

# CITY OF FAIRVIEW

## BOARD OF COMMISSIONERS MEETING MINUTES

October 2, 2014

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

Present: Totty, Johnson, Bissell, Carroll, Sutton

Others Present: Hall, Cantrell, Humber, Daugherty, Johnson, Paisley, Cooper, Berkley

**1. Call to order by Mayor Totty at 7:02 p.m.**

A. Prayer led by City Manager Hall and Pledge led by Mayor Totty.

**2. Approval of the Agenda –** Commissioner Sutton made a motion for approval with Commissioner Carroll seconding. Commissioner Bissell requested the addition of item 8J Discuss and/or Take Action on Overpayment of Adequate Facilities Tax. 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. Jeff Mangrum announces a debate set for Tuesday, October 7 at the Fairview High School gym for the candidates running for the Commissioner and Mayor seats. Mangrum states that students and the government teacher will help run the event and all are invited to attend. The Commissioner candidate debate will be from 6:00 until 7:00 and the Mayor candidate debate will be from 7:00 until 8:00.

B. Ron Rowe states he had the opportunity as a Planning Commission member to attend the Economic Development Forum hosted by the City yesterday. Rowe compliments the city staff who were involved and the City Manager. He continues this is the place to be and he likes the feeling of moving forward noting he did not realize the competitiveness that exists.

**4. Awards and/or Recognitions – NONE**

**5. Public Announcements –**

A. Chief Cooper – firefighters have pink shirts for sale in a new design this year. The cost is \$15 and they will be available at the Fire Hall while supplies last. Cooper notes the Fire Dept. donated several thousand dollars to the cause last year from the sale of the pink shirts.

B. City Manager Hall notes emissions testing on Monday and Tuesday from 7:30 until noon.

C. Commissioner Carroll notes Fall Fun Day in Bowie Park on Saturday from 10:00 until 4:00.

D. Community Services Director Keith Paisley states additional details about Fall Fun Day and notes the last Bowie Jubilee of the season on Saturday, October 11 from 2 to 5 pm with Yankee Dixie and that the Friends of the Park are collecting worn, soiled and torn American Flags during the month of October and Boy Scout Troop 297 will properly dispose of the flags in a retirement ceremony.

- E. Commissioner Carroll states the FHS Homecoming Parade starts at 12:50 at the ballpark, goes to Westwood, Fairview Elementary, Fairview Middle and ends back at the High School. She asks that all who can step out and show the kids your support.
- F. Mayor Totty states Homecoming at the Hive starts at 7:30 and asks all to get out and show some Jacket pride.

**6. Approval of the Minutes –**

- A. Approval of the Minutes from the September 18, 2014 Board of Commissioners Meeting – Commissioner Sutton made a motion for approval with Commissioner Bissell seconding. All were in favor.

