

A G E N D A

FARRAGUT BOARD OF MAYOR AND ALDERMEN

November 15, 2011

BMA MEETING

7:00 PM

- I. Silent Prayer, Pledge of Allegiance, Roll Call**
- II. Approval of Agenda**
- III. Mayor's Report**
- IV. Citizens Forum**
- V. Approval of Minutes**
 - A. October 27, 2011
- VI. Business Items**
 - A. Approval of Contract 2011-15: Hail Damage Roof Replacement
 - B. Approval of a one-time contribution of retirement benefits for employees of the Town of Farragut
 - C. Approval of a supplemental retirement program for employees of the Town of Farragut
 - D. Approval of Revised Drug Screen Policy for employees of the Town of Farragut
- VII. Ordinances**
 - A. Public Hearing & Second Reading**
 - 1. **Ordinance 11-21**, request to amend the text of the Farragut Zoning Ordinance, Chapter 2. Definitions, to define "medical spa", Chapter 3. Specific District Regulations, to permit medical spas in commercial and office zoning districts (Stacey M. Handel, Applicant)
 - 2. **Ordinance 11-24**, ordinance to amend the Farragut Municipal Code, Title 8, Alcoholic Beverages, Chapter 2, Beer
 - B. First Reading**
 - 1. **Ordinance 11-22**, ordinance to amend the Farragut Zoning Ordinance, Chapter 4, Section XXIV. Special Events Permit, to modify requirements and clarify application process
 - 2. **Ordinance 11-23**, ordinance to amend the Farragut Municipal Code, Title 14, Chapter 4. Sinkhole Ordinance, to clarify that once sinkholes have been identified by the planning commission and have been indicated on a plat or site plan, the appellate body is the Board of Zoning Appeals
 - 3. **Ordinance 11-25**, ordinance to amend the FY2012 General Fund and Insurance Fund Budgets
- VIII. Town Administrator's Report**
- IX. Attorney's Report**

MINUTES

FARRAGUT BOARD OF MAYOR AND ALDERMEN

October 27, 2011

RETIREMENT WORKSHOP

6:15 PM

BEER BOARD MEETING

(see Beer Board Agenda)

6:55 PM

BMA MEETING

7:00 PM

I. Silent Prayer, Pledge of Allegiance, Roll Call

II. Approval of Agenda

III. Mayor's Report

IV. Citizens Forum

V. Approval of Minutes

- A. October 13, 2011

VI. Ordinances

- A. Ordinance 11-21, requests to amend the text of the Farragut Zoning Ordinance, Chapter 2. Definitions, to define "medical spa", Chapter 3. Specific District Regulations, to permit medical spas in commercial and office zoning districts (Stacey M. Handel, Applicant)
- B. Ordinance 11-24, ordinance to amend the Farragut Municipal Code, Title 8, Alcoholic Beverages, Chapter 2, Beer

VII. Business Items

- A. Approval of Change Order #1, Contract 2011-12, Farm at Willow Creek
- B. Approval of Revised Stormwater Drainage Policy
- C. Approval of Resolution R-2011-09, Approval of suspending the issuance of special event permits during the "Shop Farragut" program
- D. Approval of Memorandum of Understanding between Town of Farragut and the Farragut Business Alliance
- E. Consideration of a request to reconstruct a retaining wall located at 11421 Turkey Creek Road that is located within the Town of Farragut's right of way

VIII. Town Administrator's Report

IX. Attorney's Report

The Farragut Board of Mayor and Aldermen met in regular session on Thursday, October 27, 2011 at 7:00 p.m.

Present were Aldermen Elliott, LaMarche and Markli, Mayor McGill and Alderman Honken were absent.

Approval of Agenda

Motion was made to approve the agenda as presented. Moved by Alderman Markli, seconded by Alderman Elliott; voting yes, Aldermen Elliott, LaMarche and Markli; Mayor McGill and Alderman Honken were absent; no nays, motion passed.

Approval of Minutes

Motion was made to approve the minutes of October 13, 2011 as presented. Moved by Alderman Elliott, seconded by Alderman Markli; voting yes, Aldermen Elliott, LaMarche and Markli; Mayor McGill and Alderman Honken were absent; no nays, motion passed.

Ordinances

Ordinance 11-21, request to amend the text of the Farragut Zoning Ordinance, Chapter 2.

Definitions, to define "medical spa", Chapter 3. Specific District Regulations, to permit medical spas in commercial and office zoning districts (Stacey M. Handel, Applicant)

Motion was made to approve Ordinance 11-21 on first reading. Moved by Alderman Markli, seconded by Alderman Elliott; voting yes, Aldermen Elliott, LaMarche and Markli; Mayor McGill and Alderman Honken were absent; no nays, motion passed.

Ordinance 11-24, ordinance to amend the Farragut Municipal Code, Title 8, Alcoholic Beverages, Chapter 2, Beer

Motion was made to approve Ordinance 11-24 on first reading. Moved by Alderman Elliott, seconded by Alderman Markli; voting yes, Aldermen Elliott, LaMarche and Markli; Mayor McGill and Alderman Honken were absent; no nays, motion passed.

Business Items

Approval of Change Order #1, Contract 2011-12, Farm at Willow Creek

Motion was made to approve Change Order #1, Contract 2011-12, Farm at Willow Creek, in the amount of \$19,546.90. Moved by Alderman Elliott, seconded by Alderman LaMarche; voting yes, Aldermen Elliott, LaMarche and Markli; Mayor McGill and Alderman Honken were absent; no nays, motion passed.

Approval of Revised Stormwater Drainage Policy

Motion was made to approve the Revised Stormwater Drainage Policy as presented. Moved by Alderman Elliott, seconded by Alderman LaMarche; voting yes, Aldermen Elliott, LaMarche and Markli; Mayor McGill and Alderman Honken were absent; no nays, motion passed.

Approval of Resolution R-2011-09, Approval of suspending the issuance of special event permits during the "Shop Farragut" program

Motion was made to approve Resolution R-2011-09, Approval of suspending the issuance of special event permits during the "Shop Farragut" program from November 5 - January 14, 2012. Moved by Alderman LaMarche, seconded by Alderman Markli; voting yes, Aldermen Elliott, LaMarche and Markli; Mayor McGill and Alderman Honken were absent; no nays, motion passed.

Approval of Memorandum of Understanding between Town of Farragut and the Farragut Business Alliance

Motion was made to approve the Memorandum of Understanding between Town of Farragut and the Farragut Business Alliance. Moved by Alderman Elliott, seconded by Alderman Markli; voting yes, Aldermen Elliott, LaMarche and Markli; Mayor McGill and Alderman Honken were absent; no nays, motion passed.

The agreement is for five years with a decreasing financial commitment from the Town over the term period of: \$44,000 in FY12 and FY13; \$37,000 in FY14; \$30,000 in FY15; and \$23,000 in FY16. The Town may also terminate this agreement at any time during the term.

Consideration of a request to reconstruct a retaining wall located at 11421 Turkey Creek Road that is located within the Town of Farragut's right of way

Motion was made to approve the conditional easement for the retaining wall located at 11421 Turkey Creek Road, based on the following conditions and authorizing the Mayor to execute such documents as approved by the Town Attorney.

- A. The property owner have a survey prepared that shows the edge of pavement of Turkey Creek Road, the Town's right-of-way, the location of the retaining wall as currently built, and the topographic elevations of the bank of the lake and the elevation below which all construction is controlled by the Tennessee Valley Authority. The survey should show the distances that are generally between each of the foregoing.
- B. If the northern edge of the top of the retaining wall encroaches into the Town's right-of-way is found to be equal to or less than eighteen inches along any portion of its entire length, then a conditional easement be granted provided that it contains the following provisions and the following characteristics:
 1. Be in recordable form so that it runs with the land such that it will be binding on future owners, as well as the current owner.
 2. Require the owner to install a guardrail between the curb and the top of the retaining wall based on specifications determined by the Town Engineer.
 3. Be subject to termination by the Town in the event that (1) the right-of-way needs to be widened or the Town has some other public need that the Town Engineer determines cannot reasonably be met without removal of the wall, or (2) the presence of the wall presents an obstacle to the extension, movement, expansion or installation of utilities by utility providers, and the Town Engineer, after consultation with the utility provider and property owner, cannot determine a reasonable way to accommodate the needs of the utility provider without removing the retaining wall.
 4. In the event of termination, or if some modification to the wall is required in order to avoid termination and removal of the wall, the property owner shall remove or modify, as the case may be, the retaining wall at it(s) or their own expense and, in the event of removal, either (1) restore the portion of the lot to the south of Turkey Creek Road to the slope required by the regulations of the Town, or (2) submit plans to reconstruct the retaining wall on the lot pursuant to and in accordance with the then existing regulations of the Town.
 5. Contain the agreement of the property owner to indemnify, defend and hold the Town harmless from any losses, claims, etc. by any person or entity that alleges that

the cause of the loss, etc. was caused by or the result of the presence of the retaining wall or the guardrail in the location where it will be.

6. Contain the agreement by the property owner to maintain in full force and effect liability insurance in an amount of not less than one million dollars, to list the Town of Farragut as an additional insured on such policy and to always maintain on file with the Town evidence of such insurance and the fact that the Town is listed as an additional insured.

The form of the conditional easement with the foregoing terms shall be prepared to the satisfaction of the Town Attorney, who will consult in its preparation with the Town Administrator and the attorney for the property owner. The Mayor should be authorized to sign the document upon its form being satisfactory to the Town Attorney so long as it contains the foregoing provisions, and any others that the Board may require as a condition of its approval.

The Town of Farragut zoning ordinance provides for a ten (10) foot setback of a retaining wall from a right of way. Therefore the property owner must also return to the Board of Zoning Appeals to obtain a variance from the ten (10) foot setback requirement.

Moved by Alderman LaMarche, seconded by Alderman Markli; voting yes, Aldermen Elliott, LaMarche and Markli; Mayor McGill and Alderman Honken were absent; no nays, motion passed.

Town Administrator's Report

David Smoak, Town Administrator, announced that the Freaky Friday event would be held at Mayor Bob Leonard Park from 5-7 PM October 28.

Meeting adjourned at 8:15 PM.

Mary Dorothy LaMarche, Vice-Mayor

Allison Myers, Town Recorder

AGENDA NUMBER VI. A.

MEETING DATE November 15, 2011

REPORT TO THE BOARD OF MAYOR AND ALDERMEN

PREPARED BY: William E. McKelvey, Public Works Director

SUBJECT: Approval of Contract 2011-15, Hail Damage Roof Replacement

INTRODUCTION: The purpose of this agenda item is to approve a contractor for Contract 2011-15, Hail Damage Roof Replacement.

DISCUSSION: The contract is necessary due to the hail damage, which occurred in April, to the Town Hall building, Dimmick house, buildings and picnic shelters at the Town parks. Three bids were received on October 31, 2011. The contractors who submitted bids were Legend Exteriors, Home Pro and Tillman Company. Tillman Company's bid was incomplete; therefore staff would recommend that Contract 2011-15 be awarded to Legend Exteriors in the amount of \$225,843.08. The references have been contacted and all are pleased with the work Legend has performed.

FINANCIAL SECTION: TML, the Town's property insurance carrier, will cover the cost of the roof replacement.

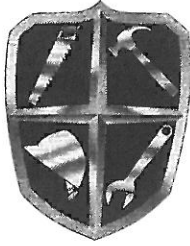
RECOMMENDATION BY: Bud McKelvey, Public Works Director, for approval.

