

City of Fairview

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Municipal Planning Commission

Regular Meeting
February 13, 2017
7:00 p.m.

Lisa Anderson, Chairperson
Matt Beata, Vice Chairman
Brandon Butler 1st Secretary
Michael Mitchell, 2nd Secretary
Donn Lovvorn, Mayors appointee
Derek Burks, Commissioner
Wayne Lowman
Tim Mangrum
Mitch Dowdy

Present: Anderson, Beata, Butler, Mitchell, Burks, Lowman, Mangrum, Dowdy

Absent: Lovvorn

Others Present: City Attorney Larry Cantrell, City Manager Scott Collins, Codes Director Wayne Hall, Codes Clerk Sharon Hall

1. ANDERSON CALLED THE MEETING TO ORDER AT 7:00 p.m.

1.1 Anderson led the prayer and pledge.

2. APPROVAL OF THE AGENDA-

2.1 Beata made a motion for approval. Butler Seconded. Hall stated Will Owen could not be here tonight due to illness in his family. Hall stated need to add 6.2 Discuss and/or take action on setting the bond for Willow Crest Subdivision (Habitat for Humanity) Beata amended the motion to include setting the bond for Willow Crest Subdivision. Butler Seconded. All were in favor

3. CITIZENS COMMENTS - (Limited to the first five to sign in and a limit of three minutes each.)- None

4. APPROVAL OF THE MINUTES-

4.1 January 10, 2017 – REGULAR MEETING

Mitchell made a motion for approval. Mangrum Seconded. All were in favor.

5. RECOMMENDATION – None

6 BONDS-

6.1 WESTERN WOODS VILLAGE – PERFORMANCE BOND TO COVER THE ROADS, SIDEWALKS, AND STORM DRAINAGE – \$155,300.00. PLANNING COMMISSION SET THE BOND ON FEBRUARY 12, 2008. THE BOND WAS REDUCED TO \$106,000.00 AT THE FEBRUARY 10, 2009 MEETING. THE BOND WAS REDUCED TO \$80,240.00 AT THE FEBRUARY 12, 2013 MEETING. BOND EXPIRES MARCH 14, 2017. AT THE DECEMBER 13, 2016 MEETING PLANNING COMMISSION VOTED TO REDUCE TO MAINTENANCE BOND TO \$20,000.00.

- . Hall stated bond was renewed. Hall stated bond was enough to cover the subdivision.

6.2 DISCUSS AND/OR TAKE ACTION ON SETTING BOND FOR WILLOW CREST SUBDIVISION-HABITAT FOR HUMANITY.

Hall stated Will Owen's recommendation was to set a reclamation bond \$140,000.00, the performance bond for \$610,000.00. Hall stated he has explained this to the applicants; the reclamation bond is for the infrastructure, roads, curbs and gutters, etc. Hall stated if they want to bring in a performance bond, the performance bond would take care of it all, building and the site development. Hall stated the developers can make the chose to start out with a reclamation bond then come back with a performance bond. Lowman asked Hall, the \$610,000.00 would include the reclamation bond if they opted that? Hall stated yes. Beata made a motion to set the bond at \$610,000.00 and the reclamation bond at \$140,000.00 per the City Engineers recommendation. Mitchell Seconded. All were in favor.

7. OLD BUSINESS- None

8. NEW BUSINESS-

8.1 DISCUSS AND/OR TAKE ACTION ON THE ELECTION OF PLANNING COMMISSION OFFICERS. BURKS

Burks stated last month they had held elections for Officers positions, unfortunately after reviewing the minutes, it appears what they had done was to suspend the meeting in order to have the election for the officers, the resumed the meeting. Burks stated unfortunately they had elections outside of the meeting, which to his understanding, that would be inappropriate, City Attorney is that correct. Cantrell stated that's correct. Burks stated so what they need to do is in a meeting they need to hold elections. Burks stated he would start out with making a nomination for the Chairperson, he would nominate Mr. Butler. Anderson stated she was instructed on how to do this and she did it the way she was supposed to, so the officers that were elected are now null and void. Burks stated yes they would have to start over from scratch. Cantrell stated he was here and he made a mistake. Collins asked an operational question, it is his understanding that there is a motion on the floor regarding a nomination. Burks stated yes for a Chairperson, no second. Collins stated so Mr. Burks motion died lack of Second. Anderson stated yes. Anderson made a motion that the officers remain the same;

