smith advised moving cautiously as the best practice is to wait for the criminal investigation to complete. Smith requested a few days to check on Garrity. Mayor Carroll states she's ready for this to all be over and start rebuilding. Vice Mayor Sutton asks Smith to verify the police policy on recording. Mayor Carroll notes she was here and has the revised version Attorney Cantrell was not aware of the 2013 version until these recent issues unfolded and he was questioned about the recording policy which he did not recall seeing. Crutcher states it needs to be because our employees don't need concern over being taped. No action.

- E. Discuss and/or Take Action on Policies for Nepotism and Conflict of Interest – Vice Mayor Sutton states this was brought up last meeting and I wanted to wait for Commissioner Crutcher to return. Sutton made a motion to approve the MTAS nepotism policy seconded by Commissioner Johnson. Crutcher stated concerns over the narrow definition of relationships and no reference to Board of Commissioners relatives. Crutcher states he feels the bigger issue is not relatives within city employment but relatives of BOC members and the MTAS policy has no prohibitions against. Crutcher states he is more inclined to Mr. Hall's policy noting the letter from MTAS is more of a legal answer, using the phrase "an abundance of caution" with no clear cut yes or no answers other than the members disclosing conflicts. Crutcher continues stating he uses the term nepotism loosely and wants to eliminate the appearance of by adopting a strong policy. Crutcher reminds of the first read on the 2017 budget where one commissioner disclosed a conflict and two abstained. Mayor Carroll notes this really is two different things and feels the Board may have led the public to believe the City doesn't have a nepotism policy when it actually does but is just too broad. Commissioner Crutcher amends the motion to approve Mr. Hall's policy seconded by Mayor Carroll. Vote on the amended motion; FOR: Carroll, Crutcher; AGAINST: Johnson, Sutton. Motion failed. Vote on the original motion; FOR: Johnson, Sutton; AGAINST: Carroll, Crutcher. Motion failed. Current policy stands.

## 10. New Business

- A. Discuss and/or Take Action on Spending Facilities Tax Money on Fairview Schools – Mayor Carroll states she requested this item because we discussed briefly at the special meeting what the school facilities tax can be used for. Attorney Cantrell notes it still has to be within the scope of the private act which is a public purpose directly related to growth (such as the recent library expansion). The Board can determine how they want to use the funds as long as it meets the requirements. Carroll states she has received requests from a couple of schools and would rather see what their needs are and if they will fit the requirements and go to the county all at once for approval so we probably need to defer this to the next agenda. Commissioner Crutcher notes he wants to help but has concern that at some point in the near future we will need new schools and doesn't know what part of this fund could be requested for new construction. Crutcher continues it's a slippery slope of what parameters do we use and there's no sense in the money sitting there. Carroll agrees he has a valid point but argues the county has not asked one city yet for funds to build schools. Sutton mentions creating a wish list and committing a certain number of dollars per student to accomplish so each school is treated fairly. Finance Director Daugherty suggests a workshop once we know a list of projects the schools want and then meet with the county to bounce off the ideas. Crutcher states we can put the request in a resolution format and have one of our county commissioners present. Item deferred.
- B. Discuss and/or Take Action on All Appointments to All Boards/Commissions – Vice Mayor Sutton recommends appointing two alternates to the Planning Commission who can sit in if a full Board is not present. They would receive a packet so they stay up to date and if a member is absent they would step in and retain the absent member's voting rights for the meeting. Attorney Cantrell states he would have to do this by ordinance and they would not vote unless in someone's absence and if they step in would receive pay for that meeting. If a seat becomes available, alternates would be considered along with other applicants for the position. Sutton makes a motion for Attorney Cantrell to move forward with the ordinance for two alternates for the Planning Commission seconded by Commissioner Johnson. All were in favor.
- C. Discuss and/or Take Action on Judge's Eligibility to Receive Full-Time Employee Benefits – Commissioner Crutcher did not realize until recently that the judge was not receiving employee health care benefits. According to the legal opinion from Attorney Cantrell, which was written in 2014, states he is eligible. Cantrell notes he would be eligible as a public officer that was elected to an office to which he holds the title and discharges the duties of. Vice Mayor Sutton makes a motion to allow the judge to participate in full-time employee benefits seconded by Commissioner Johnson. The question was brought up as to whether elected officials are eligible to participate in the TCRS plan for retirement. Daugherty will research and get the information back to the Board. Carroll amends the motion to provide health care benefits for the Judge as for all elected officials seconded by Crutcher. All were in favor of amended motion which negated the original motion.
- D. Discuss and/or Take Action on an Interlocal Agreement Between Williamson County and the City of Fairview for Cooperation in the Provision of a Healthcare Clinic – Interim City Manager Hall notes this is to renew our three year contract on the Health Clinic with the County. Commissioner Crutcher made a motion for approval with Vice Mayor Sutton seconding. All were in favor.
- E. Discuss and/or Take Action on Bill #2016-19, Ordinance No. 933, An Ordinance for an Amendment to the City of Fairview, Tennessee, Budget for Fiscal Year 2016-2017 Budget (Bowie Park Paving) – Finance Director Daugherty notes that in budget discussions it was decided to come up with a project list and amend the budget for those projects which is the case for the next two items. This amendment is for the paving in front of the Nature Center and the Nature Center parking lot using the Bowie Park Fund. Commissioner Crutcher made a motion for approval with Vice Mayor Sutton seconding. Mayor Carroll states this project was split into phases and outside the park was to be paid with Street Aid and inside by Bowie Park Fund, however, both funds were used equally to pay the outside the park paving and I suggest we split this as well. Carroll made a motion to split the payment 50/50 using State Street Aid and Bowie Park Fund – no second, motion died. Crutcher made a motion to pay for using the 5 cents set aside for parks – no second, motion died. Johnson states he doesn't see anything wrong with using Bowie Fund to pay for it as we have spent more non-Bowie tax dollars in the park through the years than Bowie Fund money. This is a park project and that is what the fund is for. Carroll states it's the principle and the Bowie Fund has been double dipped. It does make sense to pay for what's in the park out of Park Fund. Vice Mayor Sutton amended the motion to pay for half out of Bowie Park Fund and half out of the 5 cents set aside for Parks seconded by Commissioner Johnson. All were in favor of amended motion that negated the original motion.

