

# City of Fairview

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## Municipal Planning Commission

**Regular Meeting**  
**June 11, 2013**  
**7:00 p.m.**

**Mike Smith, Chairman**  
**Robert Benson, Vice Chairman**  
**Lisa Anderson, 1<sup>st</sup> Secretary**  
**Matthew Beata, 2<sup>nd</sup> Secretary**  
**Beverly Totty, Mayor,**  
**Toney Sutton, Commissioner**  
**Michael Mitchell**  
**Marsha Hock-Elliott**  
**Todd Behan**

**Present:** Smith, Benson, Anderson, Beata, Totty, Sutton, Mitchell, Behan

**Absent:** Hock-Elliott

**Others Present:** City Attorney Larry Cantrell, City Planning/Codes Director Donn Lovvorn, Codes Clerk Sharon Hall

### **1. CHAIRMAN MIKE SMITH CALLED THE MEETING TO ORDER AT 7:05 P.M.**

1.1 Lovvorn led the prayer and the pledge.

### **2. APPROVAL OF THE AGENDA-**

2.1 Sutton made a motion for approval. Anderson Seconded. Lovvorn stated Mr. Chairman Item 8.1 needs to be removed from the agenda. Benson stated they need to defer item 4.1 May 14, 2013 regular meeting, since they were not in the packets. 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 MAY 14, 2013 REGULAR MEETING –Deferred.

#### **5. RECOMMENDATION – 2013-4**

#### **6. BONDS**

6.1 BRANDENBURG COVE SUBDIVISION – MAINTENANCE BOND TO COVER THE ROADS, SIDEWALKS, AND STORM DRAINAGE. \$45,000.00. PLANNING COMMISSION SET THE BOND AT THE JUNE 12, 2008 MEETING. BOND EXPIRES JULY 1, 2013.

Lovvorn stated the developer has been contacted on the expiration date. Lovvorn stated he would ask that they follow the normal procedures that they go ahead and call this bond if it's not renewed by the expiration date. Totty made a motion to call bond if not renewed by expiration date. Sutton Seconded. All were in favor.

6.2 STUFF IT INN AGAIN – SITE BOND TO COVER SITE GRADING, EROSION CONTROL, SEED AND STRAW MULCH, AND SITE RECLAMATION. \$47,500.00 BOND EXPIRES JULY 3, 2013.

Lovvorn stated they have a few items that need to be addressed before we can do a final Certificate of Occupancy. Lovvorn stated he has been told by the owners that those items should be taken care of in the next week or so. Lovvorn stated once these items are corrected and we get Will to go out and do the inspection this bond needs to be released. Lovvorn stated he has the authority to release this bond without Planning Commission approval. Lovvorn stated he just wanted to give them a heads up; usually he likes to ask for you to release them, that way it gets him out of the middle of it. Totty made a motion to release the bond with the exception not to if the outstanding items have not been completed.. Sutton Seconded. All were in favor.

6.3 KYLES CREEK/FAIRVIEW ESTATES – PERFORMANCE BOND TO COVER THE ROADS, SEWER, WATER, AND STORM DRAIN REQUIREMENTS - \$45,000.00 – PLANNING COMMISSION REDUCED THE BOND TO \$20,000 AT THE JANUARY 13, 2012 MEETING. BOND EXPIRES JULY 7, 2013.

Lovvorn stated he has been in contact with Kyles Creek Developer, they need to do some curb repair. Lovvorn stated this is the section that they put the final topping on last year and they are actually going to be looking for this bond to be released but he doesn't want to make a motion for that to happen right now until we get everything that they need to get done in this Subdivision. Lovvorn stated needs a motion if this bond isn't in place by the expiration date that they can call this bond with an understanding we may be coming back next month for this bond to be released. Totty made a motion to

call the bond if not in place by the expiration date. Sutton Seconded. Sutton stated he went and looked at the curbs and they haven't been touched. Lovvorn stated he talked to Marlon last week and he said they were going to try to get over there this week to fix the curbs and once he fixes the curbs and everything is into compliance then we can accept the road at that time. All were in favor.

**6.4 KYLES CREEK PHASE II SECTION I – PERFORMANCE BOND TO COVER THE ROADS, SIDEWALKS, AND STORM DRAINAGE. \$204,000.00. PLANNING COMMISSION SET THE BOND ON FEBRUARY 12, 2008. PLANNING COMMISSION REDUCED THE BOND TO \$119,000.00 AT THE JANUARY 13, 2012 MEETING. BOND EXPIRES JULY 8, 2013**

Totty made a motion to call the bond if not in place by the expiration date. Sutton Seconded. All were in favor.

