

A G E N D A

FARRAGUT BOARD OF MAYOR AND ALDERMEN

April 10, 2014

WORKSHOP

BEER ORDINANCE 5:30 PM

CIP/EQUIPMENT REPLACEMENT 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. March 27, 2014
- VI. Ordinance**
 - A. First Reading
 1. Ordinance 14-03, to amend Ordinance 13-19, Fiscal Year 2014 Capital Improvement Program Budget
- VII. Business Items**
 - A. Approval of Contract 2014-13, McFee/Wentworth Trail Connector and Pedestrian Bridge
- VIII. Town Administrator's Report**
- IX. Attorney's Report**

It is the policy of the Town of Farragut not to discriminate on the basis of race, color, national origin, age, sex, or disability pursuant to Title VI of the Civil Rights Act of 1964, Public Law 93-112 and 101-336 in its hiring, employment practices and programs. To request accommodations due to disabilities, please call 865-966-7057 in advance of the meeting.

REPORT TO THE BOARD OF MAYOR AND ALDERMEN

PREPARED BY: Allison Myers, Town Recorder

SUBJECT: Beer Ordinance Workshop

In November 2013 the Board of Mayor and Aldermen had a workshop to hear requests from businesses about expanding the Town's beer ordinance. The changes include suggestions from the March workshop. The revised beer ordinance is attached with the changes highlighted in green. The intent of the workshop is to discuss the direction the Town's beer ordinance.

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Sec. 8-201. Beer board established.

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

(Ord. No. 11-24, § 1, 11-15-2011)

Sec. 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.

(Ord. No. 11-24, § 1, 11-15-2011)

Sec. 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.

(Ord. No. 11-24, § 1, 11-15-2011)

Sec. 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.

(Ord. No. 11-24, § 1, 11-15-2011)

Sec. 8-205. Powers and duties of the beer board.¹

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.

(Ord. No. 11-24, § 1, 11-15-2011)

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State law reference— *Tennessee Code Annotated* § 57-5-106.

Sec. 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. *Adult Entertainment* consists of businesses which either directly or indirectly provide sex-related products and services
4. *Adult Materials* shall consist of any media material with explicit sexual content available to the public
5. *Beer* means beer, ale or other malt beverages, or any other beverages having an alcoholic content of not more than five (5) percent by weight, except wine as defined in *Tennessee Code Annotated* § 57-3-101; provided, however, that no more than forty-nine (49) percent of the overall alcoholic content of such beverage may be derived from the addition of flavors and other nonbeverage ingredients containing alcohol. *Tennessee Code Annotated* § 57-5-101.
6. *Beer board* or *board* means that administrative body organized and empowered under the authority of *Tennessee Code Annotated* § 57-5-106.
7. *Church* means a building or property where a congregation regularly meets at least one (1) day per week for religious worship.
8. *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.
9. *Clerk* shall mean any person working in a capability to sell beer directly to consumers for off-premise consumption.
10. *Commission* shall mean the Tennessee Alcoholic Beverage Commission.
11. *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.
12. *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 *Tennessee Code Annotated* § 57-5-601 et seq.
13. *Permit* means any permit issued pursuant to this article.
14. *Permittee* means any person to whom any permit has been issued pursuant to this article.
15. *Person* shall mean any private individual, partnership, joint venture, corporation, and any other business entity or association.

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16. *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.
17. *Restaurant* shall mean a business establishment whose primary business is the sale of prepared food to be consumed on the premise.
18. *Storage* shall mean the storing or possessing of beer or other alcoholic beverages for the purpose of resale by the permit holder.
19. The pronouns *he*, *him* and *his* shall refer to persons of the female as well as the male gender, as applicable.
20. *TABC* shall mean the Tennessee Alcoholic Beverage Commission.
(Ord. No. 11-24, § 1, 11-15-2011)

