

City of Fairview

**BOARD OF COMMISSIONERS**

**August 15, 2013**

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

Present: Totty, Johnson, Bissell, Carroll, Sutton

Others Present: Hyatt, Cantrell, Porter, Lovvorn, Pewitt, Jones, Paisley, Holsinger  
Harris, Sutton

**1. Mayor Totty called the meeting to order at 7:08 p.m.**

A. The prayer and pledge was led by Director Lovvorn.

**2. Approval of the Agenda –**

A. Commissioner Sutton made a motion to approve. Commissioner Bissell seconded. Commissioner Carroll asked if Dr. Oyer could speak before the old business and then we could allow the vote at new business A. Mayor Totty requested an addition to discuss and or take action of the recommendation from the workshop. Commissioner Bissell stated that we have a special meeting called and would like to see if we would like to move that to our regular agenda to go ahead and take care of that as new business item rather than holding a special meeting, it would be discuss and take action on Taco Bell's appeal of the Planning Commission ruling. City Attorney stated this would be new business item 8H because the workshop item is 8G. 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. Bill Taylor stated that he would like to refer to the Taco Bell, he is a representative from the Chamber and would just like to welcome Taco Bell to Fairview and hopefully the Board will welcome them also, we need new businesses it helps the city and it helps the Chamber.

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

**5. Public Announcements –**

A. City Manager Hyatt stated that effective September 9<sup>th</sup> we will start having emissions testing on Mondays and Tuesdays 7:30 a.m. to noon at the Highway 96 fire station and we will get that posted and published.

**6. Approval of the Minutes –**

A. The minutes for the July 18, 2013 Board of Commissioners meeting were presented for approval. Vice-Mayor Johnson made a motion to approve. Commissioner Bissell seconded. All were in favor.

Mayor Totty stated that in lieu of Dr. Oyer's time constraint we will open the floor for her presentation. New business 8A - Discuss and/or Take Action on Partnership Presentation by Dr. Juli Oyer, Fairview High School Principal – Dr. Oyer recognized the people in the audience that were a part of the project. Dr. Oyer presented a slid show for The Reforestation Project with Bowie Park, a collaborative effort to grow Fairview. Fairview has the forestry plan for Bowie Park and the high school has a greenhouse so this came about because Jim and Eva Harris came to school and stated that we have this great idea, we have this great greenhouse on the high school campus that we are doing all sorts of things with and what if we could partner to work with the city. Dr. Oyer stated that they were considering this The Grow Fairview Project which would consist of Bowie Park, the City of Fairview, the Friends of Bowie, and the schools of Fairview. The goal of the program is that there are 120 students involved, we want at minimum one class from each school to join us. The idea is that each class commit to one visit to the park between August and the end of September, they are going to look at trees and collect seeds. Trees are coming out with the forestry plan so we have to reforest it and we want to be involved in that part. The seeds collected will go to the high school's greenhouse and the idea being that one of those 5<sup>th</sup> graders is going to pick up seeds, we are going to find out if they are viable, we are going to start to grow them and eventually by the time they are in the middle school or maybe the high school they are going to go back into Bowie Park and replant that seed, that park then becomes theirs in a completely different way. This will end up being cost effective for the city, if we get the seeds we will end up saving money and at some point we may come back and say how about some of that money you saved; could you buy us some planters, could you help us make our greenhouse just a little more viable because now this project isn't just for the high school it is benefiting the whole city. Eventually this project has the potential to be so big that we have trees that don't need to go into the park and what if one of those 5<sup>th</sup> graders could buy one of those trees and plant a Bowie tree it in their own back yard then the city, the park is spreading into again their own back yard but this is way down the road because we want all the trees originally that we pick and plant to be in the park. Commissioner Bissell stated that this was a good presentation and he thinks it is an excellent thing to do and would be interested to hear from Keith if he wants to make a comment about it or if he wants to take some time and make a report about it. Commissioner Sutton stated that it is a good idea for the children and the city leaders and is excited about partnering with the school system with this project. Commissioner Carroll stated she thinks it is an excellent idea and thanked the Friends of the Park for approaching Dr. Oyer with that suggestion and wonderful idea. Vice-Mayor Johnson stated that it is a tremendous idea from everyone that was involved and to Dr. Oyer her point about each citizen or child being able to take ownership in it is great. Vice-Mayor Johnson made a motion for approval. Commissioner Carroll seconded. All were in favor. Mayor Totty stated that she looks forward to any additional information and she concurred that if Keith had any comments the Board would love to hear those.

## **7. Old Business –**

- A. Second and Final Reading on Bill #2013-16, Ordinance No. 811 – An Ordinance to Amend the Approved Master Development Plan for Fairview Historic Village, as show on, Williamson County, Tax Map 69, Parcel 62.00, Zoned H.O.D. City of Fairview, Tennessee owner, 3.54 acres. Vice-Mayor Johnson read the caption. Vice-Mayor Johnson made a motion for approval. Commissioner Sutton seconded. All were in favor.
- B. Discuss and/or Take Action on Resolution No. 06-13, A Resolution Adopting a Plan of Services for the Annexation of Property Belonging to Jerry E. Cary and Wife Helen A. Cary and to Incorporate the Same Within the Corporate Boundaries of the City of Fairview, Tennessee. The Property is Located at 2950 Fairview Boulevard, Fairview, Tennessee and is Shown on City of Fairview, Tennessee Geological Listing of Assessment Roll Map 69, Parcel

9.00. Vice-Mayor Johnson read the caption. Vice-Mayor Johnson made a motion for approval. Commissioner Sutton seconded. Vice-Mayor Johnson asked if there was a representative here and Mayor Totty stated yes sir. All were in favor.