**7. OLD BUSINESS –**

**7.1 VARIANCE REQUEST FROM THE SUBDIVISION REGULATIONS RELATIVE TO THE REQUIRED SIGNATURES TO VACATE SUBDIVISION PLATS IN REFERENCE TO LOT 6 OF EVERGREEN INDUSTRIAL PARK.**

Smith asked Cantrell to give them legal advice on our authority on variances. Cantrell stated this is about the third time that this has come before the Planning Commission and once before the Board of Commissioners. Cantrell stated he apologizes to this Board for asking this to be sent back, because at the last Board of Commissioners meeting there was a request made to that Board for relief that that Board is not empowered by statute to grant. Cantrell stated the main reason he asked for it to come back here, you've heard me say this many times, he'll never put his self in a position to speak for this Board, wouldn't attempt to do that. Cantrell stated the question was raised that there may be some kind of confusion as to whether this Planning Commission has the authority to grant the relief that was requested, a variance from the signatures. Cantrell stated let him state to you as clear as he can be, this Planning Commission absolutely has the authority to vary any provision of the Subdivision Regulations to the extent that you can amend them anyway you want. Cantrell stated he would caution them that when you do that you have weakened your Subdivision Regulations to the extent that when the next time someone comes in and says they have all the signatures but two or I've got all the signatures but three, where do you draw the line. Cantrell stated now you have a definitive line, once you changed it you have impliedly, at least varied the provision in your regulations, if you do that, that's your option. Anderson made a motion for discussion. Sutton Seconded. Totty stated thank you for your heartfelt words and they are listening and hearing her concerns. Totty stated has all the property been annexed into the City of Fairview. Lovvorn stated lot 6 is in the Industrial property. Totty stated there are two different properties? Fagan stated yes the other one is in the County and she can't build on that one. Totty stated she thought so she just needed clarification that they are talking about the lot 6 in the Industrial Park. Benson stated no Engineer report

on this. Benson read Staff report, which will become part of these minutes. Exhibit B. Smith stated at this time we have a motion for approval of the variance could he have a vote.

FOR  
Anderson

AGAINST  
Smith  
Benson  
Beata  
Totty  
Sutton  
Mitchell  
Behan

Smith stated motion fails.

**7.2 DISCUSS AND OR ACTION ON THE VACATION OF LOT 6 FROM THE EVERGREEN INDUSTRIAL PARK SUBDIVISION PLAT. MAP 18, PARCEL 47.27, 6.97 ACRES. CASSANDRA K. FAGAN OWNER**

Smith stated since 7.1 was voted down this was predetermined by that motion.

**8. NEW BUSINESS-**

**8.1 PRELIMINARY SITE PLAN FOR L&L EQUIPMENT LOCATED AT 1540 HIGHWAY 96 NORTH. MAP 18, PARCEL 1.00, 14.57 ACRES. HOOPER L. INMAN OWNER.**

Was removed from this Agenda.

**8.2 GRADING PLAN FOR THE WAL-MART SPOILS SITE LOCATED AT 2396 FAIRVIEW BOULEVARD. MAP 46, P/O PARCEL 82, 2.5 ACRES. EARL LAMPLEY OWNER.**

John Dawaal was representing Mr. Lampley. Beata made a motion for discussion. Anderson Seconded. Benson read Engineer report which will become part of these minutes. Exhibit A. Lovvorn stated when we schedule the preconstruction meeting we will invite the Fire Chief to that meeting, so they can discuss that issue. Smith amended the motion to include the spoils we are going to have an as built on the contours of the final print, under the burn pit they will have blowers, the amount of burning will be based on volume that will be over seen from someone from the City, to be able to determine when the best time to be able to do that process for the minimal impact to the City. Smith stated is there any other concerns. Sutton stated the minimal impact will be through the week when most people aren't home, park's not full, that would be his recommendation, when you have less outside exposure. Smith asked for a Second for adding the amendments. Beata Seconded. Smith asked for a vote for adding the amendments. All were in favor. Smith stated would like a vote for the original motion to approve the grading plan. All were in favor.

**8.3 DISCUSS AND OR ACTION ON A REZONING APPLICATION TO AMEND THE APPROVED MASTER DEVELOPMENT PLAN FOR FAIRVIEW HISTORIC VILLAGE. MAP 69, PARCEL 62.00, 3.54 ACRES, ZONED H.O.D. CITY OF FAIRVIEW OWNER.**

Totty made a motion to approve. Sutton seconded the motion. Totty amended the motion to include a note on the Master Development to state "Before any permit can be issued a Site Plan shall be submitted to the Planning Commission for a recommendation to be forwarded to the Board of Commissioners for approval." Beata seconded the motion. All were in favor. Smith asked for vote on the original motion as amended. All were in favor.

**9. REPORTS FOR DISCUSSION AND INFORMATION**

**9.1 PLANNING/ZONING/CODES DEPARTMENT** – Lovvorn stated he apologizes for forgetting the workshop that they were supposed to have tonight at 5:30 for the Proposed Land Use Map. Lovvorn stated we will have that meeting next month from 5:00 p.m. till 7:00 p.m. on July 09, 2013.

**9.2 CITY ENGINEER** – Not present

**9.3 CITY ATTORNEY** – Cantrell stated he would just like to thank the Planning Commission for going along with him and allowing the lady to make her statement tonight, you'll find he will always lean over backwards even if it takes up some of his time, some of their time. Cantrell stated you always want the person to have the opportunity to be heard, thinks that's one of the great things about America, we all have our opportunity to be heard. Cantrell stated we don't always have the answer we want but we have the opportunity to be heard, he thanks the Board for going along with him on that.

**10. COMMUNICATION FROM THE PLANNING COMMISSION MEMBERS.**

Sutton stated he just wanted to remind everyone, there is going to be a full country ham breakfast at the Masonic Lodge here in Fairview, which is at the entrance of Bowie Park, this Saturday morning, thinks it runs from 7:00 to 10:00, please go by and enjoy a good breakfast for seven bucks, can't beat it anywhere.

**11. ADJOURNMENT-** Totty made a motion for adjournment. Beata Seconded. All were in favor. Adjourned at 8:02 p.m.

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Chairperson

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Secretary