

City of Fairview

**BOARD OF COMMISSIONERS
SPECIAL-CALLED MEETING (2)**

October 8, 2013

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

Present: Totty, Bissell, Carroll, Sutton
Others Present: Cantrell, Pewitt
Absent: Johnson (came in at 1:00), Porter

1. Mayor Totty called the meeting to order at 12:48 p.m.

A. Commissioner Bissell recommended suspending the prayer and pledge since it was done in the first meeting. The Board agreed.

2. Citizen Comments – (Limited to the first five (5) citizens to sign in and a limit of three (3) minutes each). – There were none.

3. New Business –

A. Discuss and/or Take Action on City Manager vacancy; may include interviews and or appointment of Interim City Manager. Mayor Totty made a motion to open all positions for the City Manager and Interim City Manager to an application interview process effective immediately under the guidance of MTAS. Commissioner Carroll seconded. Mr. Broughton approached the podium and stated that the interim selection is one that MTAS is not equipped to handle and because your charter requires that you have a City Manager and your current City Manager is on administrative leave and the Board is in power to designate somebody to be the interim or acting City Manager and since we are not able to help with that we are more than willing to help on the permanent City Manager recruitment process. Mayor Totty restated the motion as to reopen all positions for the City Manager and the Interim City Manager to an application and interview process effective immediately with the City Manager position under the direction and guidance of MTAS. Commissioner Carroll seconded. Commissioner Bissell amended the motion to separate the two processes to have a discussion about using MTAS for the permanent position as Mr. Broughton stated and to have a separate discussion about what we are going to do on the interim. Commissioner Sutton seconded. City Attorney Cantrell stated that you are going to have to get an interim as quickly as possible, you can put it on the website but you are looking at 15-20 days if you advertise in the newspaper but there is no statutory requirement and when you appoint an interim it would be realistic to limit the term to when the new City Manager is appointed. Vice-Mayor Johnson entered the meeting. The vote was called on the amended motion. For: Sutton, Johnson, Bissell, Carroll Against: Totty All were in favor of the original motion.

Commissioner Bissell made a motion to hire Mr. Hall as the Interim City Manager. Commissioner Sutton seconded. Commissioner Bissell stated that

we all come from our experience base and in his previous career with the Federal Government we had a lot of movement nationwide around and we had a lot of people where he serviced as interim and had a lot of people serve as interim before him and a couple of things always came to light at the conclusion of the interim process and whether it was for 4 weeks, 12 weeks, or 6 months and that was when your subordinates act as a team and when you select one member of the team above all other members of the team it disrupts how the team operates so if it was preferred that you bring someone in from outside of the organization. The second thing is just human nature that is once you have tasted the honey you don't want to not taste the honey, in other words once you have had that little bitty taste of power or that little bit of authority it is very difficult for that individual to go back into that role as the subordinate and those are the two reasons he feels we should consider someone from the outside. The reason Commissioner Bissell feels Mr. Hall should be picked over an unknown is because he has extensive experience in this community, he has served in the capacity of the Planning Commission and as a Commissioner, he has familiarity with some of our employees which helps with ease of transition but he has not been involved with them directly so he still has the ability to form his own opinion and to be objective in his assessment, his personality is calm and needs to be the type of person that serves as a bridge that takes us from this is where we are to this is where we are going with the new person that is in charge so for those reasons Commissioner Bissell feels Mr. Hall is the best candidate. Commissioner Carroll stated she likes Mr. Hall, she has known him for years, and does she think he is qualified, yes she does but she still has a problem overlooking anyone that has worked for the City. Commissioner Carroll stated she has a problem with them only considering one person.

Mayor Totty stated she would like to amend the motion that the position of the Interim City Manager have applications and interview process effective immediately. Commissioner Carroll Seconded. In favor of motion; Mayor Totty, Commissioner Carroll, against motion; Vice Mayor Johnson, Commissioner Sutton & Commissioner Bissell.

Commissioner Sutton asks what kind of contract obligation we would have for Interim City Manager. City Attorney Cantrell stated that would be the Board's decision after you decided who you were going to hire, if he would have a car, what benefits that would be extended to them. Mr. Cantrell stated the only stipulation would be if you wanted to prepare an agreement for them to sign it would have to state, by state statute, an employment contract at will, it would serve at the convenience of the Board an Interim City Manager wouldn't take on the provision of the appointment of the New City Manager. Mr. Cantrell stated once you appoint a City Manager in the permanent position he cannot be discharged except for malfeasance, for one year, he can resign. Cantrell stated you could put in the contract, once the permanent City Manager is appointed, you could put in there six months or until the permanent City Manager is hired but you would need to specify the compensation, benefits they will have, insurance and so forth. Mayor Totty stated her question to him would be when this would be discussed. Mr. Cantrell stated you after you voted on a motion to hire or you could withdraw the motion and with the new motion to hire with the compensation with the provisions being this compensation these benefits. Mayor Totty stated she does find it difficult that Mr. Hall stated he wasn't for sure what the role of the City Manager yet we are about to move forward to being a potential hiring, she does find it odd that he would not know nor would he have expressed the compensation the benefits, insurance, the details with

