

MINUTES
FARRAGUT BOARD OF MAYOR AND ALDERMEN
FEBRUARY 9, 2012

RETIREMENT WORKSHOP
6:00 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. January 26, 2012
- VI. Business Items**
 - A. Approval of FY2012 Mid-Year Committee Appointments to the Beautification Committee, Arts Council and Visual Resources Review Board
 - B. Approval of Resolutions R-2012-03 and Resolution R-2012-04, adopting both a 401(k) and 457 employee retirement plan.
 - C. Consideration of possible agreement regarding the Farm at Willow Creek
 - D. Discussion and Consideration of legal options regarding McBride v Town of Farragut
- VII. Ordinances**
 - A. First Reading**
 - 1. **Ordinance 12-02**, ordinance to amend the Farragut Zoning Ordinance, Chapter 3. Section XII. General Commercial District (C-1) and Section XV. Regional Commercial District (C-2), to clarify similar uses established by the Board of Zoning Appeals
 - 2. **Ordinance 12-03**, ordinance to amend the Farragut Zoning Ordinance, Chapter 3. Specific District Regulations, to clarify entrance pillars are considered subdivision walls as established by the Board of Zoning Appeals
 - 3. **Ordinance 12-04**, ordinance to amend Title 20. Miscellaneous, Chapter 2. Celebratory Gatherings, Concerts, Parades, Races, Demonstrations, Public Assemblies, Block Parties and Picketing, of the Farragut Municipal Code, to add Community Events and to Clarify Sign Requirements, Review Time Line, Exemptions and Applicability
- VIII. Town Administrator's Report**
- IX. Attorney's Report**

BMA MEETING

The Farragut Board of Mayor and Aldermen met in a regular session on Thursday, February 9, 2012 at 7:00 p.m.

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

Approval of Agenda

Motion was made to move item V.C., Consideration of possible agreement regarding the Farm at Willow Creek, to the Attorney's Report on the agenda. Motion was made by Alderman Markli, seconded by Alderman Elliott; voting yes, Mayor McGill, Aldermen Elliott, LaMarche and Markli; no nays; Alderman Honken was absent; motion passed.

Approval of Minutes

Motion was made to approve the minutes of January 26, 2012 as presented. Motion was made by Alderman Markli, seconded by Alderman LaMarche; voting yes, Mayor McGill, Aldermen Elliott, LaMarche and Markli; no nays; Alderman Honken was absent; motion passed.

Business Items

Approval of FY2012 Mid-Year Committee Appointments to the Beautification Committee, Arts Council and Visual Resources Review Board

Motion was made to appoint Tyler Mallison to the Visual resources Review Board, Marianne McGill to the Beautification Board and Kimberly Pack to the Arts Council. Motion was made by Alderman Elliott, seconded by Alderman LaMarche; voting yes, Mayor McGill, Aldermen Elliott, LaMarche and Markli; no nays; Alderman Honken was absent; motion passed.

Approval of Resolutions R-2012-03 and Resolution R-2012-04, adopting both a 401(k) and 457 employee retirement plan.

Motion was made to approve Resolution R-2012-03 and Resolution R-2012-04, adopting the State of Tennessee 401(k) and 457 retirement plans for Town of Farragut Employees. Motion was made by Alderman Markli, seconded by Alderman LaMarche; voting yes, Mayor McGill, Aldermen Elliott, LaMarche and Markli; no nays; Alderman Honken was absent; motion passed.

Discussion and Consideration of legal options regarding McBride v Town of Farragut

Tom Hale, Town Attorney, described that the matter regarding McBride v Town of Farragut was heard in the Knox County Chancery Court. The Tennessee Municipal League is defending the Town on this matter. After much discussion about the facts of the case a motion was made to support the recommendation from council to file an appeal on the case of McBride v Town of Farragut. Moved by Alderman Elliott, seconded by Alderman LaMarche; voting yes, Mayor McGill, Aldermen Elliott, LaMarche and Markli; no nays; Alderman Honken was absent; motion passed.