**7. Old Business – NONE**

**8. New Business –**

- A. Discuss and /or Take Action on Recovery of Court Costs, Fines and Fees – Commissioner Sutton states he has discussed this issue with newly appointed Judge Dryer and City Attorney Cantrell that in the past we have not received the fees on cases that were bound over to the Grand Jury. Sutton states Judge Dryer and Attorney Cantrell have some information on this item. Judge Dryer states he believes there are two issues. One is the cases bound over to the Grand Jury where court costs are lost and the other is he doesn't think the charges we are assessing accurately reflect our operating costs (understated) and in turn we are asking the taxpayers to subsidize the cost for crime. Dryer states this is his personal opinion and it is up to the Board to decide. Dryer states from October 1 of 2013 to October 1 of 2014 this court bound over 95 cases to the grand jury. Those cases would have a minimum cost of \$127 and we should have collected, at a conservative estimate, \$12,065 that has been lost and not recovered. Dryer states he spoke with Cantrell and a member of the County Commission who seemed to think the county commission might act on a request and the clerk's office could collect with a nominal commission. Dryer continues comparing a bill of cost for a DUI charge in Fairview to and general sessions court in Franklin noting he believes the one he pulled was on the low end and most DUI's run around \$1,500 with the fine. This sample was \$1,282 and our court costs on the same bill were \$871.21. He's not saying our costs should be the same as Franklin's but that they should accurately reflect our cost. Although he doesn't have all the financial records to compare, based on volume and frequent transportation of inmates he believes our actual cost per case is actually greater. He spoke with Attorney Cantrell who stated that any costs we can substantiate we can pass along to those who commit crimes in our community which would be fair and just. Dryer further states that his opinion is that those being transported from jail should be assessed a transportation cost. He does understand that some are indigent and simply cannot afford to pay. He states it is not his intent to grind the poor into the turf and those who cannot pay can file a petition of indigency and if granted would not be responsible for those costs. He sees these two issues costing the city money (1) all cases turned over to grand jury and (2) understatement of the cost of serviced provided and encourages some discussion by the Board. Cantrell states when looking at costs be real sure the costs accurately reflect real costs in case you have to defend a challenge. If fines are assessed and not paid within a year they will lose their driver's license. Totty asks if Tom has accounts receivable or any financial information. Daugherty states no he would have to research with the court clerk and other individuals. Totty asks if that research could be done within a 30 day window. Daugherty agrees that would be adequate. Sutton makes a motion to have the Finance Review Committee discuss and research this matter. Totty seconds. All were in favor.
- B. Discuss and/or Take Action on Contract for Broadening Financial Transparency with OpenGov – Vice Mayor Johnson states this is something that was discussed as they reviewed the budget and he researched and found something very interesting. Over 120 governments utilizing this platform to access, analyze and share financial data. It is compatible with our current city software. We are hoping to ease citizen's minds and share more information in an easy to use web based platform and compare actual

spending to the budget anytime, anywhere. It allows governments to make available full general ledger line item data for staff, city officials and the public. OpenGov has the capability to add notes on specific line items to explain why it may be over or under budget. The adoption of OpenGov will change how decisions are made regarding expenditures and budgets. It will quickly become an invaluable tool for decisions of all kinds in regards to budgets. I would support providing past years of budget data to see where we have been along with where we are going. Citizens would be able to access financial data online without registering or log ins. They could view current and historical data, it would save time for staff, especially at audit time. OpenGov provides an intuitive platform with real time data where you can view down to the first and last penny. Users can sort and export data in various formats. All size cities are using this platform though Fairview would be the first to utilize OpenGov in the state of Tennessee and we could be viewed as a leader in the realm of transparency. Johnson asked to share a video but technical difficulties prevented the video from being shown. Johnson apologized and asked for deferment stating he wouldn't ask for a vote on something they haven't seen. Sutton seconded. Mayor Totty states OpenGov will cost \$3,500 per year. She continues that she doesn't agree it's not vital but we need to see the value of the present and streamline. She asks CFO Daugherty how this will reflect in the budget. Daugherty states there is currently not a line item for this. Totty states we should be using our website more that is currently free and we are not using to its potential. She states she knows that City Manager Hall has some avenues – meetings, calendars but for transparency she encourages us to use what we are paying for and use various media to keep the information flowing such as the audit, TVA economic development forum, making communications web friendly for business development stating she believes it is not being utilized to the utmost. All in favor of deferment.