PROPOSED MOTION: Approval of Contract 2011-15, Hail Damage Roof Replacement be awarded to Legend Exteriors in the amount of \$225,843.08.

BOARD ACTION:

MOTION BY: _____ **SECONDED BY:** _____

<u>VOTE/TOTAL</u>	<u>MCGILL</u>	<u>ELLIOTT</u>	<u>HONKEN</u>	<u>LAMARCHE</u>	<u>MARKLI</u>
YES	_____	_____	_____	_____	_____
NO	_____	_____	_____	_____	_____
ABSTAIN	_____	_____	_____	_____	_____



LEGEND Exteriors & Construction, Inc.

9701 Kingston Pike St. 105

Knoxville, Tn. 37922

Office: (865) 441-7774

Fax: (865) 357-7741

Proposal

Customer: Town of Farragut

Address: 11408 Municipal Center Dr.

Farragut, Tn. 37934

Date: 10/28/2011

Phone: (865) 966-7057

Item	Unit	Amount	Total
Town Hall Job			\$67,131.42
901 McFee Rd			\$12,524.15
Anchor Park			\$22,939.19
McFee Park			\$30,156.32
Mayor Bob Leonard Park			\$93,092.75

Total Contract Price:			\$225,843.08
Estimate Total:			\$225,843.08

Thank You

1 1 1 1

\$ 51,489.00

\$ 10,812.00

\$ 172,000.00

\$ 234,301

Complete turn-key price, purchase of materials, for removal, disposal, cleanup, installation of shingles and tar paper as per contract:

Town Hall Price I \$ 74,810.00

901 McFee Road Price II \$ 12,315.00

(Metal Roofing for)

Anchor Park

McFee Park

Mayor Bob Leonard Park Price III \$ 129,715.00 *

Total for whole contract: \$ 216,840.00 *

Company TILLMAN COMPANIES, LLC

Representative RENA AMERSON

Address PO Box 30094

KNOXVILLE, TN 37930

Phone 865-470-4164

References RAY EVANS - LED1 - 865-604-1007

JAN GHORASHI - AMS - 865-414-4835

MIKE SWIFT - SWIFT INDUSTRIAL POWER - 865-966-9758

* EXCLUSION: TOTAL CONTRACT PRICE DOES NOT
INCLUDE COST FOR REMOVAL, STORAGE OR RE-INSTALLATION
OF EXISTING SOLAR PANELS.

REPORT TO THE BOARD OF MAYOR AND ALDERMEN

PREPARED BY:  Janet Curry, Human Resources Manager

SUBJECT: Approval of a one-time contribution of retirement benefits for employees of the Town of Farragut

INTRODUCTION: The purpose of this agenda item is for the Board of Mayor and Aldermen to consider approval of a one-time, lump sum contribution to the 401 retirement plan for employees of the Town of Farragut.

BACKGROUND: At the April 28, 2011 Board of Mayor and Aldermen meeting, the Board considered several retirement plan options for Town employees based upon the actuarial work of Bob Cross, USI Consultant. The Board voted to adopt Social Security coupled with a 401- type retirement plan that is funded by both the Town and the employee. The Town will match employee contributions dollar-to-dollar up to 4% of employees' gross wages. Since that time, the Board has held further workshops on August 11, September 22 and October 27 to discuss the negative impact of employees' years outside the Social Security system coupled with the Windfall Elimination Provision (WEP) and the Government Pension Offset (GPO) provisions of federal law. Although the impact on each individual employee is difficult to quantify, it can be ascertained that any length of service with the Town of Farragut will have a negative impact on employee's prior credited service and future service in Social Security.

At the August and September Workshops, the Town Administrator presented six options plus one suggested option by the Personnel Committee. During the October workshop, this number was reduced to two options based on the Board's feedback of the information presented.

DISCUSSION: The two one-time payment options being considered would include all employees and the amount would be based on employees' years of service with the Town. The first option would pay all employees a flat rate of \$1,000 for each year of service. The total projected cost of Option 1 would be \$413,000.

The second option would pay employees 2% of employees' current 2011 salary for each year of service. The projected cost would be \$434,244. This scenario is based both upon years of service and current salary.

Both options may be funded with money that is currently allocated to the Insurance Fund-611. Several years ago, this money was placed in this line item as seed money for a self-funded medical insurance plan. In today's climate, a town the size of Farragut would find that fully-insured medical is more financially advantageous.

It is recommended that the employees' years of service attained during the calendar year 2011 be used to determine their years of service under both scenarios. Additionally, although employees hired during the calendar year 2011 have not yet earned a year of service, it is recommended that these four (4) employees be paid a flat amount of \$500 under both scenarios.

RECOMMENDATION BY: Town Administrator David Smoak and Human Resources Manager Janet Curry for approval.

FINANCIAL SECTION: The Insurance Fund-611 has \$525,732 in the FY2012 budget. These monies would be used to fund the one-time contribution to the employee's 401 retirement accounts.

PROPOSED MOTION: To approve a one-time, lump sum contribution to employees' 401 retirement plan according to Option _____.

BOARD ACTION:

MOTION BY: _____ **SECONDED BY:** _____

<u>VOTE/TOTAL</u>	<u>ELLIOTT</u>	<u>LAMARCHE</u>	<u>MARKLI</u>	<u>HONKEN</u>	<u>MCGILL</u>
YES	_____	_____	_____	_____	_____
NO	_____	_____	_____	_____	_____
ABSTAIN	_____	_____	_____	_____	_____

REPORT TO THE BOARD OF MAYOR AND ALDERMEN

PREPARED BY: Janet Curry, Human Resources Manager

SUBJECT: Approval of a supplemental retirement program for employees of the Town of Farragut

INTRODUCTION: The purpose of this agenda item is for the Board to consider approval of a supplemental retirement program for employees of the Town of Farragut. This program would enhance the Town's ability to recruit, retain and provide for a more meaningful retirement benefit for its employees.

BACKGROUND: At the April 28, 2011 Board of Mayor and Aldermen meeting, the Board considered several retirement plan options for Town employees based upon the actuarial work of Bob Cross with USI Consultants. The Board voted to adopt Social Security coupled with a 401(a) defined contribution retirement plan that is funded by both the Town and the employee. The Town will match employee contributions dollar-to-dollar up to 4% of employees' gross wages. Upon further review, the Board considered the negative impact of the employees' inability to retire due, in part, to the years outside the Social Security system coupled with the Windfall Elimination Provision and the Government Pension Offset provisions of federal law. Board Workshops were held on August 11th, September 22nd, and October 27th. At the workshops, the Town Administrator presented a proposal for a supplemental retirement plan based on matching employee contributions. Employees would be eligible for the increased matching based on years of service with the Town.

DISCUSSION: The actuarial work of Bob Cross, President, USI Consulting Group, showed the potential income replacement ratios for each employee under the plan that the Board adopted. This information was distributed to the Board prior to the April 28th vote. Upon review, it was noted that older and long-term employees will not have time prior to normal retirement age, to accumulate the necessary funds for a sustainable retirement. The proposed supplemental retirement plan allows vested employees to have additional funds matched dollar for dollar by the Town according the following schedule:

5-10 years of service = an additional 2% of funds matched in employee's 401 account

11-20 years of service = an additional 4% of funds matched in employee's 401 account

21+ years of service = an additional 6% of funds matched in employee's 401 account

It is important to note that the proposed supplemental retirement plan will only require the Town to contribute funds to the program if employees make a contribution to their account. Employees taking advantage of this program will be better able to accumulate funds for retirement.

It is estimated that if all eligible employees take advantage of this supplemental plan, the FY 11-12 cost will be \$29,390 for half of the fiscal year starting January 1, 2012. This amount is currently not budgeted and will require a budget amendment as proposed under Agenda Item VII.B.3. This program will be available to all eligible employees regardless of whether they elect to join Social Security or stay in the current Town retirement system.

RECOMMENDATION BY: Human Resources Manager, Janet Curry and Town Administrator, David Smoak for approval.

Supplemental Retirement Plan

10/27/2011

	2011 Age	DOH	Yrs of Service	4% Contribution	2%/4%/6% Alternative	Total
1	59	7/20/1987	24	\$1,711.76	\$2,567.64	\$4,279.39
2	52	6/1/1987	24	\$3,180.74	\$4,771.10	\$7,951.84
3	58	7/29/1989	22	\$1,784.23	\$2,676.35	\$4,460.58
4	46	4/19/1990	21	\$1,984.24	\$2,976.36	\$4,960.59
5	57	7/29/1991	20	\$3,270.50	\$3,270.50	\$6,541.00
6	55	3/30/1992	19	\$2,018.43	\$2,018.43	\$4,036.86
7	52	12/14/1992	19	\$1,984.24	\$1,984.24	\$3,968.47
8	50	11/22/1993	18	\$1,605.68	\$1,605.68	\$3,211.35
9	64	10/31/1994	17	\$2,310.05	\$2,310.05	\$4,620.10
10	50	3/28/1994	17	\$3,147.04	\$3,147.04	\$6,294.08
11	49	8/21/1995	16	\$1,545.36	\$1,545.36	\$3,090.71
12	53	9/23/1996	15	\$2,371.70	\$2,371.70	\$4,743.40
13	44	10/28/1996	15	\$2,504.03	\$2,504.03	\$5,008.06
14	45	7/8/1998	13	\$1,605.76	\$1,605.76	\$3,211.52
15	42	8/13/1998	13	\$1,605.76	\$1,605.76	\$3,211.52
16	45	6/25/1999	12	\$1,605.76	\$1,605.76	\$3,211.52
17	49	2/1/2000	11	\$3,855.07	\$3,855.07	\$7,710.14
18	75	2/20/2001	10	\$1,200.16	\$600.08	\$1,800.24
19	51	8/6/2001	10	\$1,464.07	\$732.04	\$2,196.11
20	34	4/9/2001	10	\$2,838.44	\$1,419.22	\$4,257.66
21	39	4/1/2002	9	\$1,584.46	\$792.23	\$2,376.69
22	50	1/6/2003	8	\$2,185.66	\$1,092.83	\$3,278.50
23	52	6/10/2004	7	\$1,459.74	\$729.87	\$2,189.62
24	29	8/9/2004	7	\$1,541.95	\$770.97	\$2,312.92
25	41	5/1/2006	5	\$4,036.77	\$2,018.38	\$6,055.15
26	35	5/2/2005	6	\$1,374.38	\$687.19	\$2,061.57
27	33	5/16/2005	6	\$1,283.19	\$641.60	\$1,924.79
28	52	7/23/2007	4	\$1,079.02	\$0.00	\$1,079.02
29	29	8/17/2007	4	\$1,256.40	\$0.00	\$1,256.40
30	62	8/11/2008	3	\$2,444.10	\$0.00	\$2,444.10
31	57	5/13/2008	3	\$1,324.71	\$0.00	\$1,324.71
32	56	5/21/2008	3	\$1,461.49	\$0.00	\$1,461.49
33	45	8/11/2008	3	\$1,131.35	\$0.00	\$1,131.35
34	31	5/1/2008	3	\$1,131.35	\$0.00	\$1,131.35
35	28	10/16/2008	3	\$1,587.21	\$0.00	\$1,587.21
36	41	1/5/2009	2	\$2,877.59	\$0.00	\$2,877.59
37	38	6/15/2009	2	\$1,676.90	\$0.00	\$1,676.90
38	31	12/14/2009	2	\$1,313.98	\$0.00	\$1,313.98
39	27	7/1/2009	2	\$1,399.42	\$0.00	\$1,399.42
40	39	3/1/2010	1	\$1,087.84	\$0.00	\$1,087.84
41	36	2/8/2010	1	\$4,520.26	\$0.00	\$4,520.26
42	29	1/25/2010	1	\$1,087.84	\$0.00	\$1,087.84
43	48	3/14/2011	0	\$1,600.00	\$0.00	\$1,600.00
44	28	7/11/2011	0	\$1,399.41	\$0.00	\$1,399.41
45	35	8/15/2011	0	\$1,087.79	\$0.00	\$1,087.79
46	24	8/15/2011	0	\$1,087.79	\$0.00	\$1,087.79
				\$87,614	\$51,905	\$139,519
				4.0%	2.4%	6.4%

0-4 Years of Service = 0%
5-10 Years of Service = 2%
11-20 Years of Service = 4%
21+ Years of Service = 6%

REPORT TO THE BOARD OF MAYOR AND ALDERMEN

PREPARED BY: Ruth Viergutz Hawk, Community Development Director

SUBJECT: Ordinance 11-21, ordinance on 1st reading to amend the text of the Farragut Zoning Ordinance, Chapter 2. Definitions, to add "medical spa", and Chapter 3. Specific District Regulations, to permit medical spas in commercial and office zoning districts (Stacey M. Handel, Applicant)

INTRODUCTION: The majority of the Renaissance Farragut center is zoned C-1 General Commercial District. When the developers purchased the land located off of Deadwood Road (Old Stage Hills subdivision) to expand their development, as a compromise with the neighborhood that area was zoned from R-2 General Single-Family Residential District to O-1 Office District.