- F. Discuss and/or Take Action on Bill #2016-20, Ordinance No. 934, An Ordinance for an Amendment to the City of Fairview, Tennessee, Budget for Fiscal Year 2016-2017 Budget (Nature Center Heating/Air Conditioning Unit Replacement) –Mayor Carroll read the caption and Daugherty notes this is for the heat/air unit at the Nature Center. Vice Mayor Sutton questioned the source of the funds and Daugherty states as written from the Park Fund. Vice Mayor Sutton made a motion for approval with Commissioner Johnson seconding. Commissioner Crutcher amended the motion for half of the cost from the Park Fund and the other half from the 5 cent tax increase. No second, motion died. All were in favor.

**10. City Manager Items for Discussion**

- A. Miscellaneous Updates - Interim City Manager Hall thanked everyone who contributed to the July 3 event noting he would like to honor all who helped in a future meeting. Hall reminds citizens of the danger on Chester Road where the collapse was filled in and loose gravel remains. Hall asks the public to be patient with Public Works on the time frame for chipping and bush-hogging. The tractor was in for repair and they are trying to work through the most dangerous spots first but had to spend today on emergencies and we are already short-staffed. Vice Mayor Sutton questioned the status of the impact fee and Hall states he has discussed with both our engineer and attorney. They brought up the possibility of adding an additional 25 cents to our facilities tax which would allow us to institute the fee a lot quicker. With the projection of 900 homes on the horizon this would bring approximately \$700,000 and could be designated to roads. Sutton questioned how it would affect current homes being remodeled or additions as the fee shouldn't apply to them. Mayor Carroll questioned the use of an Impact Fee in commercial building. Commissioner Crutcher asked if there is any way to estimate the difference in revenue from an Impact Fee versus the additional 25 cents in facilities tax. Hall notes the facilities tax is easier on developers because they pay as the permits are pulled but for the Impact Fee they are required to pay the entire amount up front.
- B. City Attorney Comments - NONE

**11. Communications from the Mayor and Commissioners**

- A. Commissioner Crutcher - NONE
- B. Commissioner Johnson commends Tom on his email response on the budget questions and for his hard work on crunching numbers though he doubts the paper will publish as it goes against Facebook.
- C. Vice Mayor Sutton - NONE

- 12. Adjournment** - Vice Mayor Sutton made a motion for adjournment with Commissioner Johnson seconding. Meeting was adjourned at 9:48 p.m.

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**Brandy Johnson**  
**City Recorder**