herself remain Chairperson, Matt Beata Vice Chairman, Brandon Butler 1st Secretary and Mike Mitchell 2nd Secretary. Beata Seconded. Anderson asked were there anymore nominations. Burks stated he thinks it's always good to change things up every so often, it's not personal against anyone, just makes sense to get new ideas and new positions, that's why he made a different nomination. Vote was taken, all were in favor except Derek Burks, nay.

- 8.2 DISCUSS AND/OR TAKE ACTION ON REZONING AND PRELIMINARY MASTER DEVELOPMENT PLAN OF PROPERTY OFF OLD NASHVILLE ROAD FROM RS-40 TO RS-15 R.P.U.D. OVERLAY (RESIDENTIAL. MAP 42, PARCEL 74.00. 13.39 ACRES. OWNER JENNIFER ROSE BUFFORD. Mangrum recused himself from voting, but will take place in the discussion. Beata read City Staff Report, which will become part of these minutes. Exhibit A. Gary Martin Engineer for the project present to represent. Burks stated he has a question for the City Attorney there was some confusion on the initial agenda, it had the owner as unlisted, which was corrected this morning and listed the owner as Jennifer Rose Bufford, is Mrs. Bufford present. Burks stated he doesn't see her here, that being said do they allow someone to stand in her place since the owner isn't present. Cantrell stated that our ordinance requires if anyone has business to conduct before any Commission, panel, Board of Commissioners would either be present or have their designated agent present. Cantrell stated the only way to have a designated agent would have some sort of agreement, verbal or written; the ordinance doesn't require that it be written. Cantrell stated would have to be the person that owns the property or they would have to designate them as their agent to be here to represent them. Cantrell stated it would an acknowledgement from the owner, either standing with them or a written statement that states this is my agent and they are representing them for this purpose. Burks stated it is his understanding that they haven't received anything in writing, does anyone have that. Burks asked Gary Martin does he have anything in writing. Martin stated he doesn't he works for the proposed developer. Cantrell stated they would have to defer until they owner is present or we have a letter from the owner, or a designated agent for the owner. Mangrum asked Cantrell to read section 6, item D of a document he has, which is signed by the owner. Cantrell reads over the document, says it's very small, but there is a signature. Burks stated so we have a signed agency agreement? Cantrell stated it's very small but he can make out Rose. Burks asked for clarification, who does it appoint as the agent? Cantrell stated the real-estate agency. Lowman asked Cantrell so are they required to be here for this meeting. Cantrell stated it looks like Tim Mangrum is appointed as the agent. Lowman stated he just wants to make sure that whole chain is proper. Cantrell stated if the Board wants to be really careful you can defer until the next meeting so he can have a chance to properly review this, he will stated to the Board that he has not seen this until tonight and there is several pages to this document. Anderson asked