- C. Discuss and/or Take Action on Resolution No. 07-13, A Resolution Adopting a Plan of Services for the Annexation of Property Belonging to Russell Spicer and Wife Peggy Spicer and to Incorporate the Same Within the Corporate Boundaries of the City of Fairview, Tennessee. The Property is Located at 2931 Fairview Blvd, Fairview, Tennessee and is Shown on City of Fairview, Tennessee Geological Listing of Assessment Roll Map 69, Parcel 79.00. Vice-Mayor Johnson read the caption. Vice-Mayor Johnson made a motion for approval. Commissioner Sutton seconded. Vice-Mayor Johnson asked if they were dually represented. Mayor Totty stated yes sir. All were in favor.
- D. Discuss and/or Take Action on the Purchase of Police Cars – Commissioner Sutton stated that this was something we have been working on for quite some time and he asked Chief Harris to give the cost, financing and the equipment we are going to need. Chief Harris stated that he was going to let Captain Sutton do this, Captain Sutton did all the leg work because he was on vacation last week and he did real good. Captain Sutton stated that the presentation that he put together was to basically highlight some of the questions from the last meeting, the first page is to address the situation where we are going to ask for some maximum mileage limitations and 100,000 miles is pretty moderate and that is where a lot of agencies are some are well under that including the State of Tennessee. We are asking to set the policy on our primary patrol vehicles, these are the ones on the street all the time, responding to emergency codes, set it at 100,000 maximum mileage or 10,000 engine hours. The second part of that would be less crucial vehicles which are administrative staff vehicles, criminal investigation division and other non-patrol type vehicles which would be your transportation van and things like that, they aren't typically used to run emergency traffic, this type of vehicle we would like to see allowed to exceed 100,000 miles or 10,000 engine hours limit but keep an eye on maintenance cost of course and the reliability to be taken into consideration on those vehicles. We feel like those can reach up to 150,000 miles or 15,000 engine hours limitation usually you don't want to get past a six year range. The next page is the current vehicle assessment and the majority of our vehicles exceed the 100,000 mile mark, these vehicles are relied upon by our officers to get where they need to go. The total mileage of the fleet is 2,450,912 and that puts the average vehicle mileage at 87,532 and the age is 5.3 years. The next page is a request to get into some type of cycle with the patrol cars, the master plan that is laid out over the next four years on a twelve car replacement of this year the top portion in the peach color will be replaced and taken out of service and auctioned, the following subsequent years we are going to set on about a six vehicle cycle, that puts us on a majority of the vehicles is about a 25% fleet cycle per year, that will allow us to completely cycle a vehicle after 4 ½ to 5 years. Captain Sutton presented some current mechanical issues and costs, he presented a maintenance estimated cost sheet that he worked with Kevin Holsinger to help gather this information, the numbers were maintenance on the new vehicles comparing Ford and Dodge and the annual maintenance were fairly close to each other. One of the things that they looked at as far as a new fleet of vehicles is how to simplify the maintenance program within the city and we feel like starting now if we can find a vehicle that gives us what we need as far as patrol and can be utilized across the department in other areas like CID, K-9, and Administration that we could build off of that and have a simple fleet, what that means is that we don't have nine different makes and models of vehicles we will have one. Captain Sutton presented the bids on two different vehicles, the 2014 Ford Interceptor SUV, and the 2014 Dodge Charger and they are going into production in December with an all-wheel drive version of the Charger. The concerns we have is the winter before last when we had a good amount of snow on the ground the Dodge's were almost unusable and we had to scramble around and at one point we used the Jeep from the park just to get our officer's where they needed to be. The biggest concern with the new Dodge Chargers going into production with an all-wheel drive version, they have never had this before,

this is going to be a brand new thing and he has never wanted to be the guinne pig when it comes to trying something new as far as a vehicle goes. The Ford itself is in its third year of production, it's getting rave reviews across the board, there is a little bit of a price difference in the total cost of both vehicles the total price for the Fords is \$505,020.40 and the Dodge's is \$474,581.80. We have decided to go with or to ask for the Ford Interceptor SUV's, universally they are a better vehicle to fit our needs with our terrain, with the type of equipment that our officers have to carry, as far as room interior wise it would fit all that equipment in, they are a much faster delivery time, we are looking at about 10 weeks. Again it is a universal vehicle and can be used in just about any division that we have. So even if the vehicles can be moved around in different departments afterwards once we have reached our goals and our maximum mileage limits that vehicle can actually be passed down to another department within the city and continue to be used well into the mileage that is not restricted by the department within the city. There is a significant increase in ground clearance, there is a towing capacity, the resale value is much better on a four wheel drive SUV. Captain Sutton presented the equipment cost and stated that this is a large portion of the vehicle cost, the total cost for one vehicle is \$17,525.00 and for eleven it is \$165,143.00 for a total of \$182,668.00. If we rotate the fleet as requested and we decommission eleven cars that gives us eleven sets of equipment as far as our radios (\$550) and our radar units (\$1962) that can be transferred into the new vehicle so there is a little bit of a savings there and there may be other savings but we won't know until we get into the actual fittings of the equipment like the gun racks and the consoles and they are going to try their best to recycle as much as possible from the old vehicles. Captain Sutton presented the finance option plan on both vehicles with a five year plan or a three year plan, both plans will include an annual payment which is one payment per year, first payment due after 360 days after acceptance. Mayor Totty asked if 360 days after acceptance means if you receive them January 2014 the payment of the \$107,900 would be due January 2015. Captain Sutton answered yes ma'am. Captain Sutton stated that they were requesting twelve units to get them out of a whole they were in dealing with the current fleet that we have and the current issues we are having with the fleet, the maintenance cost is increasing every day that we wait and the cost of the vehicle we are looking at getting is increasing every day that we wait he has noticed about a \$360 increase per vehicle from the first time that we did this with rebidding and re-quoting, and equipment is going up. Captain Sutton stated that he has also looked at the numbers for a less amount of vehicles, anything under eight with equipment wise with the bidding from the company that we get our equipment from we are looking at about an \$890 increase per vehicle for equipment cost. Commissioner Sutton asked on the difference between the Dodge and the Ford as far as resale goes, what figure did that come up to. Captain Sutton stated that looking at the auction and the vehicles that were left there is about a \$4,000 difference per vehicle. Commissioner Sutton asked the Chief to come back to the podium and asked if he concurred with the choice between the Fords and Dodges. Chief Harris stated that we have spoken with the officers and the Ford for the space inside, they are not the big SUV's, so they are like a mid-sized SUV, they have a lot more storage room and a lot more room inside and that is their office for eight hours a day. Commissioner Sutton asked when was the last time we made any major purchases for patrol cars out of the general fund. Chief Harris stated eleven years ago. Commissioner Sutton stated that we have been fortunate to have the drug fund and stated that they needed cars last year and we basically said if you could hold off another year, stretch them out the best you can and he thinks they have done a fantastic job with that, and it's been eleven years of saving tax payers money and it's time for us to step up. Commissioner Carroll asked if there was a new car purchased last year and Chief Harris stated yes but it was out of the traffic fund. Commissioner Carroll stated that what the real problem is why it's boomed is because they have been paying for it out of the drug fund and now it is trying to come out of a budget that we don't have room for in our budget, she understands that they need new cars and because of the drug fund you were able to add your own fleet but it is still about coming up with a plan and she stated that Captain Sutton did a great job and that was exactly what the Board needs and for the future for knowing how much we spend but as it comes to the Boards decision of A