The O-1 district often serves as a transition area between the higher intensity commercial uses and residential neighborhoods. The uses permitted within the O-1 district generally hold normal office hours and, therefore, are not as disruptive to the adjacent neighborhoods as most commercial uses can be.

DISCUSSION: Ms. Handel is the owner of Garde Bien Spa and Salon, which is currently located near the Mellow Mushroom restaurant. Ms. Handel has purchased a condo space in the Renaissance Farragut center complex to move her business. The building in which her unit is located is zoned O-1 Office District. Within the O-1 Office District, "Professional Services" are a permitted use but "Personal Services" are not a permitted use. Per Chapter 2. Definitions, these services are defined as follows:

PERSONAL SERVICES: Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel. Such activities include: barber, beautician, shoe repair, seamstress, tailor, laundry and dry cleaning and other similar activities as defined by the Board of Zoning Appeals.

PROFESSIONAL SERVICES: Services provided by a member of a recognized profession. Such activities include: medical, legal, dental, scientific consulting, insurance agent, architectural, engineering, land-planning, financial and business consulting services, accounting offices, and other similar activities as defined by the Board of Zoning Appeals.

From a traffic perspective, personal services generally have a quicker customer turn around than professional services and, therefore, generate higher traffic volumes. Currently spas are a personal service and are not permitted within the O-1 Office District. The applicant originally requested that "medical spa" be included in the "Professional Services" definition. Based on our discussion at the planning commission workshop, however, it was decided to define "medical spa" and then to include

medical spas as an allowed use within the commercial districts and the Office District (O-1) provided the tenant space is less than 1,500 gross square feet. Medical Spa is defined as follows:

MEDICAL SPA: Establishments primarily engaged in non-surgical elective cosmetic medical treatments, massage treatment therapies, hair treatments, and nail applications with a minimum of one medical professional retained on staff. Such establishment shall be regulated and licensed by the State of Tennessee Department of Commerce and Insurance and the Tennessee Department of Health.

Attached please find a copy of Ordinance 11-21.

PROFESSIONAL RECOMMENDATION: Community Development Director, Ruth Hawk, recommends approval of Ordinance 11-21 because the proposed ordinance meets the needs of the applicant and, as discussed by the planning commission, addresses the concerns of commercial uses being permitted within the office districts.

PLANNING COMMISSION RECOMMENDATION: On October 20, 2011, in a unanimous vote, the Farragut Municipal Planning Commission recommended approval of Ordinance 11-21.

PROPOSED MOTION: To approve Ordinance 11-21 as attached.

BOARD ACTION:

MOTION BY: _____ SECONDED
BY: _____

<u>VOTE/TOTAL</u>	<u>ELLIOTT</u>	<u>LAMARCHE</u>	<u>MARKLI</u>	<u>HONKEN</u>	<u>MCGILL</u>
YES	_____	_____	_____	_____	_____
NO	_____	_____	_____	_____	_____
ABSTAIN	_____	_____	_____	_____	_____

ORDINANCE:	11-21
PREPARED BY:	Hawk
REQUESTED BY:	Stacey M. Handel, Applicant
CERTIFIED BY FMPC:	October 20, 2011
PUBLIC HEARING:	_____
PUBLISHED IN:	_____
DATE:	_____
1ST READING:	_____
2ND READING:	_____
PUBLISHED IN:	_____
DATE:	_____

AN ORDINANCE TO AMEND THE TEXT OF THE ZONING ORDINANCE OF THE TOWN OF FARRAGUT, TENNESSEE, ORDINANCE 86-16, AS AMENDED, BY AMENDING CHAPTER 2. DEFINITIONS, TO DEFINE THE TERM “MEDICAL SPA” AND CHAPTER 3., SECTION XII. GENERAL COMMERCIAL DISTRICT (C-1), SECTION XV. REGIONAL COMMERCIAL DISTRICT (C-2), SECTION XVII. OFFICE DISTRICT (O-1), AND XXVII. TOWN CENTER DISTRICT (TCD), TO ALLOW MEDICAL SPAS AS AN ALLOWED USE, AS AUTHORIZED PURSUANT TO SECTION 13-4-201, TENNESSEE CODE ANNOTATED.

BE IT ORDAINED by the Board of Mayor and Aldermen of the Town of Farragut, Tennessee, that the Farragut Zoning Ordinance, Ordinance 86-16, as amended, is hereby amended as follows:

SECTION 1.

Chapter 2. Definitions, is amended by inserting the term “medical spa”;

MEDICAL SPA: Establishments primarily engaged in non-surgical elective cosmetic medical treatments, massage treatment therapies, hair treatments, and nail applications with a minimum of one medical professional retained on staff. Such establishment shall be regulated and licensed by the State of Tennessee Department of Commerce and Insurance and the Tennessee Department of Health.

SECTION 2.

Chapter 3, Section XII. General Commercial District (C-1), B., is amended by inserting numerically the following and re-numbering the remaining uses sequentially;

10. Medical spas.

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SECTION 3.

Chapter 3, Section XV. Regional Commercial District (C-2), B., is amended by inserting numerically the following and re-numbering the remaining uses sequentially;

10. Medical spas.

SECTION 4.

Chapter 3, Section XVII. Office District (O-1), B., is amended by inserting numerically the following and re-numbering the remaining uses sequentially;

5. Medical spas, provided the building space and/or tenant space shall not exceed 1,500 gross square feet.

SECTION 5.

Chapter 3, Section XXVII. Town Center District (TCD), C., is amended by inserting numerically the following and re-numbering the remaining uses sequentially;

5. Medical spas.

SECTION 6.

This ordinance shall take effect from and after its final passage and publication, the public welfare requiring it.

Dr. Ralph McGill, Mayor

Allison Myers, Town Recorder

ORDINANCE 11-21

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Certified to the Farragut Board of Mayor and Aldermen this _____ day of _____,
2011, with approval recommended.

Rita Holladay, Chairman

Edwin K. Whiting, Secretary

FARRAGUT MUNICIPAL PLANNING COMMISSION

REPORT TO THE BOARD OF MAYOR AND ALDERMEN

PREPARED BY: Allison Myers, Town Recorder

SUBJECT: Approval Ordinance 11-24, ordinance to amend the Farragut Municipal Code, Title 8, Alcoholic Beverages, Chapter 2, Beer

INTRODUCTION: The purpose of this agenda item is to eliminate the current beer ordinance and replace it with Ordinance 11-24.

DISCUSSION: A majority of the current beer ordinance has not been updated since 1985. Since then State law has changed and different requests have arisen.

Attachment A is a copy of the current ordinance for comparison. Highlights of the new ordinance are as follows:

- Enhanced definitions section
- Revision to the Special Occasion Beer Permit
- Modified On-Premise Consumption permit requirements
- Permit Beer sales within Hotels
- Revised serving hours to correspond with Knox County and City of Knoxville
- Improved revocation or suspensions and Civil Penalty sections

RECOMMENDATION BY: Allison Myers, Town Recorder, for approval.

PROPOSED MOTION: To approve Ordinance 11-24 on second and final reading.

BOARD ACTION:

MOTION BY: _____ **SECONDED BY:** _____

<u>VOTE/TOTAL</u>	<u>MCGILL</u>	<u>ELLIOTT</u>	<u>HONKEN</u>	<u>LAMARCHE</u>	<u>MARKLI</u>
YES	_____	_____	_____	_____	_____
NO	_____	_____	_____	_____	_____
ABSTAIN	_____	_____	_____	_____	_____

ORDINANCE:	11-24
PREPARED BY:	Myers
1ST READING:	October 27, 2011
2ND READING:	_____
PUBLISHED IN:	_____
DATE:	_____

AN ORDINANCE TO AMEND THE FARRAGUT MUNICIPAL CODE, TITLE 8, ALCOHOLIC BEVERAGES, CHAPTER 2, BEER

WHEREAS, the Board of Mayor and Aldermen of the Town of Farragut, Tennessee, wishes to amend Title 8, Chapter 2, Beer, of the Farragut Municipal Code,

NOW, THEREFORE, BE IT ORDAINED by the Board of Mayor and Aldermen of the Town of Farragut, Tennessee, that the Farragut Municipal Code is hereby amended as follows:

SECTION 1.

The Farragut Municipal Code, Title 8. Alcoholic Beverages, Chapter 2. Beer Ordinance is amended by deleting Chapter 2 in its entirety and substituting on lieu thereof the following:

8-201. Beer board established.

There is hereby established a beer board to be composed of the board of mayor and aldermen.

8-202. Meetings of the beer board.

All meetings of the beer board shall be open to the public. The beer board shall hold regular meetings upon the second and fourth Thursday of each month when there is business to come before the Beer Board. A special meeting may be called by the chairman, provided reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place.

8-203. Record of beer board proceedings to be kept.

The recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board.

8-204. Requirements for beer board quorum and action.

The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote.

8-205. Powers and duties of the beer board¹.

The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this municipality in accordance with the provisions of this chapter.

8-206. Definitions

1. *Applicant* shall mean the person on whose behalf an application for beer permit is filed.
2. *Adequate public notice* shall consist of publication, where possible, of notice of a meeting or hearing scheduled by the beer board, either regular or special, in a newspaper of general circulation within the corporate limits of the Town of Farragut.
3. *Beer* means beer, ale or other malt beverages, or any other beverages having an alcoholic content of not more than five percent (5%) by weight, except wine as defined in TCA § 57-3-101; provided, however, that no more than forty-nine percent (49%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other nonbeverage ingredients containing alcohol. TCA §57-5-101
4. *Beer board* or *board* means that administrative body organized and empowered under the authority of T.C.A. § 57-5-106.
5. *Church* means a building or property where a congregation regularly meets at least one day per week for religious worship.
6. *Certified clerk* shall mean a clerk who has successfully satisfied the training requirements contained in this part, or who has received certification from a responsible vendor training program.
7. *Clerk* shall mean any person working in a capability to sell beer directly to consumers for off-premise consumption.
8. *Commission* shall mean the Tennessee Alcoholic Beverage Commission.
9. *Responsible Vendor* means a person, corporation or other entity that has been issued a permit to sell beer for off-premise consumption and has received certification by the Tennessee Alcoholic Beverage Commission under the "Tennessee Responsible Vendor Act of 2006," Tennessee Code Annotated, §57-5-601, et seq.
10. *Responsible Vendor Training Program* shall mean a training program related to the responsible sale of beer for off-premise consumption which has met all the statutory and regulatory requirements set forth in Tenn. Code Ann. § 57-5-601 et seq.
11. *Permit* means any permit issued pursuant to this article.