- C. Discuss and/or Take Action on Bill #2014-25, Ordinance No. 847, An Ordinance to Amend City of Fairview, Tennessee, Municipal Code, Title 5, "Municipal Finance and Taxation," Chapter 6, "Adequate Facilities Tax," Section 5-604 "Use of Tax" – Mayor Totty read the caption and Attorney Cantrell notes this ordinance has not been amended for this purpose since 1998 and states it changes the non-residential tax per square foot from 50 cents to 75 cents. He states compared to other cities, the 75 cents is neither on the high nor low side and he was asked by staff who thought it needed to be raised but the residential remains the same. Mayor Totty asks for Cantrell to state where the money comes from for the public's benefit. Cantrell states there is a flat fee of \$500 for a building permit and an additional per square foot tax based on enclosed square footage. Part of the fees go to the city to help defray the cost of new developments with the legislative body having a say where the money goes and it has to be for a public purpose. The funds are earmarked to pay the debt service on City Hall and will remain that way until the building is paid off. Commissioner Carroll asks if this has anything to do with item 8J. Cantrell replies not directly but that did bring it to our attention that the fee has not been changed since 1998 and is inadequate. No motion or second. All were in favor.
- D. Discuss and/or Take Action Bill #2014-26, Ordinance No. 848, An Ordinance to Amend City of Fairview, Tennessee, Municipal Code, Title 5, "Municipal Finance and Taxation," Chapter 6, "Adequate Facilities Tax," Section 5-602 "Tax Established" – Vice Mayor Johnson reads the caption and Attorney Cantrell states this need to be brought up to date with the other one and is out of place when you see when the tax was established. He states this needed to be cleaned up and clarified that the fee is going toward municipal land and buildings which will pay for city hall until it is paid off or amended. Commissioner Bissell made a motion for approval with Vice Mayor Johnson seconding. Mayor Totty asks if the non-residential rate was raised and Cantrell clarifies no this is a matter of housekeeping. All were in favor.
- E. Discuss and/or Take Action on Acceptance of Governor's Highway Safety Office Grant – Vice Mayor Johnson turns the floor over to Assistant Chief Sutton who states for the last 8 years we have received this funding as part of the GHSO grant. Sutton states the funding for this year is \$45,450 and is 100% funded as a reimbursement quarterly. The dates of the grant contract run October 1, 2014 through September 30, 2015. The

contract includes \$18,150 in overtime (which includes a percentage of benefits for that time) and \$27,300 for equipment (they will purchase 3 laptops and in-car camera systems to update the three remaining vehicles). Mayor Totty asks if this is in a line item in the budget and CFO Daugherty confirms it is. Commissioner Sutton questions overtime versus comp time and Assistant Chief Sutton states they will physically pay overtime using grant funds. Commissioner Sutton asks if that is part of DUI checks and Assistant Chief Sutton confirms it's for saturation points and DUI checkpoints. Mayor Totty asks what the amount was last year and Sutton states \$36,000. Totty asks if this is through an application process and Sutton replies it is a renewable grant through an application process noting funds originate with the federal government but are awarded through the state of Tennessee. Attorney Cantrell states he reviewed the grant contract and there is no substantial difference than previous years. Vice Mayor Johnson makes a motion for approval with Commissioner Sutton seconding. Totty asks if the grant can be used to address underage drinking. Sutton states they do some with the school and would be included and any impaired driver would be targeted on special patrols. Totty asks about education such as the DARE program. Sutton replies they do give out free literature, perform child safety seat checks and attend multiple free training opportunities. He notes they attended a conference last month and one of the breakout sessions was on underage drinking and he states they hope to have a line item in the next budget to specifically address this issue and possibly look to partner with the high school drama department also on the issue. All were in favor.

- F. Discuss and/or Take Action on Paypal ACH Contract – City Attorney Cantrell states this is an upgrade to our current contract to allow us to receive various types of payment for property taxes. He notes they removed the indemnification clause which was his only issue in the contract and otherwise he has no problem with the contract. Commissioner Sutton makes a motion for approval with Commissioner Bissell seconding. Commissioner Carroll asks if this was budgeted and Daugherty replies the \$30 per month is in the budget. Carroll asks which line item and Daugherty states he would have to look. Totty asks what is the current cost and Daugherty replies all costs are currently absorbed by the customer. All were in favor.
- G. Discuss and/or Take Action on School Donation – Commissioner Carroll states that we gave for the last couple of years and several have asked about the donation. She notes we did not discuss at budget talks due to cash flow concerns and she wants to see if the Board is interested or if we need to say we can't do it this year. Carroll suggests maybe waiting until after taxes start coming in to help with cash flow. Commissioner Sutton asks Daugherty's opinion on waiting until after January because of the current situation. Daugherty states January would be better if we move forward noting there would need to be a budget amendment to appropriate the funds. He states there is money in the account and that is what it is supposed to be spent for. Carroll states we used the calculation of \$40 per student last year but we wouldn't have to use the same amount. She states the schools had lots of uses for the money and it would really help them. Mayor Totty states she has had 3 of the 4 principals inquire about the funds as they have been working on their budgets and looking for guidance on whether the donation is favorable or not possible. Sutton states he believes if the money is there we should do it but open to discuss the amount. He asks if the amount of money we receive from the county has gone up or down. Daugherty states he believes it is almost identical to last year's funds. Sutton states he would like to keep the amount of the donation the same. Daugherty states the Board has committed up to \$90,025 for the library addition. Sutton makes a motion to inform the schools that yes we will make a donation but probably after January and we can discuss the amount in the next couple of meetings. Carroll seconds. She understands we might not do the same amount and stats the schools could compile a wish list rather than a set amount, stating she is not opposed to a lower amount considering the library but her goal is to continue to give as long as we can. She states the funds are being replenished but the library money is coming up and we have no clue when that will hit. Cantrell states no bids are in but the request for bids is out and due back sometime the end of October. He states we received the final executed copy of the agreement. Mayor Totty amends the motion that she will send a letter to the schools to