the job, feels like there is a cart before the horse. Mr. Cantrell stated you can always withdraw your motion and discuss those and a new motion, you could hire the person with the compensation being this many dollars, the period of time being until the new City Manager is hired and he would get the standard insurance benefits that the other employees get, that's up to the Board. Mayor Totty stated that being that the Board has just been exposed to the application and the resume, would there not be an appropriate time to discuss, be able to analyze the qualifications. Mr. Cantrell stated you can discuss that at this meeting or you can have another meeting but you have a motion on the floor. Mr. Cantrell stated you're going to have to either vote on the motion or withdraw it. Mr. Cantrell stated you can have a recess to discuss those and reconvene, whatever is the wishes of the Board.

Commissioner Bissell withdrew his motion but would like to ask Mr. Hall a question. Commissioner Sutton withdrew his second. Commissioner Bissell asks Mr. Hall to come up to the podium. Commissioner Bissell ask Mr. Hall what is the minimum amount of time that you would be willing to except the job as Interim. Mr. Hall stated at least six months; give you all ample time to go through MTAS and far as benefits he won't need any health insurance, he has his own. Mr. Hall stated he does have a certain idea of what the City Managers duties are he just didn't know what they all were, he's worked under enough of them to know what they do, since Asa Stewart.

Commissioner Bissell made a motion that they hire Mr. Hall as Interim City Manager. Sutton Seconded. Mayor Totty stated in the statement of discussion she would say in all situations there should be a process never should one person be allowed to push or create undo confusion to others when the public's best interest is at stake. Mayor Totty stated she voted against a rush called meeting and stand firm in her convictions as a citizen and as a Mayor that we want due process and deserve it. Commissioner Bissell stated he respectfully disagrees that they are not in due process, what they are doing is due process for an Interim City Manager. Commissioner Bissell stated he believes if anyone had wanted the job they would have contacted them, it was out there, it was on Facebook, in conversation, and judging by the number of emails he got it was on peoples mind. Mayor Totty stated in respect to your statement in due diligence in selecting the Interim City Manager would be opening it up to more than one candidate. Mayor Totty stated they have another application that was submitted by a current employee and don't know if any of the other employees were even asked if they had an interest, so at that point she does believe that we didn't allow process to take place by discussing one person only. Commissioner Bissell stated as he recalled the letter said that not necessarily he wanted to be considered he would accept the assignment if it was the wishes of the Board. Vice-Mayor Johnson asked Ms. Pewitt have we had any other applications turned in except for Mr. Hall. Ms. Pewitt stated no sir just the email she received yesterday. Mayor Totty stated prior to the meeting they did not have Mr. Halls application submitted. Commissioner Carroll stated she is kind of torn, she is on the principle, she can live with that their not talking City Manager, now that they are talking Interim, she know they don't have a lot of time. Commissioner Carroll stated she feels like Mr. Hall has a lot of integrity and would be good for the community, but it is hard to wipe away, right is right and wrong is wrong, what would hurt to do an application process. Commissioner Carroll stated could we have Ms. Pewitt to stay in the position for another week, to see if there is another candidate, she just wants to be able to walk away and say we did a process. Vice-Mayor Johnson asked Mr. Jeff

Broughton from MTAS, there's been questions from both sides about the process and our Attorney has enlightened them, we are following a process and it is completely legal, do you agree with that from a MTAS point. Mr. Jeff Broughton stated he's not an attorney and you have to follow the guidance your attorney gives you but he is a Municipal management professional, so he has a lot to offer for what you are embarking on. Mr. Jeff Broughton stated he would be very careful about how you proceed, not because of who you are selecting but simply the complications of doing it so informally. Mr. Jeff Broughton stated he's been in several City meetings and this is way to loose for what you're trying to accomplish tonight, your meeting management needs some help. Mr. Jeff Broughton stated I'm in the audience tonight and I'm not sure if you hiring Mr. Hall or not hiring him, when is his effective date, what's his salary, that's just not clear. Mr. Jeff Broughton stated if Mr. Hall is your choice there is some loose ends that need to be tied down, that doesn't mean that you can't do them today but ask the attorney with your permission, when is the effective date for the interim, you can't have two City Managers. Mr. Cantrell stated that's what I told the Mayor they would have to either withdraw the motion they had or take it up in the next motion, as the compensation or they could vote to hire him but that would have to be a motion and that would have to be today. Vice-Mayor Johnson stated one more question Mr. Broughton, does this Board have the authority that when the next election comes around, as soon as they take office, could they immediately fire the City Manager and hire someone else. Mr. Broughton stated absolutely. Mr. Cantrell stated not if he has been here less than a year. Commissioner Bissell asked Mr. Broughton in your experience what do other Cities do in this situation, do they hire someone in staff or go out and find someone. Mr. Broughton stated they find someone on staff and select that person, they're already in the system, just a matter of someone temporarily steps up and often times it's someone volunteering to do it because someone has to do it. Commissioner Bissell stated so having heard that if they are going to follow MTAS on one thing then possibly what they need to do is to not pick Mr. Hall today, to allow the staff to submit applications by the end of the week and conduct those interviews early next week then make a decision and that would allow any Board member to get out and beat the bushes and entertain the people that chose to apply. Commissioner Bissell stated that this Board is stuck on the process than the actual qualifications and he feels it is very important that this Board supports that person. Commissioner Carroll stated that she is not opposed to the process and feels it will eliminate some of the concerns of did we look at all of our options and it would be a good compromise for representing the people. Commissioner Bissell stated so if we go through the process and they choose Mr. Hall, is that person going to have your support? Commissioner Carroll stated yes, whoever they select. Commissioner Bissell stated that he thinks they have a responsibility to our public and to the staff to have someone in place. Commissioner Carroll stated she would support whoever is put in as Interim City Manager and accepts the process, and there are a lot of times you all voted on things that she did not like but she has to except the process.