Ordinances

First Reading

Ordinance 12-02, ordinance to amend the Farragut Zoning Ordinance, Chapter 3. Section XII. General Commercial District (C-1) and Section XV. Regional Commercial District (C-2), to clarify similar uses established by the Board of Zoning Appeals

Motion was made to approve Ordinance 12-02, as amended, on first reading. Moved by Alderman Markli, seconded by Alderman LaMarche; voting yes, Mayor McGill, Aldermen Elliott, LaMarche and Markli; no nays; Alderman Honken was absent; motion passed.

Ordinance 12-03, ordinance to amend the Farragut Zoning Ordinance, Chapter 3. Specific District Regulations, to clarify entrance pillars are considered subdivision walls as established by the Board of Zoning Appeals

Motion was made to approve Ordinance 12-03 on first reading. Moved by Alderman Markli, seconded by Alderman Elliott; voting yes, Mayor McGill, Aldermen Elliott, LaMarche and Markli; no nays; Alderman Honken was absent; motion passed.

Ordinance 12-04, ordinance to amend Title 20. Miscellaneous, Chapter 2. Celebratory Gatherings, Concerts, Parades, Races, Demonstrations, Public Assemblies, Block Parties and Picketing, of the Farragut Municipal Code, to add Community Events and to Clarify Sign Requirements, Review Time Line, Exemptions and Applicability

Motion was made to approve Ordinance 12-04 on first reading. Moved by Alderman LaMarche, seconded by Alderman Markli; voting yes, Mayor McGill, Aldermen Elliott, LaMarche and Markli; no nays; Alderman Honken was absent; motion passed.

Town Administrator's Report

Ruth Hawk announced that the Parkside West Partnership, LLC is donating their monument clock to the Town of Farragut to be placed somewhere in Town.

Attorney's Report

The Board recessed for an executive session at 7:50 PM.

The Board reconvened at 8:25 PM.

Consideration of possible agreement regarding the Farm at Willow Creek

Following an Executive Session during which the Town Attorney provided information and advice to the Board concerning certain aspects of the very complex dispute over the cause of the failure of the storm drain system in The Farm at Willow Creek Subdivision, the Town Attorney requested authorization from the Board in the form of the following motion:

The Town Attorney is authorized to pursue a resolution of that portion of the issues in the litigation that involve Blount Excavating on any of the following bases:

1. Agree to a settlement of the claims against Blount Excavating for a payment to the Town of \$135,000 (or alternatively, no less than \$125,000), conditioned upon the agreement of the attorneys involved that no more than \$37,500 of the amount of the settlement would be subject to and used to satisfy the attorneys' liens for the unpaid fees of the attorneys representing The Farm at Willow Creek, LLC who pursued the litigation on its behalf against Blount Excavating. The Town of Farragut and The Farm at Willow Creek, LLC would be required to release all claims as to Blount Excavating. A further condition on this alternative is the assignment to the Town of Farragut by The Farm at Willow Creek, LLC of its claim against Jordan, Jones and Goulding which has been asserted in the litigation. Any resulting recovery against Jordan, Jones and Goulding would be subject to an

attorneys' lien for additional unpaid fees incurred by the attorneys for The Farm at Willow Creek, LLC in their work pursuing the claim against Jordan, Jones and Goulding, the amount of which will be determined if and when there is a recovery.

2. Agree to a settlement of the claims against Blount Excavating for a payment to the Town of \$135,000 (or alternatively, no less than \$125,000) with all parties providing releases to Blount Excavating, and The Farm at Willow Creek, LLC assigning its claim against Jordan, Jones and Goulding to the Town of Farragut. A portion of the settlement amount would be used to satisfy the attorneys' liens of the attorneys representing The Farm at Willow Creek, LLC in the litigation against Blount Excavating, in the amounts fixed by a final order of the Knox County Chancery Court based upon applicable legal principles governing liens for unpaid attorneys' fee and in the fixing of reasonable attorneys' fees as correctly applied to the facts related to the services rendered and the fees generated therefrom making up such claimed liens.
3. Agree to a settlement of all claims against Blount Excavating for a payment to the Town of \$100,000, which the Town would receive in return for its release of Blount Excavating. This alternate would not involve a release provided to Blount Excavating by The Farm at Willow Creek, LLC.

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

Meeting adjourned at 8:30 PM.

Ralph McGill, Mayor

Allison Myers, Town Recorder