¹ State law reference

Tennessee Code Annotated, § 57-5-106.

12. *Permittee* means any person to whom any permit has been issued pursuant to this article.
13. *Person* shall mean any private individual, partnership, joint venture, corporation, and any other business entity or association.
14. *Premise* shall mean the property owned, leased, or controlled by the permittee and so connected with the beer business in which the permittee is engaged as to form a component or integral part of it, including, but not limited to, the building and the parking areas surrounding it. *Premise* includes all decks, patios and other well-defined outdoor serving and consuming areas that are contiguous to the exterior of the building in which the business is located and that are operated by the business identified in the permit. A permit shall be valid for all decks, patios and other well-defined outdoor serving areas that are contiguous to the exterior of the building in which the business is located, that are operated by the business and only for a business operating under the name identified in the permit.
15. *Restaurant* shall mean a business establishment whose primary business is the sale of prepared food to be consumed on the premise.
16. *Storage* shall mean the storing or possessing of beer or other alcoholic beverages for the purpose of resale by the permit holder.
17. The pronouns *he*, *him* and *his* shall refer to persons of the female as well as the male gender, as applicable.
18. *TABC* shall mean the Tennessee Alcoholic Beverage Commission

8-207. Permit required for engaging in beer business.

- (1) *Permit required.* It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. Each applicant must be a person of good moral character and must certify that he has read and is familiar with the provisions of this chapter. Four types of permits may be issued by the beer board.
 - a. A retailer's "off-premise permit" shall be issued to any person engaged in the sale of beer where the beer is not to be consumed by the purchaser or his guest upon or near the premise of the seller;
 - b. A retailer's "on-premise" permit shall be issued to any person engaged in the sale of beer where the beer is to be consumed by the purchaser or his guest upon the premise of the seller.
 - c. An "On/Off premise permit" shall be issued for both on-premise and off-premise consumption. Anyone who has consumed beer on the premise shall be prohibited from purchasing beer for off-premise consumption when leaving the premise.
 - d. A Special Occasion Beer Permit

Permits shall at all times be subject to all of the limitations and restrictions provided under this

code and the laws of the State of Tennessee.

- (2) Permits shall be issued to the owner of the business, whether a person, firm, corporation, joint stock company, syndicate, or association.
- (3) The applicant or a representative must appear in person before the board and subject himself to examination upon any and all questions appertaining to his qualifications under this chapter and amendments thereto. If the applicant fails to appear before the board the permit request will be postponed until the next regularly scheduled beer board meeting.

8-208. Application Fees and Privilege tax.

- (1) *Application Fee.* The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-104(a), shall be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00), or such larger amount as may be authorized by the laws of the State of Tennessee.
- (2) *Privilege Tax.* There is hereby imposed on the business of ²selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100.00), or such larger amount as may be authorized by the laws of the State of Tennessee. Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax each successive January 1 to the Town of Farragut, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date.

8-209-Public consumption of alcoholic beverages prohibited.

None of the beverages regulated by this chapter shall be consumed upon any public street, public market not governed by an on-premise permit, alley, boulevard, bridge, nor upon the grounds of any cemetery or public school.

8-210-Police record check

The town recorder shall submit all applications to the Knox County Sherriff's Office for a records check prior to time of the beer board meeting at which the application will be considered.

8-211. – Application-Requirements and conditions.

Each applicant for a beer permit shall be required to complete a formal, written application in a form approved by the beer board. Each applicant must explicitly and affirmatively state all of the following:

1. The owner or owners of such premise.
2. Name of applicant's business and whether the applicant is a person, partnership, corporation, limited liability company or association.
3. Location of premise of the business by street address and tax map and parcel.
4. Telephone number at the location.

² State Law Reference

Tennessee Code Annotated, § 57-5-104(b)

5. If beer will be sold at two or more restaurants or other businesses, within the same building as provided by T.C.A. §57-5-103(a)(4), a description of all such businesses.
6. Persons, firms, corporations, joint stock companies, syndicates, partnerships, limited liability companies or associations having at least a five-percent ownership in the applicant, together with addresses, telephone numbers, social security numbers and Federal Tax ID numbers.
7. Identity and address, telephone number, and email address of a representative to receive annual tax notices and other communication from the town.
8. Whether any person, firm, corporation, joint stock companies, syndicate or associations having at least a five-percent ownership interest in the applicant or any person employed in the distribution or sale of beer has been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten years.
9. Whether the applicant is seeking a permit which would allow the sale of beer for on-premise consumption of beer or for off-premise consumption or both types of consumption.
10. The name, address, and telephone number of the owner of the property.
11. The application shall authorize a police records check and shall waive any right the applicant may have to privacy concerning arrests reflecting on the moral character of the applicant.
12. That the applicant will not engage in the sale of such beverages except at the place or places for which the beer board has issued a permit or permits to such applicant.
13. That no sales of such beverages will be made except in accordance with the permit granted.
14. The application shall be submitted to the town recorder at least 15 days prior to the beer board meeting at which it is to be considered.
15. Applications shall at all times be kept on file by the town recorder and shall be open to inspection of the general public within the limits of federal, state and local law, and any person, firm, corporation or association knowingly making any false statement in the application shall forfeit his permit or right to a permit and shall not be eligible to receive any permit for a period of one (1) year thereafter.
16. No applicant for a beer permit for on-premise consumption shall be issued a permit unless the town recorder has obtained approval of the premise from the building inspector and fire marshal, and a background report from the Knox County Sheriff's Office recommending approval.
17. Any other relevant information as may be required by the beer board.

8-212. Special occasion beer permit.

The special occasion beer permit request shall be made on such form as the board shall prescribe and/or furnish and shall be accompanied by a non-refundable application fee of one hundred dollars (\$100).

- (1) The beer board is authorized to issue a special occasion beer permit to bona fide charitable or nonprofit organizations for special events.
- (2) The special occasion beer permit shall not be issued for longer than one 48-hour period, unless otherwise specified by the beer board, subject to the limitations on the hours, imposed by law.
- (3) The application for the special occasion beer permit shall state whether the applicant is a charitable or nonprofit organization, include documents showing evidence of the type of organization, and state the location of the premise upon which alcoholic beverages shall be served and the purpose for the request of the license.
- (4) For purposes of this section:

Bona fide charitable or nonprofit organization means any corporation or other legal entity which has been recognized as exempt from federal taxes under section 501(c) of the Internal Revenue Code.

- (5) No charitable or nonprofit organization possessing a special occasion beer permit shall purchase, for sale or distribution, beer from any source other than a licensee as provided pursuant to state law.
- (6) Failure of the special occasion permittee to abide by the conditions of the permit and all laws of the State of Tennessee and the Town of Farragut will result in a denial of a special occasion beer permit for the sale of beer for a period of two (2) years.

8-213. Beer permits shall be restrictive³.

All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for retail sale of beer may be further restricted so as to authorize sales only for either off-premise or on-premise consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for holder of a permit not to comply with any and all express restrictions or conditions in the permit.

Where an owner operates two (2) or more restaurants or other businesses within the same building, the owner may, in the owner's discretion, operate some or all such businesses pursuant to the same permit.

8-214. Permits not transferable; permitted locations for consumption

- (1) The beer permit is only for the owner to whom the permit is issued and cannot be transferred to another owner. If the owner is a corporation, a change in ownership shall occur when control of at least fifty percent (50%) of the stock of the corporation is transferred to a new owner.
- (2) The beer permit is only for a single location, except as provided in Section 8-213, and cannot be transferred to another location. A permit shall be valid for all decks, patios and other outdoor serving areas that are contiguous to the exterior of the building in which the business is located and that are operated by the business.
- (3) Notwithstanding any provision of this part to the contrary, when a permittee applies for a new permit based solely upon a change of the name under which the business operates with no change whatsoever in the ownership of the business or the location of its operation, upon completion of the appropriate application form and payment of any required fees, the town recorder shall be authorized to issue the new permit without further review by the beer board.

³ Tennessee Code Annotated, § 57-5-301(a) provides that neither beer permit holders nor persons employed by them may have been "convicted of any violation of the laws against possession, sale, manufacture and transportation of intoxicating liquor or any crime involving moral turpitude" within the previous ten years. Under Tennessee Code Annotated § 57-5-301(b), violations are punishable under state law as a Class A misdemeanor. Under Tennessee Code Annotated § 16-18-302, town courts may only enforce local ordinances that mirror, substantially duplicate or incorporate by reference Class C misdemeanors. Town courts are thus prohibited from enforcing ordinances making violations of Tennessee Code Annotated § 57-5-301(a) a local offense.

8-215. Display of permit.

The permit required by this chapter shall be posted in a conspicuous place on the premise.

8-216. Interference with public health, safety, and morals prohibited.

No permit authorizing the sale of beer will be issued when, as determined in the discretion of the board, such business would cause congestion of traffic or would interfere with schools, residences, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals.

In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer within three hundred and forty (340) feet of any school or church. The distances shall be measured in a straight line from the nearest point on the building from which the beer will be manufactured, stored or sold to the nearest point on the building of the school or church. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school or church if a valid permit had been issued to any business on that same location, unless beer is not sold, distributed or manufactured at that location during any continuous six-month period.

In no event will a permit of any type required by this chapter be issued for use in conjunction with an establishment in which there is permitted:

- (1) Any female to appear or remain on the premise so costumed or dressed that one (1) or both breasts are wholly or substantially exposed to public view. "Wholly or substantially exposed to public view," as it pertains to such exposure shall mean the showing of the female breast with less than a fully opaque covering of any portion of the breast below the top of the nipple.
- (2) Any person to appear or remain upon the premise so costumed or dressed that the pubic hair, anus, or genitals are exposed to public view.

8-217. Issuance of permits to persons convicted of certain crimes prohibited

No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years.

8-218. On-premise consumption permit.

To qualify for an on-premise permit, the applicant and the establishment must, in addition to meeting all other provisions, regulations and restrictions in this chapter, meet the following requirements:

1. Be a restaurant or an eating place regulated, monitored and rated by the State of Tennessee; and
2. Provide adequate and sanitary kitchen and dining room equipment on the premise; and
3. The establishment for which a permit for on-premise consumption is sought must sell food prepared for on-premise consumption as a normal, regular and integral part of its everyday activities and such food is available for purchase during the same hours that beer is sold for on premise consumption.