Commissioner Bissell stated he would like to amend his motion that allows to the close of business on Friday for any current employee that meets the qualifications of Interim City Manager to apply and they will not advertise in the newspaper but each of them as a members of this Board is free to solicit from the general public, individuals that want to be considered and that they convene on Tuesday of next week, go through all the applications and set up interviews that they think are appropriate, and Mr. Hall does not have to interview again,

he has already given them one of his days. Commissioner Carroll Seconded. Mayor Totty stated she would like to have clarification, you said that the employees that meet the qualifications of City Manager has that been vetted that the candidate currently meets the qualifications. Commissioner Bissell stated yes he does. Mayor Totty stated was that discussed prior or was that discussed today. Commissioner Bissell stated there are three qualifications of City Manager; first qualification is that he is a Citizen of the United States and a Citizen of this City, second qualification he must have a Bachelor of Science degree in Public Administration or five years' experience in a responsible position that would equate to the responsibilities of the City Manager. Mayor Totty stated is that exactly how it reads is the word or in you definition? Commissioner Bissell ask Ms. Pewitt to read, Ms. Pewitt stated graduation from a four year university of recognized standings with a Bachelor Degree in any area of Public administration and a minimum of five years supervisor experience dealing with the Public, budgeting and administration or any equivalent combination of education and training and experience which provides the requisites knowledge skills abilities for this position. Mayor Totty stated thank you for clarification. Commissioner Carroll stated Tuesday would be great. Commissioner Bissell stated Tuesday of Wednesday. Vice-Mayor Johnson stated we're going to interview them on Friday so the will be ready for Monday. Commissioner Bissell stated correct. Mayor Totty stated another clarification in you motion, you offered employees only, which the candidate is not a current employee, is there legalities of having an outside and not offering to any and all outside. Vice-Mayor Johnson stated he did offer that. Commissioner Bissell restated the motion that we allow any current employee of the City of Fairview that meets the qualifications of City Manager to apply and that any member of the Board wishes to go out and solicit from the public an application if they meet the qualifications for the City Manager then we will also entertain those applications but that we will not advertise in the paper and we will look at those packages and decide do we want to interview that person, just because they applied does not mean we will interview them and the last item in my motion was that Mr. Hall because he gave us his day he is not required to apply again or to have another interview. Commissioner Carroll asked that he add Interim City Manager. Commissioner Bissell stated he would add that to his motion. All were in favor.

Commissioner Bissell made a motion that they pay the Interim City Manager one dollar more than the highest paid employee, that would be Chief Harris and he doesn't know what Chief Harris makes, that it be for six months, that the person does accrue leave and is eligible for insurance, but unless they are a current City employee they are not eligible for retirement and that the report date will be Monday October the 21st. Mr. Cantrell asked what about the City car? Commissioner Bissell stated yes they would have access to a City car. Carroll seconded. Vice-Mayor Johnson asked if the person chosen stays here permanently how would the six months accrue, would it be lost. Commissioner Bissell stated he thinks they could address that at the time they hire someone, and he wouldn't be against them giving that person credit for the six months. Mayor Totty stated to the attorney is it proper to make a motion after they have addressed the new business of A. Mr. Cantrell stated yes it would because you're still talking about the hiring of the Interim City Manager. For: Sutton, Bissell, Carroll, Johnson Against: Totty

Mr. Cantrell made a comment just for clarification we were talking about the authority of the Board and hiring City Managers and just to quote briefly form

our charter C-33 section 6-21-101 quoting ‘the Board of Commissioners shall appoint and fix the salary of the City Manager, who shall serve at the will of the Board; provided, however, that he may not be removed within twelve months from the date on which he assumed his duties, except for incompetence, malfeasance, misfeasance, or neglect of duty’ now that applies to the City Manager only but as far as the part about appointing would apply to the Interim also.

Commissioner Sutton asked about the date and time for the next meeting, everyone agreed on Tuesday the 15th at 6:30 p.m.

4. Mayor Totty asked for a motion for adjournment.

A. Commissioner Sutton made a motion to adjourn. Vice-Mayor Johnson seconded. All were in favor. The meeting adjourned at 2:00 p.m.

Theresa Porter
City Recorder