where are we getting the money from and B can we logistically come up with replacing twelve cars at one time and do we want to take a loan but as far as the department what you have done you have done a great job staying under budget, using your own funds, we may need to look at why aren't we on the task force anymore because that really did help the department to be able to fund some of their stuff but either way she doesn't think it comes down to whether you need cars it comes to a standard and that is what you have done and she has done a lot of research lately on it and luckily she has a resource that she can use and like Metro's it is five years and 100,000 and knowing that piece of knowledge and the size of Metro government verses what we are dealing with but it is still a lot to spend at one time and it seems easy to just get a loan when the interest rate is low but it is still the same points that we've had how much money do we have in reserve, can we afford to do this right now, why can't we just wait 3 more months, 6 more months whatever or even on Wal-Mart, and then come up with a plan, now we know you need eleven asap, why can't we as the Board of Commissioners logically say the first whatever monies you can say buy this many then this many and have a plan of purchasing instead of going out and going boom let's get a loan all at one time, that's what it has been this whole time, it's not in the budget, we don't have a ton of money floating around in reserves, she knows the interest rate is low and it's a good time. Commissioner Bissell called point of order to the Mayor and stated there is no motion on the floor. Commissioner Sutton made a motion to approve the requested purchase of the vehicles using the plan for the Fords. Commissioner Bissell seconded. *For:* Sutton, Bissell, Johnson *Against:* Carroll Mayor Totty stated that the motion carries. Commissioner Carroll asked how it was funded, through the loan. Commissioner Bissell made a motion that since there is no pre-payment that we go ahead with the five year plan for financing and that we can make the determination that when the first note comes due as to whether or not we want to pay more or just pay the first note. Vice-Mayor Johnson seconded. Mayor Totty asked on A or B. Commissioner Bissell stated plan A and stated that he is suggesting that since we approved the Ford Interceptors then A is applicable that we use the five year plan so that our first payment will be a minimum of \$107,900 but since there is no prepayment penalty if we at that time saw ourselves in a position to pay more up to paying if off we could do so without any problem and if they take 10 weeks to deliver and we order them tomorrow that would mean that the payment would be due sometime at the end of November or first of December 2014, which would give us plenty of time to decide whether or not we want to pay \$107,900 or whether we want to go ahead and pay the \$500,000 and be debt free for the cars and it costs us 2% for a year for that waiting and that is pretty minimal considering the amount of money we are talking about, and that is his motion. Vice-Mayor Johnson reiterated that he had seconded. City Attorney stated that we had a motion, a second and a vote to purchase them, the second motion is how to pay for them and that is proper, there is no problem. *For:* Sutton, Bissell, Johnson *Against:* Carroll

- E. Discuss and/or Take Action on Fairview City Projects - Project Manager Kevin Holsinger stated that Bowie Lake Road is 95% complete, the light posts were set up today, now we just have 5% of dress up work and should have the lights fired up tomorrow. The second item, Triangle School, we had a discussion about the historical sign with Dr. Rice, the sign is installed. The third thing is he attended some training this week at TDOT, had a meeting this week with someone that runs the Region 3 office and currently working on an extension for the resurfacing funds. Commissioner Sutton stated that something Commissioner Carroll brought up earlier and he was out there a week or so ago and that is an extreme curb there in front of the Nature Center, and asked how long is it going to be that way and what is the anticipation of lowering that curb. Project Manager Holsinger stated that would be phase two paving and we could probably do some remediation with some gravel work, a standard riser is usually eleven inches on a step and if we can get it within that eleven inches that would be perfectly sufficient but if it needs to be less than that, you can let him know. Mayor Totty asked if there were any updates on the quotes on the forestry. Project Manager Holsinger stated that we have received one quote and waiting on two other quotes and that quote is roughly \$14,000 for the quantity of trees.