4. To satisfy the requirement that it sell food for on-premise consumption as a normal, regular and integral part of its business, the on-premise permit holder must generate a minimum of 60% of the gross revenues of the establishment from food sales. Reporting procedures for establishments holding an on-premise permit are herewith established. Reporting forms shall be provided to establishments holding an on-premise permit and shall detail food sale and alcoholic beverage sale percentages on an annual basis and shall be due on or before June 30. The permit holder will submit copies of all sales tax returns and liquor by the drink returns, with appropriate documentation. These returns shall be subject to audit by the Town. Reporting year shall be January 1 through December 31 of the previous year. The Town Recorder shall keep a record of such compliance and notify the Beer Board of an establishment which fails to meet the 60% ratio.
5. The establishment must be able to seat a minimum of 15 people, including children, in booths and at tables, which tables are for the seating of patrons for the consumption of food, in addition to any other seating it may have; and
6. A minimum of 15 seats in the interior of the building shall be under a permanent roof and enclosed on all sides; and in the event the restaurant/eating place has adjoining and contiguous meeting rooms beer as defined herein may be served in said contiguous meeting rooms under all the requirements and conditions set forth herein.
7. Beer must be contained within the designated seating area contiguous to the on-premise beer permit location.

8-219. Hotels

If a hotel or motel otherwise meets the requirements of this code and the laws of the state of Tennessee for either an on-premise consumption permit or for an off-premise consumption permit, it is eligible to hold two separate permits. All off-premise consumption permits for hotels/motels are subject to the following additional conditions:

- (a) The hotel/motel that holds the permit must have fifty (50) or more guest rooms;
- (b) The permit holder may only sell beer to guests of the hotel/motel, but only for consumption within the guest room assigned to the guest;
- (c) The permit holder may only sell beer at the front desk for the establishment, or through a retail convenience shop that is within the hotel/motel building and that is regularly maintained as such by the hotel/motel; and
- (d) The total receipts of the hotel/motel resulting from the sale of beer and other alcoholic beverages may not exceed forty (40%) percent of the total revenues received by the permit holder hotel/motel.

8-220. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer.

It shall be unlawful for any beer permit holder, employee or person engaged in the sale of beer to:

- 1) Employ any person convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years.
- 2) Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer.

- 3) Make or allow the sale of beer between the hours of 3:00 A.M. and 10:00 A.M. on Sundays, and between 3:00A.M. and 5:00 A.M. on all other days of the week.
- 4) Allow any loud, unusual, or obnoxious noises to emanate from the premise of the beer permit holder.
- 5) Allow any person under twenty-one (21) years of age to loiter in or about the place of business of the beer permit holder.
- 6) Make or allow the sale of beer to a minor under twenty-one (21) years of age.
- 7) Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.
- 8) Allow drunk persons to loiter about the premise of the beer permit holder.
- 9) Serve, sell, or allow the consumption on the premise of any off-premise beer permit holder of any alcoholic beverage with an alcoholic content of more than five (5) percent by weight unless specifically permitted by other, additional permit.
- 10) Fail to provide and maintain separate sanitary toilet facilities for men and women.
- 11) Exhibit any motion pictures for which a fee for entrance to the theater is charged.
- 12) Permit any female to appear or remain upon the premise so costumed or dressed that one or both breasts are wholly or substantially exposed to public view. "Wholly or substantially exposed to public view," as it pertains to such exposure shall mean the showing of the female breast with less than a fully opaque covering of any portion of the breast below the top of the nipple.
- 13) Permit any person to appear or remain upon the premise so costumed or dressed that the pubic hair, anus, or genitals are exposed to public view.

8-221. Fire and building inspection.

No beer permit of any type shall be issued unless and until the premise to which such permit is applicable have been inspected and have passed the minimum fire and building codes adopted by the town.

The beer board shall have the power to revoke any beer permit issued under the provisions of this chapter when the premise are found to be in violation of the minimum fire and life safety codes and building codes. No beer permit shall be revoked until a public hearing is held by the beer board after reasonable notice to all the known parties in interest. Revocation proceedings may be initiated by the town administrator, or a member of the beer board.

8-222. Issuance.

After all inspections have been made and the applicant for a beer permit has met all requirements of this article, after all necessary fees and charges have been paid by the applicant, and after the beer board has determined the applicant has complied with all other requirements contained in this article, the board shall approve the application. Within a reasonable time following final approval of the application, a beer permit shall be issued to the applicant. The permittee shall retain such beer permit for as long as he shall wish to do business at the premise for which it was issued; provided that such permit is not revoked or suspended by the board.

8-223. Revocation or suspension of beer permits.

The beer board shall have the power to revoke or suspend any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked

or suspended until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation or suspension proceedings may be initiated by the town administrator or member of the beer board.

Pursuant to Tennessee Code Annotated, § 57-5-608, the beer board shall not revoke or suspend the permit of a “responsible vendor” qualified under the requirements of Tennessee Code Annotated § 57-5-606 for a clerk’s illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk’s original certification, unless the vendor’s status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor’s certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. “Clerk” means any person working in a capacity to sell beer directly to consumers for off-premise consumption. Under Tennessee Code Annotated, § 57-5-608, the alcoholic beverage commission shall revoke a vendor’s status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve-month period. The revocation shall be for three (3) years.

8-224. Civil penalty in lieu of revocation or suspension.

A. Responsible vendor.

The Beer Board shall not, pursuant to T.C.A. § 57-5-608, revoke or suspend the permit of a responsible vendor for a clerk's illegal sale of beer to a minor, if the vendor and the clerk making the sale have complied with the requirements of T.C.A. § 57-5-606 as a responsible vendor under that part, but may impose upon the responsible vendor a civil penalty not to exceed \$1,000.00 for each offense of making or permitting to be made any sales to minors or for any violation of this article or state law. Permanent revocation of beer permits issued to responsible vendors may only be applied when a responsible vendor permittee commits at least two violations within a 12-month period and then only after the state alcoholic beverage commission revokes the permittee's status as a responsible vendor.

B. Non-responsible vendor.

The prohibition of subsection (a) concerning the revocation or suspension of the vendor's permit shall not apply to any vendor who is not a responsible vendor under the Responsible Vendor Act, T.C.A. § 57-5-601 et. seq., or to a participating vendor, if the vendor or clerk making a sale to a minor fails to comply with the requirements of T.C.A. § 57-5-606. With respect to such permittee, the Beer Board may, at the time it imposes a revocation or suspension, offer the permittee the alternative of paying a civil penalty not to exceed \$2,500.00 for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed \$1,000.00 for any other offense.

- C. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is not received within seven (7) days the revocation or suspension shall begin eight (8) days after the beer board hearing. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn.

Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the town may impose.

8-225. Violations.

Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense

SECTION 2.

This ordinance shall take effect from and after its final passage and publication, the public welfare requiring it.

Dr. Ralph McGill, Mayor

Allison Myers, Town Recorder

REPORT TO THE BOARD OF MAYOR AND ALDERMEN

PREPARED BY: Ruth Viergutz Hawk, Community Development Director

SUBJECT: Ordinance 11-22, ordinance on 1st reading to amend to the Farragut Zoning Ordinance, Chapter 4, Section XXIV. Special Events Permit, to modify requirements and clarify application process

INTRODUCTION: This is a staff initiated amendment to the Zoning Ordinance text. Section XXIV. Special Events Permit is one of the most often used sections of the Zoning Ordinance by the business community. In response to complaints and in order to better serve our local businesses, staff feels this section is in need of updating to modify signage and to clarify to applicants what information is needed when making a Special Events Permit application.

DISCUSSION: The planning commission held an initial discussion on this section of the Zoning Ordinance in August 2010. Since that time the Town has renamed the "Buy In Farragut" program to "Shop Farragut". Staff met with the Farragut Business Alliance (FBA) and the Economic Development Committee (EDC) about the proposed modifications. Staff incorporated the comments and suggestions from "Shop Farragut" participants, Farragut Business Alliance members, and Economic Development Committee members into the proposed amendment.

The planning commission discussed this amendment in detail at their August 18 and September 15 meetings. The proposed signage was discussed extensively. Staff returned to David Purvis, FBA, and requested further input regarding the proposed signage. The following was what was agreed upon and incorporated into the ordinance:

1. The required Shop Farragut logo area was to be reduced from 25% to 15%;
2. The sign background shall be white; and
3. The sign shall be a 10 oz. hemmed scrim vinyl (minimum) with grommets. Ground signs would be affixed to studded T-posts.

Although Special Event Permits are primarily applied for by businesses, they are also applied for by not-for-profit organizations, non-profit organizations, churches, homeowners associations, and private residents. The proposed ordinance breaks down the requirements and application process for each user group.

Attached please find a copy of Ordinance 11-22. For comparison purposes I have also attached a copy of Section XXIV. Special Events Permit of the Zoning Ordinance for your review.

PROFESSIONAL RECOMMENDATION: Community Development Director, Ruth Hawk, recommends approval of Ordinance 11-22.

PLANNING COMMISSION RECOMMENDATION: On October 20, 2011, in a unanimous vote, the Farragut Municipal Planning Commission recommended approval of Ordinance 11-22.

PROPOSED MOTION: To approve Ordinance 11-22 as attached.

BOARD ACTION:

MOTION BY: _____ **SECONDED**

BY: _____

<u>VOTE/TOTAL</u>	<u>ELLIOTT</u>	<u>LAMARCHE</u>	<u>MARKLI</u>	<u>HONKEN</u>	<u>MCGILL</u>
YES	_____	_____	_____	_____	_____
NO	_____	_____	_____	_____	_____
ABSTAIN	_____	_____	_____	_____	_____

XXIV. - Special events permit.

Notwithstanding any provisions to the contrary as contained in this ordinance and applicable to any zoning district within the Town of Farragut, a special events permit may be issued by the town administrator or his designee to any applicant for a special event to be held in one (1) or more of such zoning districts provided the applicant meets all of the following criteria:

A.

The following conditions shall apply to all applicants:

1.

The duration of each special event shall not be longer than nine (9) continuous days.

2.

One (1) sign shall be allowed, in compliance with legal setback requirements, not to exceed four (4) by eight (8) feet in size, no higher than six (6) feet.

3.

No sign erected for a special event shall be placed on site earlier than seven (7) days prior to the event and any sign so placed shall be removed within two (2) days after the event.

4.

No sales from trucks will be allowed.

5.

No banners, streamers, balloons, or other types of wind activated displays will be allowed.

6.

Activities of the special event shall not materially affect the pedestrian or vehicular circulation within the immediate vicinity of the event. The traffic generation of the special event shall not be allowed to create a hazardous condition for traffic in public rights-of-way.

B.

Commercial and "for profit" organizations. Any existing commercial and 'for profit' organization may apply for a special events permit. All applicants will be allowed four (4) special event activities within a calendar year. Each shopping center will also be allowed four (4) special events within a calendar year. A coordinated shopping center-wide special event will not count against any individual commercial or "for profit" organization in totaling the allotted number of permitted special event activities within a calendar year. Other organizations that are not commercial or "for profit" may conduct special events on property owned or controlled by commercial or "for profit" organizations, and unless the owner or controlling party participates in the special event activity it will not be assessed against the commercial or "for profit" organization. Regardless of the type of applicant holding any special event activity, truck sales are strictly prohibited for both temporary and permanent applications.

C.

Community organizations and "not-for-profit" organizations. Community organizations and "not-for-profit" organization's applicants shall provide, in writing, evidence of permission to conduct any special event activity on property other than owned or controlled by the applicant. Unless approved for consecutive dates, as provided in subsection A. above, applicants must wait thirty (30) days between each special event.