see what their needs are. Commissioner Sutton seconds and states it will allow a little time to see where the library is going. Commissioner Bissell states he would like to see the donation continue but he thinks it a bit premature early in our fiscal year. He states we are committed to the library by contract out of this fund. He continues that writing a check anytime soon could create a cash flow issue and that weighs heavily. Bissell notes that this money, the school facilities tax, is money given to us to use for expansion in schools and provide extra things. He notes with the new residential developments we are likely looking at major expansions or new schools and will need these funds to provide extra things. He states we have given over \$150,000 to be spent on durable goods that should still be there. He suggests we stay the course and wait until January thinking we can say then but he is not comfortable voting tonight not believing it is a fiscally sound decision. Carroll states Bissell has some valid points. Expansion may indeed need to happen and a portion of the funds can provide additional support. She states we weren't giving and they came to us and we gave a great gift. She states she is fine with waiting but doesn't think it's a bad ideal for the Mayor to ask of their needs. Vote on amended motion: FOR: Carroll, Johnson, Sutton, Totty, AGAINST: Bissell, motion carried. On the original motion: Sutton withdraws motion and Carroll withdraws second.

- H. Discuss and/or Take Action on Flag Design for City of Fairview – City Manager Hall states he received an inquiry from a citizen as to whether the city had a flag. We do not and have a design to review as a work in progress. Hall states it's minimal cost around \$100. Hall volunteered to pay for the first flag and 2 citizens have offered to pay for it as well. Mayor Totty asks where the flag would hang and Hall replied at City Hall and it was discussed the flag would also hang at veterans memorial park, fire hall, and historical village. Totty asks about the color and size. Commissioner Sutton states he believes the flags at city hall are too small and when we replace them he would like to see larger flags. It was noted there is flag protocol to follow when hanging multiple flags together. Commissioner Carroll states she would like to see citizen input on the design and especially the children's vote on a design. Hall states there is no hurry so we can put it out and see what they come up with. Totty states she likes the seal and would like to include the citizens. Bissell notes he does not like the words and a flag becomes a banner when it has words and suggested a black background with Tennessee below the seal. It was decided that flag designs will be presented to the schools as a survey and come back to the board in 30 days. Sutton made a motion for deferral with Totty seconding. All were in favor.
- I. Discuss and/or Take Action on Tree Bank Ordinance – Commissioner Carroll states she things a tweak in wording in the ordinance might help. She notes the location of trees approved for planting at the high school might be better if moved back a little and the life of the trees longer. City Manager Hall states his opinion on the location of the trees (indicated by flags currently) on the berm is the trees won't survive. Hall states he doesn't want to spend money for them to die two years later. Commissioner Sutton states he requested Mike Berkley to be here and asks his opinion. Berkley states 30 feet from the edge of the road is the top of the berm. This location has western exposure and the trees will struggle. If we can go in more they will have more moisture. Carroll states Jack Cannon had discussed concerns with Mr. Hall and for the benefit of other projects a slight word change from public property to include city, county and state within the city limits would open up use of the tree bank for the beautification grant. Sutton asks Berkley his opinion on the definition of landscape. Berkley state he runs across this everyday but in general it can include anything outside of buildings. Including such things as lighting, irrigation, dirt work, arbor, gazebo, green stuff, outbuildings, and that would be the definition a landscape architect would give. Sutton states that question came up in a previous meeting and I wanted your input. Totty asks for clarity from Attorney Cantrell on what the ordinance says. Cantrell notes it states publicly owned city of Fairview property but states the subdivision regs state differently. He states if we amend the document he would include publicly owned property by the city, state, county or federal government and amend the subdivision regs to the same definition noting the sub reg changes would require a public hearing and 30 day notice. Sutton asks should