## 8. New Business –

- A. Moved to beginning of Old Business.
- B. Discuss and/or Take Action on Bill #2013-17, Ordinance No. 812 – An Ordinance to Change the Zoning of Certain Property in the City of Fairview, Tennessee, Located at 515 Highway 96 North, Owned by Edward P. Paquin and David J. Fuqua, dba B & B Investments, as shown on, Williamson County, Tax Map 22, Parcel 163.0, From RS – 40, to R – 20. Vice-Mayor Johnson read the caption. Vice-Mayor Johnson made a motion for approval. Commissioner Sutton seconded. All were in favor.
- C. Discuss and/or Take Action on Resolution No. 12-13 A Resolution to Set a Public Hearing for the Purpose of Obtaining Public Comment on Changing the Zoning of Certain Property, Located at 515 Highway 96 North, Owned by Edward P. Paquin and David J. Fuqua, dba B & B Investments, as shown on, Williamson County, Tax Map 22, Parcel 163.0, From RS – 40, to R – 20. Vice-Mayor Johnson read the caption. Vice-Mayor Johnson made a motion for approval. Commissioner Sutton seconded. Commissioner Sutton asked if we are still waiting on the approval from the state. Mr. Fuqua approached the podium and stated that they told him to get back in touch with him on Monday afternoon that they were working on the plan, they have met with two separate people out there and they have measured and said there is no drainage issues, there is no site distance issues and it's just a matter of putting it to a diagram. All were in favor.
- D. Discuss and/or Take Action on International Residential Code in Reference to Swimming Pools – Commissioner Sutton stated that he started looking at this and the more he got into it the more disturbing it was to him. What we have done is adopt the International Codes and some of these things are extremely old and should not be used anymore. He stated that he has asked the Codes Department Director to give him a list of the things that we charge permit fees for and one of the things which is a small thing is we charge \$25 for a blow up swimming pool permit. He feels this is extreme and he understands the safety part of it and the regulations part of it but he is asking to appoint a board to review the permits and the ordinances that we have in place right now because if he is not mistaken wouldn't this same recreational part of it stand for swing sets or recreation equipment in the front yard. Director Lovvorn stated yes sir. Commissioner Sutton stated that some of this stuff was just too extreme for him and he thinks we need to have less government in place telling people what to do in some instances like this is and for us to charge fees. Commissioner Sutton stated that he would like for us appoint somebody to give us some insight on what it is that we could possibly change in the ordinances and permit fees and stated that this is his request tonight and asked if he needs to make a motion to move forward on that and we can appoint whoever the board wants to appoint, he stated that we can put that on the next agenda for discussion and or action so we would have a little bit more time to look at it and would ask that in the meantime we come up with some prospects for people to be on that board. Commissioner Sutton stated that he would make that a motion. Commissioner Bissell seconded. Commissioner Bissell stated that he would like for the Codes Department to take about 60 days and provide the board with a list of the things that they seem to find the most conflicts in and that they get the most complaints about, the most feedback about and then maybe the Board of Commissioners could schedule a workshop and we could go over that list and see which ones of those we might want to amend because it will be eventually left up to the board to amend them. Vice-Mayor Johnson asked Director Lovvorn if we charged for blow up swimming pools. Director Lovvorn stated that the way the

International Building Codes considers a swimming pool is anything that is 24 inches in depth or greater is a swimming pool which is regulated by a permit which costs \$25. Vice-Mayor Johnson asked other than the International Building Codes what building codes could we adopt in its place. Building Inspector John Bledsoe stated that we had a swimming pool code that was outdated and no longer in publication, the swimming pool codes have been adopted and incorporated into the Residential Code and the International Building Code as a swimming pool code for special construction and they are in probably 95% of the municipalities in America as the International Code that we have adopted. Vice-Mayor Johnson asked if there were any state building codes. Building Inspector John Bledsoe stated that the state has a requirement for an in pool alarm anything with 36 inches of water requires an in pool alarm, that is governed by the state and the inspection is done by the state inspector but as far as a swimming pool code he is sure they have a swimming pool code that they go by but they do have a state law, the state inspector does it if they get an electrical permit, one of the problems with the blow up pools is they come with a filtration system with a short cord on them and we see extension cords run across the yard into the garage or inside the house or a plug on the outside of the house which is an electrocution hazard, everything we do is strictly public safety, not to look at the construction of the pool or how they are using it, it is strictly for safety. Commissioner Sutton stated that sometime we overstep what we should do, too many regulations on some things and people have common sense and should know what that is and he doesn't know if it is our responsibility to remind them constantly what they should be doing and he hasn't heard of any problems of any kind with swimming pools in the city since he has been here. Building Inspector John Bledsoe stated that swimming pools are the second leading cause of death in children ages up to 14 and the number one leading cause of deaths in children ages up to 4 years old and that is the statistics from the Center of Disease Control and we just approved \$600,000 for police cars for public safety and this doesn't cost us a dime to insure that our children are safe. Commissioner Sutton stated that he wasn't opposed to the regulations. Building Inspector Bledsoe stated that if the fees are the only thing that's bothering then he has no problem with it but doing away with the safety aspect he does have a problem with it. Vice-Mayor Johnson stated that his question was much broader than that it wasn't just to cover swimming pools, other than the International Building Codes that we currently have adopted right now, what other codes are out there that we could adopt in its place. Building Inspector Bledsoe stated that he wasn't sure, the International Building Codes is the choice for most municipalities in America, some states and the Southern Building Codes have been incorporated into the International Code, BOCA and Southern Building Codes all that has been combined into one International Code, you have the option of amending or writing your own, which we did with the sprinkler code, we opted out of that, we opted with the size of public building for allowing sprinklers, you have that option of rewriting the code, he stated he would urge them not to rewrite a code to eliminate safety features especially for children who don't have the choice. Commissioner Sutton stated that he doesn't believe we mentioned rewriting safety features for children. Building Inspector Bledsoe stated that like he stated earlier if permit fees is the only problem he didn't have a problem with that. Commissioner Sutton stated that it was all of the ordinances not just that one. Commissioner Carroll asked if he would restate the motion. Commissioner Sutton stated that we as a board revisit the ordinances and permit fees that are out there to see if there is any reconstruction that we need

to do on them or any changes that need to be made and give the Codes Department 60 days to come up with a list of the things they get the most complaints about and things we need to look closer at as soon as possible. All were in favor.