ORDINANCE:	11-22
PREPARED BY:	Hawk
REQUESTED BY:	Staff
CERTIFIED BY FMPC:	October 20, 2011
PUBLIC HEARING:	_____
PUBLISHED IN:	_____
DATE:	_____
1ST READING:	_____
2ND READING:	_____
PUBLISHED IN:	_____
DATE:	_____

AN ORDINANCE TO AMEND THE TEXT OF THE ZONING ORDINANCE OF THE TOWN OF FARRAGUT, TENNESSEE, ORDINANCE 86-16, AS AMENDED, BY AMENDING CHAPTER 4. GENERAL PROVISIONS AND EXCEPTIONS, SECTION XXIV. SPECIAL EVENTS PERMIT, TO MODIFY REQUIREMENTS, AS AUTHORIZED PURSUANT TO SECTION 13-4-201, TENNESSEE CODE ANNOTATED.

BE IT ORDAINED by the Board of Mayor and Aldermen of the Town of Farragut, Tennessee, that the Farragut Zoning Ordinance, Ordinance 86-16, as amended, is hereby amended as follows:

SECTION 1.

Chapter 4, Section XXIV. Special Events Permit, is deleted in its entirety and substituted in lieu thereof the following:

SECTION XXIV. SPECIAL EVENTS PERMIT

It is the intent of this section to establish the permitting process and the requirements for special events held by private entities within the Town of Farragut. For a commercial or office entity, a special event may constitute a grand opening, a sidewalk sale, or some other type of activity that is unique to their establishment. For not-for-profit or non-profit entities, a special event may constitute a fund raiser of some sort such as a car wash. For residential uses, a special event may be a neighborhood function on subdivision owned open space or a yard sale or garage sale for an individual residence. For schools and freestanding churches and other places of worship, a special event may be Vacation Bible School, a holiday pageant or program, a child consignment sale, of some other type of activity that is unique to the services offered.

ORDINANCE 11-22

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A. Commercial, Office and Not-For-Profit/Non-Profit Entities

1. General Requirements

- a. Each individual permanent commercial and office entity is eligible for a special event. Within the Regional Commercial District, Retail/Warehousing (C-2-R/W) and in the case of a multi-tenant facility, only the multi-tenant facility is eligible for a special event, not each individual tenant/entity. Off-site not-for-profit and non-profit entities are eligible for a special event, but shall be sponsored by an on-site commercial or office entity.
- b. There shall be a maximum of four (4) special event permits per entity per year.
- c. The duration of each special event shall not exceed ten (10) calendar days.
- d. No special events are permitted on vacant or vacated properties.
- e. Sales from trucks are prohibited.
- f. Activities of the special event shall not materially affect the pedestrian or vehicular circulation within the immediate vicinity of the event. The traffic generation of the special event shall not be allowed to create a hazardous condition for traffic in public rights-of-way.

2. Sign Requirements

- a. There shall be a maximum of one (1) sign per event not to exceed twenty (20) square feet. For a two-sided sign, only the area of a single face shall be considered.
- b. For ground mounted signs, the maximum sign height shall be six (6) feet.
- c. Ground mounted signs shall be set back a minimum of twenty (20) feet from the street edge of pavement as measured from the farthest most protrusion of the sign to the nearest point of the street edge of pavement. Signs shall be set back a minimum of ten (10) feet from all entrance driveways.

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- d. All signs shall be ten (10) ounce (minimum) hemmed scrim vinyl with grommets. Ground mounted signs shall be affixed to studded T-posts. All signs shall be affixed in such a manner that they do not move in the wind. For ground mounted signs, this may require intermediate posts between the anchor posts.
- e. All signs shall have a white background.
- f. A minimum of fifteen percent (15%) of the gross sign area shall include the Shop Farragut logo and website address. The sign shall also include the business name.
- g. Sign letters shall meet the Visual Resources Review Board's adopted legibility requirements.
- h. No streamers, balloons, flags-on-a-rope, other types of wind activated displays, or any sign prohibited in the Farragut Sign Ordinance is permitted.
- i. All signs and any associated support posts shall be removed at the end of the special event.

3. Permitting Process

A special events permit application and filing fee shall be submitted to the Town Hall prior to the commencement of the event. The applicant must have an approved permit in hand prior to holding an event.

All special event permit applications shall include the following information:

- a.. Applicant's name, street address, telephone number, fax number, and e-mail address.
- b. Name, street address, telephone number, fax number, e-mail address, and signature of individual identified who assumes the responsibility of meeting the conditions of the permit.
- c. Applicant status (commercial, office, not-for-profit, non-profit).
- d. Location of event.

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- e. Nature/name of event.
- f. Date range of event.
- g. Previous special event permits approved during the calendar year.
- h. If applicable, a drawing of the sign which includes dimensions that show the length and width of the sign, the height and width of all letters and figures, and the overall height of the sign.
- i. If having tent(s), sidewalk sales, or any other outdoor activities, include a site plan showing locations for such activities. A separate tent permit may be required per fire safety requirements.

B. Residential Uses

1. General Requirements

- a. Each homeowner association and individual residence is eligible for a special event.
- b. There shall be a maximum of two (2) special event permits per homeowner association and residence per year.
- c. The duration of each special event shall not exceed three (3) calendar days.
- d. Special events permits can only be applied for and issued to the property owner of record.
- e. No special events are permitted on vacant or vacated properties. Open space owned by a homeowner association may be used for a special event provided the land, without modifications, can accommodate the proposed activity.

2. Sign Requirements

- a. There shall be a maximum of one (1) sign per event not to exceed six (6) square feet and four (4) feet in height. For a two-sided sign, only the area of a single face shall be considered.

- b. Ground mounted signs shall be set back a minimum of twenty (20) feet from the street edge of pavement as measured from the farthest most protrusion of the sign to the nearest point of the street edge of pavement.
- c. No banners, streamers, balloons, flags-on-a-rope, other types of wind activated displays, or any sign prohibited in the Farragut Sign Ordinance is permitted.
- d. All signs and any associated support posts shall be removed at the end of the special event.

3. Permitting Process

A special events permit application and filing fee shall be submitted to the Town Hall prior to the commencement of the event. The applicant must have an approved permit in hand prior to holding an event.

All special event permit applications shall include the following information:

- a. Applicant's name, street address, telephone number, fax number, and e-mail address. If a homeowner association, name, street address, telephone number, fax number, e-mail address, and signature of individual identified who has legal authority and who assumes the responsibility of meeting the conditions of the permit.
- b. Location of event.
- c. Nature/name of event.
- d. Date range of event.
- e. Previous special event permits approved during the calendar year.
- f. If a homeowner association and having tent(s) or any other outdoor activities, include a site plan showing locations for such activities.

C. Freestanding Schools, Churches, and Other places of Worship

1. General Requirements

- a. Each freestanding school, church, and other place of worship is eligible for a special event.

- b. There shall be a maximum of four (4) special event permits per entity per year.
- c. The duration of each special event shall not exceed ten (10) calendar days.
- d. No special events are permitted on vacant or vacated properties.
- e. Activities of the special event shall not materially affect the pedestrian or vehicular circulation within the immediate vicinity of the event. The traffic generation of the special event shall not be allowed to create a hazardous condition for traffic in public rights-of-way.

2. Sign Requirements

- a. There shall be a maximum of one (1) sign per event not to exceed sixteen (16) square feet. For a two-sided sign, only the area of a single face shall be considered.
- b. For ground mounted signs, the maximum sign height shall be six (6) feet.
- c. Ground mounted signs shall be set back a minimum of twenty (20) feet from the street edge of pavement as measured from the farthest most protrusion of the sign to the nearest point of the street edge of pavement. Signs shall be set back a minimum of ten (10) feet from all entrance driveways.
- d. All signs shall be ten (10) ounce (minimum) hemmed scrim vinyl with grommets. Ground mounted signs shall be affixed to studded T-posts. All signs shall be affixed in such a manner that they do not move in the wind. For ground mounted signs this may require intermediate posts between the anchor posts.
- e. Sign letters shall meet the Visual Resources Review Board's adopted legibility requirements.
- f. No streamers, balloons, flags-on-a-rope, other types of wind activated displays, or any sign prohibited in the Farragut Sign Ordinance is permitted.
- g. All signs and any associated support posts shall be removed at the end of the special event.

3. Permitting Process

A special events permit application and filing fee shall be submitted to the Town Hall prior to the commencement of the event. The applicant must have an approved permit in hand prior to holding an event.

All special event permit applications shall include the following information:

- a. Applicant's name, street address, telephone number, fax number, and e-mail address.
- b. Name, street address, telephone number, fax number, e-mail address, and signature of individual identified who assumes the responsibility of meeting the conditions of the permit.
- c. Location of event.
- d. Nature/name of event.
- e. Date range of event.
- f. Previous special event permits approved during the calendar year.
- g. If applicable, a drawing of the sign which includes dimensions that show the length and width of the sign, the height and width of all letters and figures, and the overall height of the sign.
- h. If having tent(s) or any other outdoor activities, include a site plan showing locations for such activities. A separate tent permit may be required per fire safety requirements.

SECTION 2.

This ordinance shall take effect from and after its final passage and publication, the public welfare requiring it.

ORDINANCE 11-22

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Dr. Ralph McGill, Mayor

Allison Myers, Town Recorder

Certified to the Farragut Board of Mayor and Aldermen this _____ day of _____,
2011, with approval recommended.

Rita Holladay, Chairman

Edwin K. Whiting, Secretary

FARRAGUT MUNICIPAL PLANNING COMMISSION

AGENDA NUMBER VII.B.2.

MEETING DATE November 15, 2011

REPORT TO THE BOARD OF MAYOR AND ALDERMEN

PREPARED BY: Ruth Viergutz Hawk, Community Development Director

SUBJECT: Ordinance 11-23, ordinance on 1st reading to amend the Farragut Municipal Code, Title 14, Chapter 4. Sinkhole Ordinance, to clarify that once sinkholes have been identified by the planning commission and have been indicated on a plat or site plan, the appellate body is the Board of Zoning Appeals

INTRODUCTION: This is a staff initiated amendment to the Sinkhole Ordinance.

DISCUSSION: The intent behind this amendment is to make it clear that once sinkholes have been identified, the appellate body is the Board of Zoning Appeals.

CASE EXAMPLE: The Sinkhole Ordinance was in the process of being adopted when The Farm at Willow Creek subdivision was being developed. The developer designed the subdivision to accommodate the future sinkhole setback requirements of the subject ordinance, but chose to "smooth" out/fill several of the sinkholes (not inconsistent with the ordinance at that time). In other words, the sinkholes were no longer depressions, but flat areas. As we all know, however, smoothing out a sinkhole does not eliminate it or erase it. As required per the Subdivision Regulations, the sinkholes were identified on the preliminary plat.

The Sinkhole Ordinance was adopted prior to the recording of the final plat. The final plat, per the Sinkhole Ordinance, shows the sinkholes and the 50' building setbacks.

Subsequently and for various reasons that cannot be discussed as this case is still in litigation, the ownership of the development changed hands. A short time later, although clearly shown on the preliminary and final plat, the new owner brought up some questions/issues with regard to the development's identified sinkholes.

It is our intent at this time to amend the ordinance to ensure that when someone who is not familiar with sinkholes and who reads our Sinkhole Ordinance knows that once a sinkhole has been identified, the Board of Zoning Appeals (BZA) is the appropriate next step when looking for relief from our requirements. The BZA was designated as the appellate body because it was felt that rather than getting a setback relief from the sinkhole, it would likely be more appropriate to obtain setback relief from the property line. Designating the BZA as the appellate body, in essence, created a one-stop-shop for appeals.

Attached please find a red lined proposed text amendment to Sections 14-406, 14-407, and 14-408 for easier review of the proposed amendments. Also attached please find a copy of Ordinance 11-23.