Sec. 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. Five (5) types of permits may be issued by the beer board.
- a) Class 1 On-Premises Permit shall be issued for the consumption of beer only on the premises of a restaurant.
 - b) Class 2 On-Premises Permit. Other establishments making application for a permit to sell beer for consumption on the premises, which do not qualify, or do not wish to apply for, a Class 1 On-Premises Permit, but which otherwise meet all other regulations and restrictions in this chapter, shall apply for a Class 2 On-Premises Permit.
 - c) Class 3 On-premises permits for operation as a hotel or motel
 - d) Class 4 On-premise where beer is sold for consumption at a tavern. Tavern shall mean a business establishment whose primary business is or is to be the sale of beer to be consumed on the premises. There shall not be more than a total of three (3) taverns located within the corporate limits of the Town of Farragut.
 - e) Class 5 Off-Premises Permit

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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 (\$100.00).

- (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 (1) forty-eight-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) year

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.

(Ord. No. 11-24, § 1, 11-15-2011)

Sec. 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 fifty dollars (\$250.00), or such larger amount as may be authorized by the laws of the State of Tennessee.

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- (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.

(Ord. No. 11-24, § 1, 11-15-2011)

State law reference— *Tennessee Code Annotated* § 57-5-104(b).

Sec. 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.

(Ord. No. 11-24, § 1, 11-15-2011)

Sec. 8-210. Police record check.

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

(Ord. No. 11-24, § 1, 11-15-2011)

Sec. 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.
5. If beer will be sold at two (2) or more restaurants or other businesses, within the same building as provided by *Tennessee Code Annotated* § 57-5-103(a)(4), a description of all such businesses.
6. Any firm, corporation, joint stock company, syndicate, partnership, limited liability company or association having at least a five-percent ownership in the applicant must provide the names of all owners, stockholders, partners, and members, together with the addresses, telephone numbers, social security numbers and Federal Tax ID

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numbers of such individuals. If an owner, stockholder, partner or member of the applicant is also a legal entity other than a person. The same information for its owners is required.

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 (10) 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 where the applicant's business will be located and a copy of the lease governing the applicant's possession of the premises.
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 fifteen (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 information as may be deemed material and requested by the beer board and/or Town staff.

(Ord. No. 11-24, § 1, 11-15-2011)

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Sec. 8-212. Beer permits shall be restrictive.³

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.

(Ord. No. 11-24, § 1, 11-15-2011)

Sec. 8-213. 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 (50) percent 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.

(Ord. No. 11-24, § 1, 11-15-2011)

Sec. 8-214. Display of permit.

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

(Ord. No. 11-24, § 1, 11-15-2011)

Sec. 8-215. 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.

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In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer within three hundred 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.

Sec. 8-216. Issuance of permits to persons convicted of certain crimes prohibited.

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

(Ord. No. 11-24, § 1, 11-15-2011)

Sec. 8-217. Classes of consumption permits.

Permits issued by the beer board shall consist of three classes:

1. Class 1 On-Premises Permit.

A Class 1 On-Premises Permit shall be issued for the consumption of beer only on the premises. To qualify for a Class 1 On-Premises permit, an establishment must, in addition to meeting the other regulations and restrictions in this chapter:

- a. Be a restaurant or an eating place regulated, monitored and rated by the State of Tennessee; and
- b. Provide adequate and sanitary kitchen and dining room equipment on the premise; and
- c. 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

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of its everyday activities and such food is available for purchase during the same hours that beer is sold for On-Premise consumption; and

- d. be able to seat a minimum of fifteen people, including children, in booths and at tables, in addition to any other seating it may have; and
- e. have all required seating in the interior of the building under a permanent roof; and
- f. 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 sixty (60) percent 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 sixty (60) percent ratio

2. Class 2 On-Premises Permit. Other establishments making application for a permit to sell beer for consumption on the premises, which do not qualify, or do not wish to apply for, a Class 1 On-Premises Permit, but which otherwise meet all other regulations and restrictions in this chapter, shall apply for a Class 2 On-Premises Permit. To qualify for a Class 2 On-Premises permit, an establishment must, in addition to meeting the other regulations and restrictions in this chapter:

