

CITY OF FAIRVIEW

BOARD OF COMMISSIONERS MEETING MINUTES

November 19, 2015

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

Present: Carroll, Sutton, Bissell, Crutcher, Johnson

Others Present: Hall, Alexander (sub. for Cantrell), Daugherty, Johnson, Paisley, O'Neal

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 – Vice Mayor Sutton asked for withdrawal of item 10D noting he and Mr. Hall will obtain more information from Spring Hill before bringing it back to the agenda. Vice Mayor Sutton made a motion for approval with Commissioner Crutcher seconding. All were in favor.

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

A. Donna Brooks, 7315 Chester Road, delivers a message from her husband, Bob, who states perception is reality, whether we like it or not a person's belief is their reality and this is the case of nepotism in Fairview. Citizens at large have this perception. It appears the auditors also believe there is a problem and it should be the concern of the BOC. Examples include the perception that Commissioner Johnson ran through hiring Mr. Hall so he could hire his wife and Commissioner Bissell and the emergency purchase of the park truck to benefit his son. These may or may not be true and is definitely not a reflection of their performance but there is a perception that overshadows everything. To think that our city's talent pool is so shallow that it can only include family or friends is insulting. None of this reflects well on our city and the only way to end these perceptions is to have a strong, professional nepotism policy.

B. Scott McCoy, 7101 Braxton Bend Drive, addresses comments on his offer to reimburse the city for the subscription cost of OpenGov since, after 10 months, they were unable to implement the software. My offer to the city was to reimburse the vendor costs if, in the first year after implementation, the city did not find at least double the dollar savings of the annual service. Since there is no published data to analyze. When you say it is too complicated what I hear is we did not resource it properly. Tonight the Board will consider solutions to our nepotism problems. Bissell's comment at the last meeting made it appear he was unaware of the nepotism perception that clouds the city. Two years ago our then-Mayor addressed concerns, as have citizens, 2 current Board members, as well as auditors. McCoy offers the suggestion if you are an elected member of the Board of Commissioners and unwilling to listen to your constituency and put the good of the city above your own then perhaps you should consider tendering your resignation as soon as possible so the city is not mired by your actions for the next twelve months.

4. Awards and/or Recognitions –

A. City Manager Hall shared a letter to Fire Chief O'Neal from Debbie Smith of 7154 Chessington Drive praising the fire department for their response to a house fire on October 31.

5. Public Announcements –

- A. 2015 Audit Presentation by Patterson, Hardee & Ballentine, P.C. - Finance Director Daugherty introduces Sarah Hardee, partner at our audit firm. Hardee reports the audit is a clean, unmodified financial opinion noting the financial statements of municipalities are very unique due to government wide regulations. Hardee states they did not identify any material weaknesses but did have three findings. The first is regarding financial statement recording and accounts receivable, accounts payable and accrued liability should all be adjusted before the audit begins. The second is a non-compliance issue of not separating out the state street aid funds as dictated in the stabilization plan. The third is also a non-compliance issue and on upcoming projects, when bid, the budget must be amended prior to accepting the bid and it has to be accrued as a liability so this did put the budget over in total. Hardee noted there were no disagreements with management, staff is maintaining segregation of duties, but they are concerned with the number of hours required from the director of finance due to his function as human resources. They were notified by the comptroller of conflicts of interest and found no clear resolution but they do recommend the Board find a way to resolve the perceived conflicts of interest. Mayor Carroll questions the finance review committee noting it was a recommendation from their first audit and asking if we still have a need for it. Hardee replies it was recommended to provide some financial support and relieve some pressure off the finance director. She continues the committee needs those with municipal financial experience to be of help and they probably would have caught some of the findings. The original idea was for a quarterly meeting to deal with the big stuff such as the TAN, GAN, research and follow-through. Hardee continues they are missing the forest for the trees if they are not assisting with the big items. Hardee states they should be reviewing the financial statements and financial reporting and would be incredibly helpful if the committee members have municipal budget experience. Commissioner Johnson asks Hardee about nepotism versus conflict of interest as the audit does not mention nepotism. Hardee states that is outside her realm as an auditor but they did not use the word nepotism. Crutcher asks if nepotism wasn't an issue would there be a perceived conflict of interest? Hardee states their recommendation came directly from a letter from the comptroller which they take very seriously. Commissioner Crutcher states the recommendation deals with familial relationships of three commissioners to employees which to me is the textbook definition of nepotism and has created a perceived conflict of interest. If we had a nepotism policy this could be prevented. Johnson states conflict of interest can occur on any topic that doesn't have anything to do with nepotism. Johnson asked if the letter from the comptroller used the word nepotism and Hardee confirmed it did not.