Mr. Collins would he like Collins stated his only question is really not for him to answer, may not be for him to ask, and is to confirm that this agreement is more than a real-estate sales agreement and that it is actually an agreement that defers or authorizes the ability of the property owner to assign decision making before this Board as part of the rezoning. Collins stated he just wants to make sure that somewhere in the document that it asserts that the Engineer is authorized to speak or take action on behalf of the property owner, as it relates to the rezoning. Collins stated there is no question that it represents during the sale, does it represent as a part of action for this Board which will ultimately go to the Board of Commissioners as City Council, as long as they can answer that he wouldn't see an issue but he would want to make sure they have the proper representation for the purposes that they are undertaking, aside from a real-estate transaction. Cantrell stated before he could answer that he would have to have more time to review the document because there is clearly is an indication that the buyer is authorized to undertake the rezoning but it's a pretty good size document. Cantrell stated it's going to take some more thorough review to be sure; easy way would be for them to defer it and have this gentleman come back with the owner and let the owner tell them this is my agent. Anderson asked when a property is asked to be rezoned, doesn't the property owner asked for that rezoning from the Codes Department. Cantrell stated the property owner can, but the ordinance says them or their designated agent. Lowman made a motion to defer in order to verify proper owner representation and to give City Attorney to investigate the documents. Mitchell Seconded. Beata asked would an owner's affidavit with a notary be sufficient. Cantrell stated as a designated agent? Beata stated yes with the owners affidavit naming the agent. Cantrell stated the owner wouldn't have to be here if they have a letter from the owner saying they are the agent. Vote was taken, all were in favor.

8.3 DISCUSS AND/OR TAKE ACTION ON FINAL PLAT FOR RESUB- DIVISION OF LOT 1 OF B & B INVESTMENTS. MAP 22, PARCEL 163.00, 1.01 ACRES. DAVID FUQUA AND EDWARD P. PAQUIN OWNERS.

David Fuqua and Edward Paquin present to represent. Butler recused himself. Beata read the City Staff Report, which will become part of these minutes. Exhibit A. Mangrum made a motion with TDOT approval. Lowman Seconded. All were in favor.

8.4 DISCUSS AND/OR TAKE ACTION ON SITE CONSTRUCTION PLANS FOR LIBERTY HILL CHURCH OF CHRIST PARKING LOT AND ACCESSORY STRUCTURE IMPROVEMENTS. MAP 69, PARCEL 79.00, 18 ACRES. LIBERTY HILL CHURCH OF CHRIST OWNER.

Jeff Duke present to represent. Beata read City Staff Report, which will become part of these minutes. Exhibit A. Hall stated they could approve contingent on BOZA approval or they could defer until BOZA approves. Burks made a motion to defer until they get a Conditional Use Permit from the BOZA. Lowman Seconded. All were in favor.

8.5 DISCUSS AND/OR TAKE ACTION ON FINAL PLAT FOR SCARBOROUGH VILLAGE PHASE 2 SECTION E, 4 UNITS THAT WAS PREVIOUSLY APPROVED BY THE PC IN 2007. MAP 42G, B, PARCEL 4.06. OWNER SMITHSON T.E. BUILDERS, LLC

Thomas Smithson owner present to represent. Beata read City Staff Report, which will become part of these minutes. Exhibit A. Mangrum made a motion for approval. Beata Seconded. Burks asked was there a fence going around the detention pond. Smithson stated he doesn't think he owes that anymore, it doesn't hold water, but if they need a fence he can put a fence around it. Burks stated they have been asking, subject to approval that fencing is installed around any detention ponds for safety purposed. Burks stated he would say vinyl; chain length fence would be fine, but no galvanized. Mangrum stated could they verify who owns that because if that is City property they are not allowed to do that without City approval. Burks asked was it on his property or not, plans showing it is within his property. Smithson stated it may be his and if it is he doesn't have a problem putting a fence around the detention pond. Hall stated he will get with Mr. Smithson and make sure the property is his. Cantrell asked do they want to amend the motion to include the fence. Mangrum amended his motion to put a fence around the detention pond if that piece of property doesn't belong to the City. Beata Seconded. Lowman stated are there any specifics regarding the material for the fence that would apply to this application. Burks stated his request would be not galvanized; chain length is fine as long as it's the black vinyl cover, doesn't require as much maintenance. Smithson stated that is fine. Anderson asked are they adding the specifications of the fence. Mangrum stated no, he can follow the subdivision regulations, as far as he's concerned. Vote was taken on the amended motion. All were in favor. Vote was taken on the motion. All were in favor.