- a. On-premise permit holder must generate a minimum of ninety-five (95) percent of the gross revenues of the establishment from sales other than alcoholic beverages. 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 sales 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 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 ninety-five (95) percent ratio

3. Class 3 On-premises permits for operation as a hotel or motel

If a hotel or motel otherwise meets the requirements of this code and the laws of the State of Tennessee for either On-premise consumption permit or for an off-premise consumption permit, it is eligible to hold two (2) separate permits. All On-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;

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- 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 motel/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.

4. Class 4 On-premise where beer is sold for consumption at a tavern. Tavern shall mean a business establishment whose primary business is or is to be the sale of beer to be consumed on the premises. There shall not be more than a total of three (3) taverns located within the corporate limits of the Town of Farragut. To qualify for a Class 3 On-Premises permit, an establishment must, in addition to meeting the other regulations and restrictions in this chapter:

- a. Be housed in building space and/or tenant space that does not exceed three thousand (3,000) gross square feet.
- b. Not make or allow the sale of beer between the hours of 12:00 a.m. and 12:00 p.m. on Sundays, and between 12:00 a.m. and 10:00 a.m. on all other days of the week.
- c. Not be located within five hundred (500) feet from the nearest most portion of the premises of another tavern or liquor store that is also within the boundaries of the Town, by measurement between the nearest most portion of premises housing the existing and proposed location.

5. Class 5 Off-Premises Permit.

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.

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

The following acts or conduct on licensed premises are deemed contrary to public policy, safety, health and morals and it shall be unlawful for any beer permit holder, employee or person engaged in the sale of beer to:

- 1) Employ any person convicted of a crime related to 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 3:00 a.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.

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- 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) Operate or permit any employee or any other person to operate any gambling device or game of chance whatsoever.
- 8) Bring, cause or allow to be brought onto the premises of any permittee any prohibited drugs under the provisions and within the meaning of the Tennessee Code Annotated.
- 9) Fail to provide and maintain separate sanitary toilet facilities for men and women or fail to comply with any state, county or local health laws and regulation
- 10) Exhibit any motion pictures for which a fee for entrance to the theater is charged.
- 11) Allow the sale of beer in any establishment where adult entertainment occurs or adult materials, novelty or other adult items are sold or stored.
- 12) Employ, use or allow any person in the sale or service of alcoholic beverages or malt beverages in or upon the licensed premises while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.
- 13) Employ, use or allow the services of any hostess or other person to mingle with the patrons while such hostess or other person is unclothed or in such attire, costume or clothing as described in subdivision (b)(1).
- 14) Encourage or permit any person on the licensed premises to touch, caress or fondle the breasts, buttocks, anus or genitals of any other person.
- 15) Permit any employee or person to wear or use any device or covering, exposed to view, which simulates the breast, genitals, anus, pubic hair or any portion thereof.
- 16) Allow any person on the licensed premises under the guise of entertainment to perform acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any other sexual acts prohibited by law; engage in the actual or simulated touching, caressing, or fondling of the breasts, buttocks, anus or genitals; engage in the actual or simulated displaying of the pubic hair, anus, buttocks, vulva, genitals, or breasts below the top of the areola of any person; wear or use any device or covering exposed to public view which simulates the human breasts, genitals, anus, pubic hair, or any portion thereof.

Sec. 8-221. 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

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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.

(Ord. No. 11-24, § 1, 11-15-2011)

Sec. 8-222. 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 for failing to take actions required by this chapter or of violating any of the provisions of this chapter, including, but not limited to, the provisions of § 8-220. 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.

Sec. 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.