6. Staff Comments –

- A. City Manager Hall (as Interim Codes Director) thanks Attorney Dan Alexander for sitting in for City Attorney Cantrell in his absence. Hall states the Codes Department has been super busy with subdivision proposals and Hall has the developers addressing the wastewater treatment first. Hall thanked Ron Rowe and Scott Tucker for their work on a recent grant submittal to close the gap in sidewalks on Hwy. 100 from Walmart to TSC. Mayor Carroll states it was nice seeing Fairview on the MPO list for 2040 with multiple projects including the widening of Hwy 100.
- B. City Recorder Johnson gives an update on the special census noting as of yesterday, Crisp had recorded returns totaling 3,719 individuals and 1,205 households. A second letter will go out around the end of this month. Vice Mayor Sutton suggests adding forms to be available at local businesses.
- C. Finance Director Daugherty states we received the GAN renewal approval from the comptroller. He notes budget amendments will be forthcoming for any grant and debt not changing the budget but how they are accounted for based on how the comptroller wants them listed.
- D. Mayor Carroll announces the Friends of Bowie Nature Park's Fireside Concert on December 12 from 2 to 4 p.m. featuring Yankee Dixie.

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 November 5, 2015 Board of Commissioners meeting

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

9. Old Business (NONE)

10. New Business

- A. Discuss and/or Take Action on Acceptance of 2015 Audit – Commissioner Crutcher made a motion to defer to the next meeting as the Board just received the report today and have not had a chance to read seconded by Mayor Carroll. FOR: Carroll, Crutcher, Johnson, Sutton; AGAINST: Bissell, motion carried.
- B. Discuss and/or Take Action on Approval of Resurfacing Bid – City Manager Hall explains this is to request approval of the bid for resurfacing New Hope Road, New Hope Pass and a portion of Dice Lampley Road which was in the budget and the bid came in excellent at \$71,280. Commissioner Johnson made a motion for approval with Vice Mayor Sutton seconding. Commissioner Crutcher discloses he lives on one of these streets but he will be voting. Mayor Carroll asked if we have contacted the county about assisting and Mr. Hall replies yes but they are not doing any paving in Fairview this year and maybe next year but we are working toward building that relationship with them. Carroll also questioned about forthcoming construction in the area of Dice Lampley and Mr. Hall assured her the paving would not be affected by the construction. All were in favor.
- C. Discuss and/or Take Action on Annual Vacation Accrual – Finance Director Daugherty states that in conversations with the auditor they questioned why we were rolling vacation accruals over at the end of the calendar year rather than the end of the fiscal year which would decrease liability. Daugherty states our policy manual states rollover is annually and he plans to change the accrual date to June 30 and his goal is to have the least amount of liability and rollover 80 hours for all employees. Daugherty notes he does need to address three issues; new hire compatibility (those hired in the last quarter have difficulty using accrued vacation time and are currently not allowed to rollover), summer vacations (under proposed policy employees with less than 10 years of service may have difficulty accruing enough time for summer vacations), simple calculation (chance of error greatly reduced in calculating accrual if all employees allowed the same rollover of 80 hours). Commissioner Bissell requests to see it all in writing and makes a motion for deferral until a more complete proposal is presented seconded by Commissioner Johnson. Vice Mayor Sutton asked how we calculate the liability of comp time and do we have any idea how many hours are out there. Daugherty states he is working on this as well but it is a little more complicated. Daugherty states we will soon be tracking comp time hours on pay stubs. Sutton states he thinks comp time should be included in this discussion. All were in favor.
- D. Discuss and/or Take Action on Bill #2015-44, Ordinance No. 909, An Ordinance for an Amendment to the City of Fairview, Tennessee, Budget for Fiscal Year 2015-2016 Budget (Proper TAN Accounting) – Vice Mayor Sutton read the caption and Finance Director Daugherty explained this is to put the revenues and expenditures for the tax anticipation note in the format requested by the state comptroller. Commissioner Bissell made a motion for approval with Vice Mayor Sutton seconding. All were in favor.
- E. Discuss and/or Take Action on Bill #2015-45, Ordinance No. 910, An Ordinance To Change The Zoning Of Certain Property In The City Of Fairview, Tennessee, Located Off Tiger Trail, Owned By Benny Sullivan, As Shown On, Williamson County, Tax Map 042, Parcel 28.00, From RS – 40 (Residential), To R-20 PUD Overlay (Residential/Planned Unit Development), 15.49 Acres – Vice Mayor Sutton read the caption and Commissioner Bissell made a motion for approval with Commissioner Sutton seconding. All were in favor.
- F. Discuss and/or Take Action on Resolution No. 32-15, A Resolution To Set A Public Hearing For The Purpose Of Obtaining Public Comment On Changing The Zoning Of Certain Property In The City Of Fairview, Tennessee, Located Off Tiger Trail, Owned By Benny Sullivan, As Shown On, Williamson County, Tax Map 042, Parcel 28.00, From RS – 40 (Residential), To R-20 PUD Overlay (Residential/Planned Unit Development), 15.49 Acres - Vice Mayor Sutton read the caption and Commissioner Bissell made a motion for approval with Commissioner Sutton seconding. All were in favor.
- G. Discuss and/or Take Action on Recommendation from Planning Commission on Rezoning Application for Property Located on Cumberland Drive, Map 047, Parcel 66.04, 113.92 Acres, Owned by Kenneth Green, From RS-40 to RPUD with a Mixed Base Density of RS-15 and R-20 – Mayor Carroll read the caption and City Manager Hall explained this is for permission for the attorney to prepare the documents and noted the engineer's recommendation for RS-20 with 251 lots rather than 265. Vice Mayor Sutton made a motion for approval with Commissioner Johnson seconding. All were in favor.