- E. Discuss and/or Take Action on First Payment for the Bowie Lake Road Widening Project – City Manager Hyatt stated that he was going to get Kevin to come up and speak on this because he understands his project better than anybody but this is the partial pay request number one of the road improvements. Project Manager Holsinger stated that this is actually the first progress payment, the July payment in the amount of \$50,348 and from what he understands from Crystal and the City Manager we need to do a budget amendment to add the full funding for the project; this is for the work that was completed to date at July 23, 2013. Commissioner Bissell made a motion for approval. Commissioner Sutton seconded. *For:* Johnson, Sutton, Bissell *Against:* Carroll
- F. Discuss and/or Take Action on Bill #2013-18, Ordinance 813, An Ordinance for an Amendment to the City of Fairview, Tennessee Budget for Fiscal Year 2013-2014 Budget – Vice-Mayor Johnson read the caption. Vice-Mayor Johnson made a motion for approval. Commissioner Bissell seconded. All were in favor.
- G. Discuss and/or Take Action on Recommendations from the Board of Commissioners Workshop – Mayor Totty stated that we did have a workshop from 6:00 to 7:00 and the purpose of the workshop was for the Board of Commissioners to reconvene after the budget had been finalized. We had several discretionary items called wish list items, project items and requests from non-profits. It was a recommendation to fund the 4 Fairview schools out of the School Facility Fund at \$40 a student at the numbers that are the current as of today August 15, 2013 enrollment. Commissioner Bissell made a motion to approve. Vice-Mayor Johnson seconded. All were in favor. The second item was to look at the Capital Improvement Fund that we currently have of approximately \$48,673 and we had a request sent for a fascia board and gutters of City Hall and the item proposed was \$10,000. Commissioner Bissell made a motion to approve. Vice-Mayor Johnson seconded. All were in favor.
- H. Discuss and/or Take Action on Taco Bell's Appeal of the Planning Commission Ruling – Mayor Totty asked if there was a written appeal given to the City of Fairview. Codes Director Lovvorn stated yes ma'am. Vice-Mayor Johnson read the letter. Mayor Totty asked what is the proper appeal process that is in place for the City of Fairview. Director Lovvorn stated if there is an adverse decision by the Planning Commission their appeal is to this Board. City Attorney Cantrell stated the state law provides the appeal from a Planning Commission ruling to the Chief Legislative Board, the Planning Commission acting as the Planning Commission that appeal process is set out as T.C.A. 13-4-104 and if they were acting in the process as a design review that is authorized to go from the Planning Commission to the Chief Legislative Board under T.C. A. 6-54-133 and that is also the subject of and was approved by the Tennessee Attorney General in opinion 08-44 dated March 4, 2008 it addressed that issue. Mayor Totty asked who would be stating the item that is being appealed. City Attorney Cantrell stated that the way that would be done is the Codes Director would or someone would read into the record from the minutes what was actually approved and then the representative of Taco Bell would be given the opportunity to say what parts of that he is appealing and what parts he agrees with if any and what part he disagrees with if any and then after that it would be the duty of this Board to act and for guidance for the

Board once you here the reading of the minutes and what Taco Bell is appealing, then this Board would have one of the following options, to sustain the decision of the Planning Commission in its entirety, to reverse the decision of the Planning Commission in its entirety and substitute the decision of the Board of Commissioners for that decision of the Planning Commission, that is authorized in both of the statutes previously mentioned, number three, to sustain the decision in part, reverse the decision in part and amend the decision of the Planning Commission in part, number four would be to remand the final decision of the Board of Commissioners to the Planning Commission for any further hearings and find that it is not in consistent with the final decision of the Board of Commissioners. Mr. Cantrell stated that if his memory serves him this was a conceptual plan there will be others that come from that that will have to be heard by statute by the Planning Commission and once it comes up here those would have to go back to the Planning Commission for those hearings and any appeals of those would have to come back up here, it would have to be remanded back to the Planning Commission from this Commission after you reach a decision on the appeal so they can hear the subsequent of requirements of the statute. Director Lovvorn read the minutes from the Planning Commission 'Benson made a motion to approve, Sutton seconded the motion, Benson made a motion to amend the motion to include a shared access between the two properties based on TDOTs approval, EFIS would be permissible however color shall be earth tone, Smith asked for a roll call vote. For: Benson, Smith, Totty, Mitchell, Behan Against: Hall, Sutton, Anderson. Smith asked for a vote on the original motion as amended. For: Benson, Smith, Totty, Mitchell, Behan Against: Hall, Sutton, Anderson. Mayor Totty welcomed Mr. Harold Thompson. Mr. Thompson stated that he was the architect and he is representing 101 Construction Co.; he stated the reason he was here is twofold, it has to do with the ruling by the Planning Commission on Tuesday we feel this poses a great imposition on his client, both in the way of timing and also in the way of creating a situation that is non-typical for a project of this type. He stated that the first issue is the access to the property, what we have here is a single drive access in our conceptual plan to this project, most of you will know and observant of the fact that from a traffic circulation stand point fast food projects that have a drive-thru must have a certain concept that fits the drive in capability of the project in other words the traffic flows into the project in a counterclockwise manner that allows parking and allows the approach to a drive thru area that must be on the driver's side, so if you notice most of the drive-thrus are typically oriented the same way on the site such is our case. The concept of a shared drive would mean that the location of our drive will be placed in such a position that would put it on the wrong side of our project number 1, so creating that entry would mean that the entrance to this property the traffic would have to pass in front of our building which takes up parking space and we also have to provide for two way traffic meaning that the drive would need to be at least 24 feet wide and as that traffic would approach in front of our project make a left hand turn to proceed counterclockwise around the building to be served it would also create a traffic congestion on the exiting from the property because then you would be forced to go back in to the traffic right out the point where one is coming out of the drive-thru. He thinks it creates a traffic hazard at that point in addition to the fact that it eats up valuable parking spaces and it creates adverse conditions from an esthetic stand point having the traffic pass in front of our project, if it stays the way it is now then a smaller drive would be necessary in order to exit the one way traffic that is leaving the drive-thru window. As it stands now we have the conceptual plan that has been preliminarily engineered, we have