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CHAPTER 2. BEER

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

- A. *Responsible vendor.* The beer board shall not, pursuant to *Tennessee Code Annotated* § 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 *Tennessee Code Annotated* § 57-5-606 as a responsible vendor under that part, but may impose upon the responsible vendor a civil penalty not to exceed one thousand dollars (\$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 (2) violations within a twelve-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, *Tennessee Code Annotated* § 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 *Tennessee Code Annotated* § 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 two thousand five hundred dollars (\$2,500.00) for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed one thousand dollars (\$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.

Sec. 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.

MINUTES

FARRAGUT BOARD OF MAYOR AND ALDERMEN

March 27, 2014

WORKSHOP

6:00 PM
CIP Workshop

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. March 13, 2014
- VI. First Reading
 - A. Ordinance 14-01, ordinance to amend the text of the Farragut Zoning Ordinance, Chapters 2 and 3, to consider providing for accessory dwelling units (ADU's) within single-family residentially zoned neighborhoods
- VII. Business Items
 - A. Approval of Bid for Contract 2014-05, Street Resurfacing
- VIII. Town Administrator's Report
- IX. Attorney's Report

It is the policy of the Town of Farragut not to discriminate on the basis of race, color, national origin, age, sex, or disability pursuant to Title VI of the Civil Rights Act of 1964, Public Law 93-112 and 101-336 in its hiring, employment practices and programs. To request accommodations due to disabilities, please call 865-966-7057 in advance of the meeting.

The Farragut Board of Mayor and Aldermen met in a regular session on Thursday, March 13, 2014 at 7:00 p.m. Members present were Mayor McGill, Aldermen Elliott, LaMarche and Markli; Alderman Honken was absent.

Approval of Agenda

Motion was made to postpone the first reading of Ordinance 14-01. 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.

Motion was made to approve the agenda with the postponement. 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.

Mayor's Report

Mayor McGill announced that The Egg & I restaurant had opened.

Approval of Minutes

Motion was made to approve the minutes of March 13, 2014 as presented. Moved by Alderman LaMarche, seconded by Alderman Markli; voting yes, Mayor McGill, Aldermen LaMarche and Markli; Alderman Elliott abstained; no nays; Alderman Honken was absent; motion passed.

First Reading

Ordinance 14-01, ordinance to amend the text of the Farragut Zoning Ordinance, Chapters 2 and 3, to consider providing for accessory dwelling units (ADU's) within single-family residentially zoned neighborhoods

Postponed

Business Items

Approval of Bid for Contract 2014-05, Street Resurfacing

Motion was made to award Contract 2014-05 to Rogers Group in the amount of \$440,001.39. Moved by Mayor McGill, seconded by Alderman Markli; voting yes, Mayor McGill, Aldermen Elliott, LaMarche and Markli; no nays; Alderman Honken was absent; motion passed.

Meeting adjourned at 7:09 PM.

Ralph McGill, Mayor

Allison Myers, Town Recorder

REPORT TO THE BOARD OF MAYOR AND ALDERMEN

PREPARED BY: Allison Myers, Town Recorder 

SUBJECT: Ordinance 14-03, on First Reading, to amend Ordinance 13-19, amending the Town of Farragut Fiscal Year 2014 Budget

INTRODUCTION:

The purpose of this agenda item is to approve Ordinance 14-03, to amend the Fiscal Year 2014 Capital Investment Program (CIP) budget.

DISCUSSION:

Ordinance 14-03 will amend the CIP budget to reflect the following:

- The Capital Investment Program budget will be amended by increasing the appropriated expenditures by \$62,435. The increase in funds needed is due to changes in the project design. The original design included a 42' span over the creek, but after further consideration of the site, staff (as well as the designers) felt the need to expand the length to help avoid stream blockage, buildup of debris and washouts at the bridge abutments. The project also includes additional erosion control measures along the drainage ditch, as well as abutment slopes. These revisions (particularly the additional length of bridge) have pushed the costs above the original \$200,000 estimate.
- The majority of the funds for the McFee/Wentworth Trail Connector and Pedestrian Bridge were originally budgeted in Fiscal Year 2012 & 2013 in the amount of \$200,000, however only \$44,582 was expended. The remaining \$155,418 will be carried over from those previous fiscal years and appropriated in the current FY2014 CIP line item for the McFee/Wentworth Trail.