- H. Discuss and/or Take Action on Bill #2015-42, Ordinance No. 907, An Ordinance to Amend City of Fairview, Tennessee, Municipal Code, Title 14, "Zoning & Land Use Control," Chapter 2, "Zoning Ordinance," Section 14-204, "Schedule of Fees" – Vice Mayor Sutton read the caption and City Manager Hall explained this is to change fees for engineer review for a consistent flow of charges. Mayor Carroll clarifies it is paid by developers based on what we are charged. Vice Mayor Sutton made a motion for approval with Commissioner Johnson seconding. All were in favor.
- I. Discuss and/or Take Action on Bill #2015-43, Ordinance No. 908, An Ordinance to Amend City of Fairview, Tennessee, Municipal Code, Title 14, "Zoning & Land Use Control," Chapter 2, "Zoning Ordinance," Section 14-205, "Professional Consultant Review Fee Deposits" – Vice Mayor Sutton read the caption and City Manager Hall explained this is similar to the previous ordinance but for fee deposits. Vice Mayor Sutton made a motion for approval with Commissioner Bissell seconding. All were in favor.
- J. Discuss and/or Take Action on Nepotism Policy – Commissioner Crutcher states four reasons for this discussion; audit recommendation, recent discussion with Attorney Cantrell on conflicts of interest, it's time to develop a strong policy and it's the right thing to do. Crutcher reviews the current policy and defines nepotism as favoritism toward relatives. He states we need a broader definition of relative. Crutcher states perception is reality and based on the perception of reasonable people we have an issue. He notes the proposed bill would be prospective and broadens the definition of relative and makes a motion for the city attorney to draft an ordinance based on his draft to be placed on the next agenda seconded by Mayor Carroll. Attorney Alexander urges caution stating he has researched a number of cases of similar nepotism policies noting if you don't take great care you are inviting a lawsuit. Alexander recommended the Board instruct the City Manager to develop a policy to cover their concerns with the Board adopting as policy into the Policy and Procedures manual. Alexander continued the Board doesn't have a supervisory position over employees but the City Manager does. Alexander notes in his 36 years of experience the court will find a way to find in favor of an employee punished through nothing other than a relationship. He notes the MTAS recommendation for a policy is much more flexible than the proposed policy. Alexander notes the drafted policy lacks a provision for appeals. Commissioner Bissell states a standard dictionary shows a distinct difference between nepotism and conflict of interest though we are all guilty of sometimes using the terms interchangeably. Bissell defines nepotism as a prohibited personnel practice with an overt action of hiring or promoting unqualified family member. Bissell states from his research there has to be more than an appearance for nepotism to have occurred. Noting he can only speak for his own actions, Bissell states nepotism is a word that smacks of corruption and this Board needs to stop drilling at each other because a third party has loudly stated their agenda and remember we are all trying to do right by the city. Bissell reiterates there is nothing wrong with hiring a qualified family member. He states he trusts the integrity of fellow board members until specific, verifiable actions have occurred that violate our nepotism policy. Vice Mayor Sutton amends the motion to go with the attorney's suggestion that we turn this item over to the City Manager to come back to the Board with a policy based on these suggestions. Mayor Carroll notes there are two issues: nepotism and the conflict of interest. Carroll states MTAS recommends a statement similar to the one our attorney suggested because we can't assume everyone knows who's related. She recommends we include a question in the application process to disclose a relationship. Our current policy is too vague and I don't think it affects today but we need guidelines for the future. Crutcher stated he was willing to amend as to the suggestions. Vote on the amended motion: FOR: Carroll, Crutcher, Johnson, Sutton; AGAINST: Bissell, motion carried, original motion negated.
- K. Discuss and/or Take Action on Agenda Item Sponsorship – Commissioner Crutcher noted we have had a policy of assigned departments for the Board members to sponsor agenda items. Crutcher made a motion to have the department head request sponsorship going forward seconded by Vice Mayor Sutton. All were in favor.
- L. Discuss and/or Take Action on Approved Projects and Time Line for Completion – Commissioner Crutcher made a motion for a policy that approved projects that have not been started within 180 days of approval must return to the Board for re-approval seconded by Vice Mayor Sutton. All were in favor.
- M. ~~Discuss and/or Take Action on Impact Fee~~—REMOVED FROM AGENDA