virtually a shovel ready project and to impose us to go back and move the drive in his opinion to an arbitrary location because there is another piece of property that is north of these properties that a shared access could be imposed upon those pieces of property when and if they ever come in to play but right now we are being penalized and having to pay the price of moving a driveway that does not work especially for this project to an arbitrary location, we feel what we have now works in the best interest of our project and we should not have to pay the price to serve a project that has not yet come on board, so that is the first issue that we wanted to talk about. Vice-Mayor Johnson stated that he would start with his reasoning first on why Mr. Thompson is here this evening and it was a little after 8:00 or 8:30 on Tuesday evening he started receiving text messages and phone calls that the Planning Commission turned down this project and that was disheartening to him especially when he heard it was over an issue that is solely up to the State of Tennessee and TDOT and the color purple, Taco Bells are purple, that is their national brand that is their color and then he asked Donn if he could tell him based on the drawings that he has seen, how much of the building percentage wise would be purple. Donn stated that is was roughly 25 to 30 percent. Mr. Thompson stated that it would be in the range of 12 to 15 percent and that purple would be hidden behind the black louvers or slats. Vice-Mayor Johnson stated that he heard from some commissioners that actually sat up there and one of them actually knows the owner of this project and he told him basically that he was finished with Fairview he was going to put the property back up for sale and he was going to move on, the next morning he talked to the City Manager, Commissioner Bissell and Commissioner Sutton and he just couldn't believe that the City of Fairview was going to allow this to happen so that afternoon he called Mr. Thompson, he answers the phone and he tells him who he is and what he is calling about and asked him if he thinks he would reconsider, he told him the exact same thing his clients have told him that they are done with Fairview they don't want to do business with us they are ready to move on they have the franchise they can put it in another city. Mr. Thompson verified that was correct. Vice-Mayor Johnson stated that is not how Fairview wants to do business the Planning Commission evidently has taken us down a road that he doesn't agree with in the 13 years he has represented the city, something is going to have to be done about that. The color purple is the same color of our state flower the iris, why in the world would that be a problem, Mapco is lime green, Auto Zone is florescent orange, why did we have to beg this gentleman to bring a business back to the City of Fairview, this is a shame I hope the Planning Commission members are at home watching this, I will speak to any and every one of them because this is horrible for business, for the City of Fairview and for anybody else that sees what's been going on that might not want to come do business with us because of this. I am ready to pass this and hope this doesn't have any adverse effect to us. Vice-Mayor Johnson stated that he just wanted that stuff to be made clear and let Mr. Thompson go on with rest of his presentation but something is going to have to be done because they are taking us down a road that he does not want to be a part of. Mr. Thompson stated that part two has to do with the color purple, he presented a photo and stated that he believed when the project was first introduced we had architectural renderings which are drawings of what we felt the building would look like and in the course to replicate colors and those kind of things based upon the characteristic of the artist so we had Taco Bell send us a night photograph of the actual building that has been constructed so you would have a chance to see exactly what the purple looks like and during the day the purple is barely

visible because it does occur behind the slats that are out in front of the building. Commissioner Bissell stated that he agreed with everything the Vice-Mayor said, he doesn't know what got us to this, he thinks this is a really good example of what Commissioner Sutton and he were talking about earlier where the desire to do something good has just gotten overwhelming here, when he inquired about the color of earth tones Donn stated that he put that in the internet and purple didn't come back, he did the same thing and there was about a 50/50 mix on the response of whether purple was an earth tone until he asked the question is purple an earth tone then he got over 20 responses that said yes and he gave the thought to singing America the Beautiful with fields of amber and purple mountain majesty but didn't want to break the new sound system so he has a hard time getting his head around this, we didn't ask McDonald's not to have yellow Ms, we didn't ask Mapco not to be lime green, these are well established well run national franchises that are going to invest in our community with service, jobs, tax dollars and if that requires us to have a broader thinking about what is an earth tone or we need to change that regulation for the future. Commissioner Sutton stated that he was there, he voted on it, the backing on it the 70% brick which we clarified the windows counted as part of the space to be covered there, that cleared it up for him, the other part was the entrance the concern there was the safety issue about how close it was to the turning lane which really we have no control over whatsoever on top of that the discussion we are having about the current project going on not the future project to be placed in there has not come before this board so in his mind the clarification on the entrance was cleared up also that was another reason he voted for it to move forward another thing was simply esthetic as far as the lighting goes and once again its mynute when you talk about, I don't want this to one day stand in the way of us getting a Cracker Barrel and say you've got to have brick instead of old wood or a Farmers with logs on it or some of the other distinguished things that come to town we just need to look at it a little more carefully before we make these types of judgments against a project like that coming in, and he made the statement that the people of this town are glad to have Taco Bell coming. He understands if there was a structural problem or anything like that but this request was not out of the ordinary. Mr. Thompson stated there is not too much more to say, the points have been made that he was going to make, as you look at the photograph you can see that there is not that much purple that you'll actually see, you will see it, it will be a glow but it is not a dominate color or not a color that would turn people off so to speak, our client is hopeful that you will vote positively for this, we are looking forward to coming here and we are very very close to being ready to start if this is approved we will proceed with the actual detailed planning of the site plan, the architectural plans are complete they are ready to go and as soon as we can get the site completed, engineered and submitted for approval we will be ready to start this project. Mr. Thompson thanked the Board for considering them. Vice-Mayor Johnson asked Mr. Lovvorn to describe so everyone can understand here, when they first presented this project what percentage was brick and stone verses EFIS and then what is it now and what they are actually going to build if approved tonight. Director Lovvorn stated that when they first approached us the whole building was EFIS except for the stone on the front side of the building and now the building would be relatively 100% except for the EFIS that is going to be behind the painted metal slats. Vice-Mayor Johnson stated that basically what he is saying Taco Bell overwhelmingly agreed to come to the majority of our building standards and take away the EFIS from the project make it fully brick with the stone column on the corner with only EFIS behind the black