the wording include public owned property and easements within the city limits. Cantrell states yes within the corporate boundaries. Commissioner Carroll makes a motion to amend the ordinance to state on publicly owned property by city, county, state, or federal within the city limits with Sutton seconding. Cantrell states he will present the idea of changing the sub regs to the Planning Commission for approval. Totty states the tree bank does not address residential and Cantrell confirms and clarifies we still want the same definition. Sutton asks if that would just be city easements or include utility easements also. Cantrell states it would include all easements. Totty asks Berkley for his comments. He states the tree commission has had lots of discussion over this and thinks the wording is confusing. Totty asks if the changes should be vetted through the Tree Board and Johnson states they did ask at the last meeting to be included on the process of any changes. Commissioner Sutton amends the motion that the amended ordinance go to the Tree Board for review and edit. Cantrell notes this could be done between the first and second reading and changes can be made as long as it doesn't change the subject. Vote on the amended motion: all in favor. Vote on the original motion: all in favor.

- J. Discuss and/or Take Action on Overpayment of Adequate Facilities Tax – Attorney Cantrell states you have a copy of the fees to be returned based on the number of days we have had the funds. He states this is from the non-residential rate of 50 cents being raised to 75 cents but not by the Board and is a refund for the four businesses that have built. The document lists who paid, what they paid, what they should have paid and the overpayment amount plus 7% interest rate. All the funds went into the bank and the only right thing to do is to return the funds with interest for the number of days we have had the funds. He did report to TML and see if insurance would cover but it does not. He asks the Board to authorize the City Manager to set up meetings with these businesses and work out a plan to return the funds. Mayor Totty asks the addresses of Alpha Technologies and Commercial/Industrial Building as listed. It was confirmed they are different businesses. It was asked how this was discovered. Hall states that John Bledsoe asked when the rate changed and upon research, Sharon stated that the former Codes Director changed it himself in her computer. Sutton reiterates this was the former Codes Director. Mayor Totty asks if we have the money and Cantrell states the money was collected and deposited but the interest would be additional. Totty asks CFO Daugherty if we have the money and he replies yes. Carroll asks if it would be out of the facilities tax and Daugherty states yes. Sutton makes a motion to move forward with a plan to refund the charges within 30 days. No second. Totty asks if the interest is accruing daily and Cantrell replies yes. Totty amends the motion to resolve within 7 days with Sutton seconding. Cantrell states that Daugherty has reviewed all his calculations and agrees. Vote on the amended motion: all in favor. Vote on the original motion: all in favor.

## **9. City Manager Items for Discussion –**

- A. Miscellaneous Updates – City Manager Hall notes that one of the items he took away from yesterday is to show appreciation to the businesses that have been here for years, that are the backbone of our community. He encourages everyone to visit our local businesses and let them know we appreciate them. Hall states he has been contacted by Channel 17 who would like to use our courtroom to film a commercial. City Attorney Cantrell has approved and they have their own liability policy. Hall states he would be present during use and that it would not interfere with any city functions and would be a good public service. The Board agreed that as long as Mr. Hall is present and the City won't be presented in any negative light they approve the use. Hall notes that for the next meeting the new written City Manager Report will be in the Board packets prior to the meeting, be presented at the meeting with Department Heads on standby to answer any questions and then will be posted on the City website the next day. Hall also notes that he, Frank Humber and the City Attorney traveled to Portland today to collect on the bond on the spoils of Walmart. He states they had supporting evidence of breach of contract and the bank had the option of setting up a draft account but they chose to cut a cashier's check. Hall states the site is in no way stable according to the city engineer