10. City Manager Items for Discussion –

- A. Miscellaneous Updates – City Manager Hall stated another police officer resigned last week and I would like to ask permission to rehire as well as hire additional auxiliary positions. Hall also requested to rehire any public safety positions that come open. The Board agreed. Hall noted City Hall is closed next Thursday and Friday for Thanksgiving. Hall thanked the police yesterday and their efforts in directing all the extra traffic from interstate closures.
- B. City Attorney Comments - NONE

11. Communications from the Mayor and Commissioners –

- A. Commissioner Johnson - NONE
- B. Vice Mayor Sutton - NONE
- C. Commissioner Bissell states we all have strong opinions on the topics of conflict of interest and nepotism. Bissell complimented the Mayor on how she ran the meeting and notes whether the five of us agree or disagree on any topic we are all here for the same reason.
- D. Commissioner Crutcher notes he didn't spend hours researching to be vindictive but trying to be forward thinking, bring our policy current stating the policy is not as harsh as some think. Crutcher thinks there were a lot of personal attacks tonight, none of which were justified. Crutcher states it is completely false to say he would be influenced to do something because someone wants him to.
- E. Mayor Carroll remembers her first year after being elected and wanting to bring to the table items that were discussed during the election process. She thanked Crutcher for taking the time to put the nepotism item on the agenda noting it is not always personal but was told by someone that the best way to move forward is to bring everything to the table. She thanks the Board for respecting the process of the meeting noting she didn't want them to be perceived as arguing. Mayor Carroll wished everyone a Happy Thanksgiving.

12. Adjournment – Vice Mayor Sutton made a motion for adjournment and meeting was adjourned at 9:47 p.m.

Brandy Johnson
City Recorder