9 REPORTS FOR DISCUSSION AND INFORMATION

- 9.1 **DIRECTOR OF PLANNING AND CODES** – Hall stated he is going to try to have Will Owen to get the Staff Review Comments to them sooner, so they can have them in their packets, glad they got it corrected.
- 9.2 **CITY ENGINEER** – Not present
- 9.3 **CITY ATTORNEY** – Cantrell stated he wanted to apologize to the Board on his mistake on their election, glad they got it corrected because they don't want to sit with a non-proper constituted Board. Cantrell stated he wanted to wish everyone a Happy Valentine's Day and remember not to come there tomorrow night.
- 9.4 **CITY MANAGER** – Collins stated a reminder as their adjournment of this meeting, they do have an executive session that is scheduled, and they anticipate the executive session to take approximately 20 minutes, they hope to get them in and out. Collins stated it is due to pending litigation, they will stick to that as part of the executive session that will not take long. Collins stated 2nd, you may have seen advertised, we are working on a restructuring through the City, we have advertised for a City Planner position. Collins stated they have recognized a need to help this body progress and they want to certainly do that. Collins stated they have met with the Board of Commissioners and they have agreed to fund a Planner position, that's advertised.

Collins stated he hopes that Planner will be in place by their April meeting and they will be their contact with the City, we want to have that as we move forward. Collins stated they've talked about comprehensive plan, planning, zoning, all the subdivision regulations, zoning ordinances, those sort of things, they expect that will help us a great deal with that. Collins stated there will be some restructuring of those departments but the City Planner will be their primary contact. Collins stated once we get the applications back and get down to a list, we will contact them about interviews for those positions so they are welcome to come take part of that, if they like.

10 COMMUNICATION FROM THE PLANNING COMMISSION MEMBERS.

Mangrum stated doesn't know if this is the right time but he is going to say it while he has the chance mainly because he has been involved with this deal tonight item 8.2, if he recalls correctly their deadline for this meeting was December 13th, staff review was January 17th, they received their packets on February 3rd. Mangrum stated they have made it a habit of deferring people, thinks that is why they are having a meeting after this meeting tonight, it's alarming and concerning because they are wasting people's time and money. Mangrum stated he can't speak on anyone else's deal but he can promise them that they probably have done many; many rezoning's with the property owner never being here. Mangrum stated he guarantees them that we don't have anything on file to back it up but because someone wanted to go on a witch hunt, they have made it new tonight. Mangrum stated they probably won't see that Old Nashville Road again because that killed that deal. Mangrum stated when we have all this time to get something done and nothing happens that's what gets them in predicaments, that all he has to say.

Burks stated first all he would like to thank our Codes Clerk Ms. Sharon for all the hard work she does, she does a lot of work getting everything she does on a daily basis plus getting everything ready for them, he really appreciates that. Burks stated and respectfully he doesn't know about any witch hunts, he does know there is a proper way of doing something, it just needs to be done the proper way, can't say how anything was done in the past. Burks stated but going forward things just need to be done the way there supposed to be.

Anderson stated she appreciates everybody's support; she works really hard to represent the Planning Commission as the Chairman and anyone of them are more than capable of being Chairman of this Planning Commission. Anderson stated what it comes down to is availability with the growth and everything that they have going on in Fairview with the growth. Anderson stated she does make an effort to be at every meeting that she needs to be at and she is going to be at more, because she knows that the growth we have going on, the staff meetings, Board of Commissioners just the support of representation from the Planning Commission. Anderson stated there are a lot of meetings that need to be attended but there needs to be representation and she will be doing that, appreciates all of their support. Anderson stated Fairview is growing by leaps and bound, we have a lot of new wonderful businesses, and we need to remember to support those because it keeps our money here in Fairview. Anderson stated she appreciates all the Planning Commissioners and what you bring to the table, the staff and how hard they work for them to make sure they have good information. Anderson stated that's all she has tonight; ask for a motion for adjournment.

11 ADJOURNMENT- Butler made a motion to adjourn. All were in favor. Adjourned at 7:55 p.m.

Chairperson

Secretary