RECOMMENDATION BY: Town Recorder Allison Myers for approval.

PROPOSED MOTION: To approve Ordinance 14-03 on first 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	14-03
PREPARED BY	Myers
1 ST READING	April 10, 2014
2 nd READING	
PUBLISHED IN	
DATE	

**AN ORDINANCE OF THE TOWN OF FARRAGUT, TENNESSEE
AMENDING THE FISCAL YEAR 2013-2014 BUDGET, PASSED BY ORDINANCE 13-19**

WHEREAS, the Town of Farragut adopted the fiscal year 2013-14 budget by passage of Ordinance Number 13-19 on June 27, 2013; 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 General Fund and 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 2013-2014 BUDGET AS FOLLOWS:

SECTION 1. Ordinance 13-19 is hereby amended by:

- Increasing the appropriated expenditures in the Capital Investment Program by \$217,852.50 (increase of \$62,435 & \$155,417.50 from previous budget years). Expenditures for the Capital Investment Program will total \$7,480,602.
 - McFee/Wentworth Trail Connector and Pedestrian Bridge, \$217,852.50

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

REPORT TO THE BOARD OF MAYOR AND ALDERMEN

PREPARED BY: Darryl W. Smith, PE

SUBJECT: Approval of Bids for Contract 2014-13, McFee/Wentworth Trail Connector and Pedestrian Bridge

INTRODUCTION: The purpose of this item is the approval of bids and award of the contract for Contract 2014-13, the McFee/Wentworth Trail Connector and Pedestrian Bridge.

STRATEGIC PLAN: This project applies to Goal 5 of the Town's Strategic Plan, "Expand Leisure Amenities (Venues and Programs)," Objective 2 (Extend the Greenway System) and Objective 4 (Increase pedestrian connectivity).

BACKGROUND: This project includes the extension of a pedestrian trail from near the northern roundabout on McFee Road to the east, across a pedestrian bridge over Little Turkey Creek and connecting to the existing trail on the west side of Wentworth Subdivision. The project has been planned for several years, and at one time was to be included as part of the McFee Road improvements project (though this portion of the project was delayed for permitting and flood studies). The project consists of approximately 800 linear feet of 8' wide asphalt greenway, with a 72' pedestrian bridge over Little Turkey Creek. It should be noted that the original design included a 42' span over the creek, but after further consideration of the site, staff (as well as the designers) felt the need to expand the length to help avoid stream blockage, buildup of debris and washouts at the bridge abutments. The project also includes additional erosion control measures along the drainage ditch, as well as abutment slopes. These revisions (particularly the additional length of bridge) have pushed our costs above our original \$200,000 estimate.

Staff opened bids for Project 2014-13 on April 1 (see below), and bid tabulations are attached. The following total bids were received:

McKinnon Construction Company, LLC	\$212,852.41
Yates Construction Company, Inc.	241,914.50
ES&H, Inc.	282,628.00
Home Source, LLC	308,921.00
J & D Excavating and Contracting, Inc.	352,607.70

The bids included one additive alternate, for the difference in cost to use a permanent ditch-lining blanket made of 100% recycled plastic. While it is always important to consider sustainability, staff does not feel the additional costs shown to be a justifiable expense for this particular project. Staff recommends award of this contract to McKinnon Construction Company, LLC for their base bid amount of **\$212,852.41**. McKinnon Construction has contracted with the Town many times over the years, and has always performed admirably.

FINANCIAL SECTION:

**Project: Contract 2014-13,
McFee/Wentworth Trail Connector and
Pedestrian Bridge**

<u>Project Budget</u>	<u>Expenditures to Date</u>	<u>Contracted Amount</u>	<u>Remaining Amount</u>
\$262,435	\$44,582.50	\$212,852.41	\$5,000.09

Approved By: 

RECOMMENDATION BY: Darryl Smith, Town Engineer, for approval.