slats, they bent over backwards to accommodate us and we failed them on a color. Commissioner Carroll stated that she spent a lot of time researching this and was not at the Planning Commission meeting and didn't watch it on tv last night but she saw on Facebook comments that Fairview doesn't want growth so she had to see exactly what was behind that because she knows most of the Planning Commissioners realize that Fairview is growing and most of the citizens look forward to some type of growth, there is different scales and she spent a lot of time on the Taco Bell design on the internet but it is not about a sign out in front of the building having the color purple and she just wants to make it clear to everybody and to make sure we are all clear as we go to vote that it is about a glowing background and the new design, it is very modern, it looks pretty but what effects that glowing purple would have, and from what she can tell it can be seen, by what she has read, it can be seen a quarter a mile away and the Planning Commission did exactly what they are supposed to whether we agree with their decision but they were supposed to take the plan of the building and determine whether or not it met the Fairview codes now we can question whether the standards is too strict but if we don't have a standard we would have metal buildings up beside whatever, so the main thing is did the Planning Commission do their job, they took the task, they looked at our codes and made a determination, now this happens every day but we don't always know about it because what happens is the company goes back and they come back and say these are the changes and that's what happened, if you just watch last week's meeting you would think, what, they are talking about a purple on the sign how ridiculous but that would be her thought too, if you are not following but (speaking to Mr. Thompson) you had already come to a meeting, you agreed to make changes, right? Mr. Thompson stated yes he did. Commissioner Carroll stated that in watching the tapes that is what she had seen, you agreed to make changes, you went back you found out these are the changes that they can make but they are firm purple, Mr. Thompson stated that was correct, so then we come to this point of whether or not the Planning Commissioners not representing what Fairview wants, she doesn't want to be too quick to say that because she has served on the Planning Commission but she knows that job is to go by codes, and corporate businesses will come in to a city and if they want to build there they will do what they need to do to build, we are not the only ones that have a standard and she refuses to say that our Planning Commission does not want growth because she spent too much time looking at the tapes and researching and just from being there we realize growth is coming and we want a standard a standard that Fairview can be proud of, we get complaints all the time on the flashing lights this is talking about a back drop on a building glowing, that's all, she likes Taco Bell too, she doesn't want to let the citizens go on thinking that it was about the purple out in front of the building or the Taco Bell logo, we are talking about glow. Commissioner Bissell stated that he disagrees with his learned colleague a bit, he believes that is the role of the Planning Commission, he thinks we don't need a Planning Commission if the Codes Department takes the codes and enforces the codes to the book without applying judgment that is what we ask them to do they ye of a little judgment but mostly if it's on the books as Mr. Bledsoe stated his job is to enforce it then it comes before the Planning Commission they have the right to grant variances the fact that they can grant a variance indicates to him that they get to apply a little broader standard, nowhere in what he said or what he remembers what the Vice-Mayor said did we accuse the Planning Commission of not promoting growth, what we told and he believes the record stands for that is that they did vote down that purple was not an earth tone and that they

did vote to require something that they don't have any control over and our job as the appellate board to what the Planning Commission does just as the Planning Commission's job as the judgment bureau first line judgment bureau of the enforcing of the Codes Department does it, is to question their judgment when their judgment does not meet the overall goal of this Board of Commissioners which the citizens elected and in this town we were elected under a campaign promise all of us to promote growth, to bring businesses to this city and to make this an attractive place for both people to live and the businesses to come and he thinks that is exactly what we have done. Commissioner Bissell made a motion that the Board of Commissioners overrule the Planning Commission in its entirety, we allow Taco Bell to be purple and we allow the State of Tennessee to do their job and to determine where they can have access to highway 100 and if that other property sells and those people can then entertain the idea of whether or not they want to try to go together to have an entrance. But Taco Bell is Johnny on the spot, the first here, they are committing their resources and their dollars to our community and he wants them to know he apologizes for the difficulty that they are having and thanked them for changing the facade to more brick, he thinks that was more or a tangible expression of their willingness to be here and to try to meet us half way. Vice-Mayor Johnson seconded. Vice-Mayor Johnson thanked Mr. Thompson for what he did and talking them into coming back he knows they told him to basically scratch the Fairview project and he thinks there are people who didn't believe that but when Wayne Hall told him that he knows the owner and you reiterated that there was no question at that point we had to do what we had to do to get you back here and he is glad he is here and he stated that he was sorry that he had to go through what he did, speaking again on the Planning Commission it is bad to say but on this issue they failed the city and he is not going to say that they are going to do this on every project because he doesn't think they do but this one they did and there was a lot of discussion yesterday that supposedly if you'd just asked for a variance they would have given it to you, well the facts remain that you presented this plan to them Tuesday night and when you presented this plan and you were asking for the variance he confirmed that with Mr. Lovvorn and he said they asked for this variance the Planning Commission did not allow the variance, people who said they were going to give them a variance, they voted against the variance that you asked for on Tuesday night it was voted down, three people voted for it and five people voted against it that is why you are here, he stated that he was glad Mr. Thompson was here and hoped he could do more projects here. City Attorney Cantrell stated that the motion that Commissioner Bissell made was to overrule in its entirety potentially a question can be raised do we go back to an all EFIS structure, Commissioner Bissell stated it was to use the color purple and what they over ruled Tuesday. City Attorney Cantrell stated he just wanted to clarify that and the second thing is that he just wanted to say that he is not here as an ad vacant for anybody he is here for legal advice and the same thing with the Planning Commission but you want to be careful with these things, that is the reason you have appeals, you always have an appeal from an administrative board, they have an appeal from this board, but the second thing is that neither this Board or the Planning Commission has actual approval of that entrance itself, the State of Tennessee will have to approve that, they can still come back and say we are not going to do that and you have to do this before they do, the same thing with the traffic riding in and out of there, if they decide you have to have a turning lane we have no control over that, and he wanted to be sure that was in the record, we do not have control over that, another thing was said at the

Planning Commission the other night, an entrance will have to be provided and he can't speak for the state but if you deny someone total access to their property you have in fact taken their property so there will be some sort of entrance that the state will have to work with you but we have no control over that and just wanted to make sure that was in the record. All were in favor.