and the company did not seek renewal of the bond. Cantrell states the city needs to get the job done before TDEC comes down on us noting there is rock and silt in the creek through the park. Cantrell continues that city employees cannot work on the part of the problem that occurs on private property and proposes scheduling a meeting quickly with TDEC to obtain what their standards are. Commissioner Carroll asks what property this is and Hall responds it is the Walmart spoils property that was graded out but Walmart doesn't own. The contractor posted a letter of credit and one can see by looking at the property that it is eroding, there is very little vegetation and there are culverts where they shouldn't have been. Hall continues that TDEC will direct us on what we need to do to stabilize and we have already contacted them.

- B. Staff Comments – NONE
- C. City Attorney Comments – Cantrell states the Mayor asked him to report about statutes and laws with the upcoming election in regards to employees. He notes he can't cover all of them but these are some general ones and asks staff to contact him with any questions. He quotes from T.C.A. §6-54-107 stating the BOC is a legislative board that does work for the City. The members will often have direct and/or indirect interest regarding a vote. The Board member should state the conflict and can vote, however T.C.A. §12-4-101 states if the conflict is of direct interest they cannot vote (and this is the controlling section). Cantrell continues that T.C.A. §7-51-1501 states that employees have the same rights as any other citizen for political activity, however, not while on duty being paid by the city, they can't be forced to campaign for a particular candidate, nor may they campaign while in uniform whether on or off duty, which would violate the Federal Hatch Act. The Federal Hatch Act prohibits use of political influence to sway votes. The Tennessee Hatch Act (also known as the Little Hatch Act) precludes the same regarding influence and prohibits wearing uniform while campaigning and could be subject to prosecution under the federal statute. Also, someone running for office can only be introduced with the title of the seat they seek if they currently hold that seat. He states that employees are eligible to run for other seats but not for a position on the Board of Commissioners. He states this is a thumbnail sketch and notes that the statutes are much more involved.

#### **10. Communications from the Mayor and Commissioners –**

- A. Commissioner Sutton – Welcomes two of the three excellent candidates running for the Commissioner seat and asks them to introduce themselves. Shannon Crutcher states he is a Fairview native, 1993 graduate of FHS, received bachelor's degree and MBA from Trevecca and law degree from Nashville School of Law. Crutcher states he is a single father and a small business owner and is running as an opportunity to give back to his hometown that he loves. Jeff Mangrum states he has lived in Fairview since the age of three, graduated from FHS in 1991, has a bachelor's degree from David Lipscomb University, nursing degree from Columbia State and masters in Healthcare Administration from Saint Francis University. Mangrum has a 14 year old son and 2 year old daughter and is running because he wants his kids to have the same environment that he enjoyed growing up as a kid here. Commissioner Sutton thanks the CFO and the entire department for all their work with the audit and for making the transitions smooth with all the changes in staff over the last year. Sutton says Happy Anniversary to his wife Sheryl of 46 Years on Saturday.
- B. Vice Mayor Johnson – no comments
- C. Commissioner Bissell – no comments
- D. Commissioner Carroll – states she loves that we are one of the few cities that give back to our schools and thinks it's a good way to prove to the county that we want to invest in our schools. She appreciates the staff and their efforts on the audit. Carroll states there are things we can do now instead of waiting for the software that she would like to do such as post minutes quickly, posting the audit. She states we have the means like the Mayor said and she encourages staff to make it a priority.
- E. Mayor Totty – states she is excited to share the time extension on the STP has been approved by TDOT to a new deadline of December 31, 2014 with no further allowable extensions. She thanked first lady Haslam for visiting the city to attend the community

garden ribbon cutting. Haslam praised the efforts of the students on the garden and noted it is a model for education, especially the accessibility features. Totty thanked the school and all the volunteers for their interest. Totty makes a plea with the citizens to pay their property taxes as soon as possible, especially those that are delinquent, as they are a big part of the revenue that runs the city.

- 11. Adjournment** – Commissioner Sutton made a motion for adjournment with Commissioner Carroll seconding. All were in favor and meeting was adjourned at 9:28 p.m.

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