PROFESSIONAL RECOMMENDATION: Community Development Director, Ruth Hawk, recommends approval of Ordinance 11-23.

PLANNING COMMISSION RECOMMENDATION: On October 20, 2011, in a unanimous vote, the Farragut Municipal Planning Commission recommended approval of Ordinance 11-23.

PROPOSED MOTION: To approve Ordinance 11-23 as attached.

BOARD ACTION:

MOTION BY: _____ **SECONDED**

BY: _____

<u>VOTE/TOTAL</u>	<u>ELLIOTT</u>	<u>LAMARCHE</u>	<u>MARKLI</u>	<u>HONKEN</u>	<u>MCGILL</u>
YES	_____	_____	_____	_____	_____
NO	_____	_____	_____	_____	_____
ABSTAIN	_____	_____	_____	_____	_____

Farragut Municipal Code, Title 14, Chapter 4. Sinkhole Ordinance

Sec. 14-406. - Developmental requirements.

(1)

General site controls and restraints. The developer is encouraged to consult with any unit of government that would have requirements applicable to the development of the subject tract and the area surrounding it. The developer shall also become acquainted with the zoning ordinance, subdivision regulations, driveways and other access ways ordinance, erosion control ordinance, drainage ordinance, tree protection ordinance, this chapter, and other ordinances, regulations and codes which regulate the development of land in the Town . Further, the developer shall consult with the Town regarding all applicable review policies and procedures precedent to the submission of any site plan, subdivision plat, or land disturbance permit application.

(2)

Dispute of sinkhole—Determination. Where the developer disputes the determination that an area contains a sinkhole(s), a site reconnaissance will be conducted by a qualified professional having experience and expertise with sinkholes. This professional shall be recognized and approved by the Town . The professional shall perform whatever evaluations deemed necessary to establish whether a sinkhole(s) exists on the site. The findings of the professional shall be presented to the developer, ~~and the Town , and the Tennessee Department of Environment and Conservation~~ for final disposition. The burden of proof is on the developer to disprove the existence of sinkholes. ~~and the cost of such proof is his/her alone, unless the developer shall prevail in which the reasonable cost will be paid by the Town of Farragut. Once sinkhole determination has been made, the sinkhole(s) shall be indicated on all preliminary plats, final plats, site plans, or any other construction document.~~

Sec. 14-407. - General requirements.

(1)

Placing substances and objects in sinkholes. No person shall place or cause to be placed any substances or objects, other than stormwater runoff, in any sinkhole or sinkhole drainage area in such a way so as to how such substances or objects to be washed into a sinkhole throat during storm events.

(2)

Filling or obstructing sinkhole outlets and springs. No person shall fill or obstruct the outlet to a sinkhole or system of sinkholes, or fill over a spring or sink outlet without approval from the State of Tennessee Department of Environment and Conservation Division of Water Supply and Division of Water Pollution and the Town . No fill shall be placed and no construction shall occur below the sinkhole lip elevation unless proper and approved mitigation measures are taken and avoidance of the sinkhole is not possible, for example when widening an existing collector or arterial street. No fill shall be placed and no construction shall occur below the sinkhole lip elevation for the construction of local streets, driveways, and walking trails.

(3)

Stormwater runoff into sinkholes. All persons draining stormwater runoff into sinkholes shall coordinate with the State of Tennessee Department of Environment and Conservation Division of Water Supply and Division of Water Pollution to insure appropriate compliance with applicable provisions. Every effort shall be made to prevent changes in the volume and rate of runoff into sinkholes from preconstruction levels to post construction levels. Copies of approved permits and any pertinent site-specific provisions shall be submitted to the Town prior to the issuance of a grading permit.

(4)

Disturbance in sinkhole drainage areas. The immediate area around a sinkhole should be disturbed as little as possible. Adequate sediment and erosion control measures shall be put in place prior to any disturbance. The use of mechanized grading equipment near the sinkhole throat should be avoided. All

use of explosives shall be in compliance with the state fire marshal's office, and should be avoided whenever possible. The underground system of caves and streams is dynamic and explosions in the vicinity can alter or block underground drainage passage ways.

(5)

Building construction in sinkhole drainage areas. Sinkhole areas are known to be unstable for construction. Structures placed on soil foundations in sinkhole areas may be subject to both settling and collapse of the sinkhole. Uncontrolled fill placement may present additional settlement hazards. Mitigation of these possible undesirable consequences are to be addressed as follows:

All buildings shall be set back a minimum of fifty (50) feet from the sinkhole lip elevation unless at the time of sinkhole determination the Farragut Municipal Planning Commission determines:

(a)

That the drainage function of the sinkhole will not be compromised by the construction within said fifty (50) foot line;

(b)

That there will be no hazard to groundwater;

(c)

That the applicant has obtained all necessary permits necessary from the Tennessee Department of Environment and Conservation; and

(d)

That the applicant provides sufficient and proper evidence for the Farragut Municipal Planning Commission to determine that there is no danger other than which would normally be encountered in the construction of a similar building in other areas.

The sinkhole elevation, ~~and~~ the sinkhole lip elevation, and the minimum building setback from the sinkhole lip elevation shall be indicated on all preliminary plats, final plats and site plans. A structural engineer must approve all building foundations constructed within sinkhole areas.

The finished floor elevation (FFE) of any habitable structure within the sinkhole area shall be at least one (1) foot above the sinkhole lip elevation. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall also be located at least one (1) foot above the sinkhole lip elevation. The FFE shall be indicated on all preliminary plats, final plats, and site plans. Verification of this elevation must be submitted to the Town .

(6)

Easements. When appropriate, sinkholes shall be designated as drainage easements on all preliminary and final plats. All sinkholes, whether designated as a drainage easement or not, shall be identified on preliminary and final plats. If feasible, sinkholes shall be placed on community open space land.

(Ord. No. 05-13, July 2005)

Sec. 14-408. - Appeals.

(1)

Once a sinkhole determination has been made and the sinkhole(s) have been identified on a plat, site plan, or any other construction document, ~~t~~he board of zoning appeals (BZA) shall serve as the appellate body for this ordinance.

(2)

The applicant shall submit a written request for a variance to the Town of Farragut. The application shall include specific reasons justifying the variance and any other information necessary to evaluate the proposed variance request.

(3)

When the board of zoning appeals is considering a request for a variance, they may require additional information such as, but not limited to, site design modifications, in order to fully evaluate the request.

ORDINANCE:	11-23
PREPARED BY:	Hawk
REQUESTED BY:	Staff
CERTIFIED BY FMPC:	October 20, 2011
PUBLIC HEARING:	_____
PUBLISHED IN:	_____
DATE:	_____
1ST READING:	_____
2ND READING:	_____
PUBLISHED IN:	_____
DATE:	_____

AN ORDINANCE TO AMEND TITLE 14. LAND USE CONTROLS, CHAPTER 4. SINKHOLE ORDINANCE, OF THE FARRAGUT MUNICIPAL CODE, SECTIONS 14-406., 14-407., AND 14-408., TO CLARIFY THAT ONCE SINKHOLES HAVE BEEN IDENTIFIED BY THE PLANNING COMMISSION AND HAVE BEEN INDICATED ON A PLAT OR SITE PLAN, THE APPELLATE BODY IS THE BOARD OF ZONING APPEALS

WHEREAS, the Board of Mayor and Aldermen of the Town of Farragut, Tennessee, wishes to amend Title 14, Chapter 4, Sinkhole Ordinance, of the Farragut Municipal Code,

NOW, THEREFORE, BE IT ORDAINED by the Board of Mayor and Aldermen of the Town of Farragut, Tennessee, that the Farragut Municipal Code is hereby amended as follows:

SECTION 1.

The Farragut Municipal Code, Title 14, Land Use Controls, Chapter 4, Sinkhole Ordinance, Section 14-406. Development requirements., (2), is amended by deleting it in its entirety and substituting in lieu thereof the following:

- (2) *Dispute of sinkhole—Determination.* Where the developer disputes the determination that an area contains a sinkhole(s), a site reconnaissance will be conducted by a qualified professional having experience and expertise with sinkholes. This professional shall be recognized and approved by the Town. The professional shall perform whatever evaluations deemed necessary to establish whether a sinkhole(s) exists on the site. The findings of the professional shall be presented to the developer, the Town, and the Tennessee Department of Environment and Conservation for final disposition. The burden of proof is on the developer to disprove the existence of sinkholes. Once sinkhole determination has been made, the sinkhole(s) shall be indicated on all preliminary plats, final plats, site plans, or any other construction document.

ORDINANCE 11-23

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SECTION 2.

The Farragut Municipal Code, Title 14, Land Use Controls, Chapter 4, Sinkhole Ordinance, Section 14-407. General requirements., (5), is amended by deleting it in its entirety and substituting in lieu thereof the following:

- (5) *Building construction in sinkhole drainage areas.* Sinkhole areas are known to be unstable for construction. Structures placed on soil foundations in sinkhole areas may be subject to both settling and collapse of the sinkhole. Uncontrolled fill placement may present additional settlement hazards. Mitigation of these possible undesirable consequences are to be addressed as follows:

All buildings shall be set back a minimum of fifty (50) feet from the sinkhole lip elevation unless at the time of sinkhole determination the Farragut Municipal Planning Commission determines:

- (a) That the drainage function of the sinkhole will not be compromised by the construction within said fifty (50) foot line;
- (b) That there will be no hazard to groundwater;
- (c) That the applicant has obtained all necessary permits necessary from the Tennessee Department of Environment and Conservation; and
- (d) That the applicant provides sufficient and proper evidence for the Farragut Municipal Planning Commission to determine that there is no danger other than which would normally be encountered in the construction of a similar building in other areas.

The sinkhole elevation, the sinkhole lip elevation, and the minimum building setback from the sinkhole lip elevation shall be indicated on all preliminary plats, final plats and site plans. A structural engineer must approve all building foundations constructed within sinkhole areas.

The finished floor elevation (FFE) of any habitable structure within the sinkhole area shall be at least one (1) foot above the sinkhole lip elevation. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall also be located at least one (1) foot above the sinkhole lip elevation. The FFE shall be indicated on all preliminary plats, final plats, and site plans. Verification of this elevation must be submitted to the Town .

ORDINANCE 11-23
Page 3

SECTION 3.

The Farragut Municipal Code, Title 14, Land Use Controls, Chapter 4, Sinkhole Ordinance, Section 14-408. Appeals., (1), is amended by deleting it in its entirety and substituting in lieu thereof the following:

- (1) Once a sinkhole determination has been made and the sinkhole(s) have been identified on a plat, site plan, or any other construction document, the Board of Zoning Appeals (BZA) shall serve as the appellate body for this ordinance.

SECTION 4.

This ordinance shall take effect from and after its final passage and publication, the public welfare requiring it.

Dr. Ralph McGill, Mayor

Allison Myers, Town Recorder

Certified to the Farragut Board of Mayor and Aldermen this _____ day of _____, 2011, with approval recommended.

Rita Holladay, Chairman

Edwin K. Whiting, Secretary

FARRAGUT MUNICIPAL PLANNING COMMISSION

AGENDA NUMBER VII. B. 3.

MEETING DATE November 15, 2011

REPORT TO THE BOARD OF MAYOR AND ALDERMEN

PREPARED BY: Allison Myers, Town Recorder, CMFO

SUBJECT: Ordinance 11-25, an ordinance on first reading to amend the FY2012 General Fund and Insurance Fund Budgets

INTRODUCTION:

The purpose of this agenda item is to approve Ordinance 11-25, to amend the Fiscal Year 2012 General Fund and Insurance Fund Budgets.