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

- A. Miscellaneous Updates – City Manager Hyatt stated that it was an excellent celebration of the 10 year anniversary of Bowie Nature Center and they had about 200 plus come through that day and the weather was cooperative and we are celebrating the whole month of August so please come out and see it. The second thing just a reminder not to forget that on September 9<sup>th</sup> you can start doing your emissions on Mondays and Tuesdays.
- B. Staff Comments –
  - CFO Pewitt – presented the July financials the target numbers should be 8.33% and Revenue is at 6%, Expenses are at 9.26%. Ms. Pewitt stated that we are undergoing our annual audit and they should have completed tomorrow with the field work, they said they should have the audit report by the end of September and when they are ready to present it the partner Ms. Sara Hardee will come and present it to the Board, potentially she may ask for a workshop for a little less formal meeting and then present it at the meeting and she will get back with her on that. She stated that we did receive a check from the Run Wild that was in the park, the check was for \$241 as the 25% of their profit and this may need to be an agenda item but in the beginning she believes the Board wanted it to go into the Grand Entrance of the park which is its own account or we can put it in the regular park account. City Attorney stated that he would make this an agenda item so we will have it on record.
  - Park Superintendent Keith Paisley – stated that Commissioner Sutton asked about the trail access fees at the last meeting and July's comes to \$433 which is approximately 216 riders and he stated that as far as the schools working with growing the trees he thinks it is a great idea considering that he talked to a lot of people who actually planted the pine trees out there so this would be another way of getting students out there and planting a new batch of tree.
- C. City Attorney Comments – Mr. Cantrell stated that regarding our colors and the earth tones we will need to change that list if it is part of an ordinance, we will need to revise the ordinance to include purple for clarification because the Board had every right to do that once we approved that for absolute sure it would be approved for anyone else. If it is just a list, we need to add it to the list, if it requires a resolution or an ordinance Director Lovvorn can let him know. Because of the Special Meeting that was advertised we will need to open the Special Meeting announce that the item that was listed for the Special Meeting was covered in the regular meeting and adjourn that special meeting

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

- A. Commissioner Bissell stated that he was pretty hard on the Planning Commission tonight and he served as chairman of the Planning Commission for two years and he knows how difficult that job can be and he didn't mean to make it seem that it is just simple, it's not and I am sure those people voted their conscience and did the right thing but clearly articulated by our City Attorney that is why we sit here as a Board and in this particular one he doesn't feel they were even in the ball park so that is why he was emotionally and commissionernally invested in it that we need to do something different if we wanted to further our reputation of being an open community and wanted people to come but he did want to state that for the record that he believed the Planning Commission does a good job those

people work hard they do what they think is best but he is glad we have an appeal process.

- B. Commissioner Carroll stated that she is excited that Taco Bell is coming we do like tacos around here, she stated that she wants to clarify that earlier it was mentioned that she said it was social media that was throwing comments about the Planning Commission doesn't want grow and she doesn't know if that is what Commissioner Bissell was referring to but she just wanted to clarify that is where the information came from. On the voting in of the vehicles we voted on spending the money but we did not vote on adopting a plan and that is one of the things we had wanted and you can look back at the motion it was just the purchase of the cars and then we had to go back and add because we did not clarify plan A or B we just quickly went to let's go buy 11 cars and she knows we have talked about this several times and she's not saying that we quickly spent the money we have spent a lot of time talking about the issue but she would like to state to the citizens that not all of you were in the workshop but when we were going through the process of do we proceed with these projects and plan that we put on hold waiting for Wal-Mart money or do we want to go ahead and start putting them in order for when potential money came in and we discussed audit and different stuff so her biggest concern tonight is that earlier we talked about what was in our reserves and we just took out a loan for cars for about the same amount that is in our reserves and she has a problem with that and she knows they need cars and she can't feel comfortable voting even though she knows what the need is but she is looking at the numbers she knows we don't have to come up with it today and she knows we have a loan on it and she knows it is two percent interest and she cares about the safety of the police but at some point and time we have to quit banking on Wal-Mart money and look at the real numbers.
- C. Commissioner Sutton thanked Crystal for all the hard work that she has done with the auditors. He thanked Captain Sutton for his hard work and diligence, he knows that a lot of effort went in to that and thanked the Chief for letting him have the opportunity to do it and the hard work that he did. The question about the cars is it was decided that it was a loan at \$107,000 for the first thing that far away this shouldn't be any problems to make that however he keeps hearing Wal-Mart, Wal-Mart, Wal-Mart we needed eleven cars if Wal-Mart never did come. That has nothing to do with us needing and having to add those vehicles, if someone is being attacked at their home and it has happened several times a vehicle breaks down and can't get there, he doesn't want to be responsible for that not when it can be done and can be worked and it can be physically responsible to do that in a timely manner, most people in this room finance their homes it is something you have to do on large projects if you are going to run a city and it's something that we put off for a long long time we've come to this point we should never have to make this big of jump again but we have to correct it sometime or another or it will just keep on leaking. He appreciates the work everybody did, appreciates the partnering with the park he is very enthusiastic about that and mentioned the pot luck dinner in the park next Tuesday.
- D. Vice-Mayor Johnson stated that he is not sure that adding purple to the color scheme fixes the problem he is not sure that the earth tone possible color palate may need to be rescinded from the code that might be a better fix and an easier fix than you take each project on a case by case basis and work with them. Along with what has been stated about the police cars in the thirteen years he has been here he couldn't see his part asked to do something that would go against public safety or something that would hinder business development so he thinks that there is reasons that people continue to put him in this seat and he is going to keep speaking his mind and standing up for what he believes in.
- E. Mayor Totty had no comments.

**11. Mayor Totty asked for adjournment.**

A. Commissioner Sutton made a motion to adjourn. Commissioner Bissell seconded. All were in favor. The meeting adjourned at 9:10 p.m.

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**Theresa Porter**  
**City Recorder**