PROPOSED MOTION: Approval of bids and award of Contract 2014-13 to McKinnon Construction Company, LLC, for \$212,852.41.

BOARD ACTION:

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

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

McFee Wentworth Connector



1 in = 150 ft

Legend

- Stream
- Greenway
- Sidewalk
- McFee Wentworth Connector
- Parcel

Item #	DESCRIPTION	EST QTY	UNIT	Estimate Unit Price	Estimate Price	McKinnon		Yates		ES&H		Home Source		J&D Excavating	
						Unit Price	Price	Unit Price	Price	Unit Price	Price	Unit Price	Price	Unit Price	Price
1.1	Mobilization (not to exceed 5% of total bid)	1	Lump Sum	\$ 5,000.00	\$ 5,000.00	\$ 8,000.00	\$ 8,000.00	\$ 10,000.00	\$ 10,000.00	\$ 3,000.00	\$ 3,000.00	\$ 14,000.00	\$ 14,000.00	\$ 16,790.00	\$ 16,790.00
1.2	Construction Stakes, Lines & Grades	1	Lump Sum	\$ 3,600.00	\$ 3,600.00	\$ 4,653.00	\$ 4,653.00	\$ 3,000.00	\$ 3,000.00	\$ 9,336.00	\$ 9,336.00	\$ 11,000.00	\$ 11,000.00	\$ 12,735.00	\$ 12,735.00
1.3	Sign, "SIDEWALK CLOSED"	4	EA	\$ 90.00	\$ 360.00	\$ 25.00	\$ 100.00	\$ 25.00	\$ 1,000.00	\$ 20.75	\$ 83.00	\$ 180.00	\$ 720.00	\$ 650.00	\$ 2,600.00
1.4	Temporary Erosion Prevention & Sediment Control (EP&SC)	1	Lump Sum	\$ 3,000.00	\$ 3,000.00	\$ 750.00	\$ 750.00	\$ 5,000.00	\$ 5,000.00	\$ 1,642.50	\$ 1,642.50	\$ 9,000.00	\$ 9,000.00	\$ 647.00	\$ 647.00
1.5	Maintenance of EP&SC	1	Lump Sum	\$ 1,000.00	\$ 1,000.00	\$ 250.00	\$ 250.00	\$ 2,000.00	\$ 2,000.00	\$ 1,453.00	\$ 1,453.00	\$ 6,000.00	\$ 6,000.00	\$ 425.00	\$ 425.00
1.6	Erosion Control Watlie (Sediment Tubes), (installed/removed)	112	LF	\$ 2.25	\$ 252.00	\$ 4.40	\$ 492.80	\$ 10.00	\$ 1,120.00	\$ 12.00	\$ 1,344.00	\$ 3.00	\$ 336.00	\$ 4.60	\$ 515.20
1.7	Cleaning & Grubbing	1	Lump Sum	\$ 5,000.00	\$ 5,000.00	\$ 8,250.00	\$ 8,250.00	\$ 10,000.00	\$ 10,000.00	\$ 15,504.25	\$ 15,504.25	\$ 13,000.00	\$ 13,000.00	\$ 16,475.00	\$ 16,475.00
1.8	Strip Topsoil (12" depth min), Stockpile/Remove excess off site	1	Lump Sum	\$ 1,600.00	\$ 1,600.00	\$ 4,000.00	\$ 4,000.00	\$ 5,000.00	\$ 5,000.00	\$ 21,568.00	\$ 21,568.00	\$ 3,500.00	\$ 3,500.00	\$ 7,360.00	\$ 7,360.00