DISCUSSION:

Ordinance 11-25 will amend the budget to reflect the following:

- The General Fund budget will be amended by increasing appropriations to reflect an additional \$29,390 for the proposed supplemental retirement plan for the remaining six months of the current fiscal year. Attachment A presents the changes in the General Fund Budget.
- The Insurance Fund will be amended based on the decision of Agenda Item VI.B. Approval of a one-time contribution of retirement benefits for employees of the Town of Farragut. Attachment B reflects the approval of Option 1, additional appropriations of \$413,000 and Attachment C reflects the approval of Option 2, additional appropriations of \$433,538. Both options are described in the memo for agenda item VI.B.

All requests will be funded through the fund balance of both the General and Insurance Funds.

RECOMMENDATION BY:

Allison Myers, Town Recorder for approval.

PROPOSED MOTION:

To approve Ordinance 11-25 amending Fiscal Year 2012 General Fund and Insurance Fund Budgets.

BOARD ACTION:

MOTION BY: _____ **SECONDED BY:** _____

<u>VOTE/TOTAL</u>	<u>ELLIOTT</u>	<u>HONKEN</u>	<u>LAMARCHE</u>	<u>MARKLI</u>	<u>McGILL</u>
YES	_____	_____	_____	_____	_____
NO	_____	_____	_____	_____	_____
ABSTAIN	_____	_____	_____	_____	_____

ORDINANCE	11-25
PREPARED BY	Myers
1 ST READING	November 15, 2011
2 ND READING	December 8, 2011
PUBLISHED IN	Farragut Press
DATE	

AN ORDINANCE OF THE TOWN OF FARRAGUT, TENNESSEE
AMENDING THE FISCAL YEAR 2011-2012 BUDGET, PASSED BY ORDINANCE 11-07

WHEREAS, the Town of Farragut adopted the fiscal year 2011-12 budget by passage of Ordinance Number 11-07 on June 23, 2011; and

WHEREAS, pursuant to the Tennessee State Constitution, Section 24 of Article II, no public money shall be expended except pursuant to appropriations made by law; and

WHEREAS, expenses for the Insurance Fund will be greater than budgeted; and

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF FARRAGUT, TENNESSEE THAT CHANGES BE MADE TO THE FISCAL YEAR 2011-2012 BUDGET AS FOLLOWS:

SECTION 1. Ordinance Number 11-07 is hereby amended by increasing the appropriated expenditures for the Insurance Fund by _____.

SECTION 2. The Board of Mayor and Aldermen authorizes the town recorder to make said changes in the accounting system.

SECTION 3. This ordinance shall take effect after its final passage and publication, the public welfare requiring it.

Dr. Ralph McGill, Mayor

Allison Myers, Town Recorder

Attachment A

	FY2008-09	FY2009-10	FY2010-11	FY2010-11	FY2011-12
	<u>Actual</u>	<u>Actual</u>	<u>Budget</u>	<u>Estimated</u>	<u>Approved</u>
BEGINNING FUND BALANCE	2,033,835	1,771,707	4,928,258	4,928,258	5,608,446
REVENUE					
Local Sales Tax	3,129,935	3,747,383	3,100,000	3,591,000	3,519,180
State Sales Tax	1,299,781	1,255,394	1,270,000	1,270,000	1,270,000
Hall Income Tax	685,897	320,215	333,024	428,740	400,000
Wholesale Beer & Liquor	828,671	832,555	770,000	890,000	800,000
Intergovernmental	655,838	655,728	609,300	650,390	624,400
Building Permits & Licenses	405,533	259,686	156,000	174,300	167,500
Recreation Fees	92,589	81,483	69,500	76,950	78,000
Traffic Enforcement Program & Fines	1,816	174,821	240,000	172,000	84,000
Rent	73,912	72,318	83,798	84,507	84,607
Miscellaneous	47,513	96,700	7,000	11,100	6,000
Total Revenue	7,221,485	7,496,283	6,638,622	7,348,987	7,033,687
EXPENDITURES					
Legislative	48,487	23,264	45,600	33,900	44,750
Town Court	2,722	5,127	66,417	63,567	65,661
Administration	477,825	557,457	634,469	591,917	664,438
Human Resources	798,663	821,823	182,414	182,674	173,587
Engineering	394,071	450,740	616,506	541,494	721,158
Community Development	504,825	537,297	737,628	641,968	778,139
General Government	416,763	399,745	393,406	392,406	367,130
Parks & Leisure Services	557,405	586,782	773,769	756,853	855,363
Public Works	934,201	1,002,643	1,472,939	1,441,972	1,656,613
Non-Departmental	365,625	307,702	405,400	327,400	381,070
Economic Development	0	0	0	41,500	89,000
Total Expenditures	4,513,613	4,692,580	5,328,548	5,015,651	5,796,909
Revenue over (under) expenditures	2,707,872	2,803,703	1,310,074	2,333,336	1,236,778
Total Transfers In	0	892,848	1,068,174	1,051,852	0
Total transfers out	-2,970,000	-540,000	-2,705,000	-2,705,000	-1,770,000
Assigned Fund Balance		892,848	1,742,862	1,726,414	1,726,414
Unassigned Fund Balance		4,035,410	2,858,644	3,882,032	3,348,810
ENDING BALANCE	1,771,707	4,928,258	4,601,506	5,608,446	5,075,224

Attachment B

Insurance Fund-611

		FY2008-09	FY2009-10	FY2010-11 <u>Current</u>	FY2010-11 <u>Estimated</u>	FY2011-12 <u>Approved</u>
		<u>Actual</u>	<u>Actual</u>	<u>Budget</u>		
Beginning Balance		517,072	525,415	525,415	527,276	528,161
611	Revenues					
36190	Interest	8,343	1,861	885	885	800
	Total Revenues	8,343	1,861	885	885	800
Other Funding Sources						
37940	Transfer from General Fund	0	0	0	0	0
1000-10	Transfer to General Fund	0	0	0	0	0
	Total Other Funding Sources	0	0	0	0	0
Expenditures						
43935						
600	Employee Benefits		0	0	0	413,000
	Total Expenditures	0	0	0	0	413,000
Ending Balance		525,415	527,276	526,300	528,161	115,961

Attachment C

Insurance Fund-611

		FY2008-09	FY2009-10	FY2010-11 <u>Current</u>	FY2010-11 <u>Estimated</u>	FY2011-12 <u>Approved</u>
		<u>Actual</u>	<u>Actual</u>	<u>Budget</u>		
Beginning Balance		517,072	525,415	525,415	527,276	528,161
611	Revenues					
36190	Interest	8,343	1,861	885	885	800
	Total Revenues	8,343	1,861	885	885	800
Other Funding Sources						
37940	Transfer from General Fund	0	0	0	0	0
1000-10	Transfer to General Fund	0	0	0	0	0
	Total Other Funding Sources	0	0	0	0	0
Expenditures						
43935						
600	Employee Benefits		0	0	0	433,538
	Total Expenditures	0	0	0	0	433,538
Ending Balance		525,415	527,276	526,300	528,161	95,423

REPORT TO THE BOARD OF MAYOR AND ALDERMEN

PREPARED BY: Janet Curry, Human Resources Manager

SUBJECT: Consider Revision of Town DOT and General Drug and Alcohol Policies

INTRODUCTION: Recently, the federal Department of Transportation (DOT) law changed for commercial driver's license (CDL) holders regarding the types of drugs screened. This prompted a review of both policies.

BACKGROUND: The federal government changed the mandatory requirements of the Part 40 regulations, which are the DOT regulations that govern the specifics of drug and alcohol testing. The Town of Farragut has two drug screen policies. The first policy is for Town CDL holders (Public Works maintenance workers and foremen) and the second policy is for non-CDL holders which is the remainder of Town staff. The CDL policy includes pre-employment, reasonable suspicion, post-accident, random, and return-to-duty testing. The General Policy includes all the same types of testing as the CDL holders except for random testing. The attached Farragut policies are in compliance with the new federal regulations.

Research on best practices for municipal drug screen policies found that the Town's 2007 policies do not adequately mirror the Municipal Technical Advisory Service (MTAS) policy recommendations. MTAS notes that "Drug testing by a government employer is considered to be a search under the United States Constitution, and some courts have found that government employees have greater rights to contest drug-testing policies than employees in the private sector. MTAS consultants are concerned that cities adopting the state program (a.k.a. TN Drug Free Workplace) also results in the employer's loss of control over drug testing, as the General Assembly and the Department of labor have authority over the requirements of the law and the implementation of the statute." Therefore, the Town has two policies.

DISCUSSION: The drug screen panels for both policies were enhanced based on the federal legislative changes and the recommendations of our Medical Review Officer (MRO). The CDL policy added a federally legislated opium derivative and an amphetamine derivative which brings the tested drugs to a 5 panel/6 drugs level. The attached General Policy was enhanced to comply with the federal law and to expand the number of drug classes tested to a 10 panel/12 drugs level. This includes Oxycodone.

Based upon the MTAS model and advice of Counsel, the scope of pre-employment testing is narrowed under the General Policy to only include 'safety sensitive' positions. The 'safety sensitive' positions are defined as positions where the employee must drive Town vehicles on a daily basis in order to perform the essential functions of their job. The affected positions are the Codes Officers, Engineering Technicians, Stormwater Coordinator, Public Works Maintenance Workers, Public Works Foreman, Athletic and Parks Coordinator and the part-time Park Assistants positions.

Also, the term "accident" was re-defined to mirror the Tennessee Drug Free Workplace policy under the CDL policy. An "accident" is now defined as "an occurrence where an employee is injured in the workplace or in the scope of employment which must be recorded in the OSHA 300 log, or through the employee's actions he or she causes injury to another employee or the public". Under the General Policy, the term "accident" was

re-defined to include “an occurrence involving the employee which causes damage to property in excess of \$1,000”.

Finally, the review of the 2007 policies found several necessary ‘housekeeping’ changes due to changing business conditions. One example is that our MRO now uses a different laboratory to test the named drugs. A second example is that a facility named for drug abuse help, St. Mary’s, is now Tennova Health Systems. The revised policy addresses the change in business conditions that are outside the Town’s scope of reach by adding new disclaimers. One disclaimer states: “If business needs of the Town require or call for change of an MRO, the Town Administrator may select another qualified MRO at any time, provided that the newly selected MRO has and maintains all necessary certifications and qualifications.” There are also similar disclaimers regarding other administrative issues. These disclaimers do not affect the drug screening program itself. These disclaimers are solely for administrative changes due to changing business conditions. This additional language will allow the Town Administrator to manage the drug free program without addressing the Board with a policy change each time a business change occurs.

As required under the Tennessee Drug Free Workplace policy, employees will be given a sixty (60) day notice of the specific changes.

FINANCIAL SECTION: N/A

PROPOSED MOTION:

To approve the 2011 revision to the Town of Farragut General Drug and Alcohol Policy and the Town of Farragut Department of Transportation Drug and Alcohol Policy.

BOARD ACTION:

MOTION BY: _____ **SECONDED BY:** _____

<u>VOTE/TOTAL</u>	<u>ELLIOTT</u>	<u>LAMARCHE</u>	<u>MARKLI</u>	<u>HONKEN</u>	<u>MCGILL</u>
YES	_____	_____	_____	_____	_____
NO	_____	_____	_____	_____	_____
ABSTAIN	_____	_____	_____	_____	_____