1.9	Removal of Structures/Obstructions	1	Lump Sum	\$ 900.00	\$ 900.00	\$ 3,000.00	\$ 3,000.00	\$ 2,000.00	\$ 2,000.00	\$ 4,077.50	\$ 4,077.50	\$ 4,500.00	\$ 4,500.00	\$ 2,500.00	\$ 2,500.00
2	Excavation														
2.1	Common Excavation, as per Grading Plan	1	Lump Sum	\$ 1,400.00	\$ 1,400.00	\$ 3,850.00	\$ 3,850.00	\$ 10,000.00	\$ 10,000.00	\$ 16,627.00	\$ 16,627.00	\$ 5,000.00	\$ 5,000.00	\$ 29,100.00	\$ 29,100.00
2.2	Borrow Excavation, as per Grading Plan, (550 CY Estimated)	1	Lump Sum	\$ 6,875.00	\$ 6,875.00	\$ 9,500.00	\$ 9,500.00	\$ 15,000.00	\$ 15,000.00	\$ 11,572.75	\$ 11,572.75	\$ 18,000.00	\$ 18,000.00	\$ 13,560.00	\$ 13,560.00
2.3	Rock Excavation (Foundations)	10	CY	\$ 75.00	\$ 750.00	\$ 100.00	\$ 1,000.00	\$ 100.00	\$ 1,000.00	\$ 220.50	\$ 2,205.00	\$ 200.00	\$ 2,000.00	\$ 320.00	\$ 3,200.00
2.4	Undercut Unsuitable Soils	30	CY	\$ 8.50	\$ 255.00	\$ 17.50	\$ 525.00	\$ 20.00	\$ 600.00	\$ 36.75	\$ 1,102.50	\$ 14.00	\$ 420.00	\$ 24.00	\$ 720.00
2.5	Replace Undercut Soils with Mineral Aggregate (TDOT 303-01)	30	CY	\$ 25.00	\$ 750.00	\$ 38.50	\$ 1,155.00	\$ 50.00	\$ 1,500.00	\$ 47.00	\$ 1,410.00	\$ 23.00	\$ 690.00	\$ 52.00	\$ 1,560.00
2.6	Replace Undercut Soils with No. 57 Stone (TDOT 303-10-01)	30	CY	\$ 25.00	\$ 750.00	\$ 40.00	\$ 1,200.00	\$ 50.00	\$ 1,500.00	\$ 46.75	\$ 1,402.50	\$ 23.00	\$ 690.00	\$ 56.00	\$ 1,680.00
2.7	Replace Undercut Soils with No. 2 Stone	30	CY	\$ 25.00	\$ 750.00	\$ 40.00	\$ 1,200.00	\$ 50.00	\$ 1,500.00	\$ 46.75	\$ 1,402.50	\$ 23.00	\$ 690.00	\$ 56.00	\$ 1,680.00
2.8	Geogrid for Subgrade Reinforcement	1,200	SF	\$ 0.25	\$ 300.00	\$ 1.50	\$ 1,800.00	\$ 2.00	\$ 2,400.00	\$ 1.70	\$ 2,040.00	\$ 0.50	\$ 600.00	\$ 1.75	\$ 2,100.00
2.9	Topsoil, 2" min., Placing & Spreading	1	Lump Sum	\$ 2,150.00	\$ 2,150.00	\$ 4,300.00	\$ 4,300.00	\$ 5,000.00	\$ 5,000.00	\$ 15,642.00	\$ 15,642.00	\$ 2,500.00	\$ 2,500.00	\$ 5,830.00	\$ 5,830.00
2.1	Seeding & Fertilizer (with mulch), Type "C" (TDOT 801-01)	19.5	Units	\$ 100.00	\$ 1,950.00	\$ 38.50	\$ 750.75	\$ 100.00	\$ 1,950.00	\$ 64.00	\$ 1,248.00	\$ 100.00	\$ 1,950.00	\$ 40.00	\$ 780.00
2.11	Seeding & Fertilizer, Type "C" (TDOT 801-01)	11	Units	\$ 50.00	\$ 550.00	\$ 22.00	\$ 242.00	\$ 50.00	\$ 550.00	\$ 70.00	\$ 770.00	\$ 60.00	\$ 660.00	\$ 25.00	\$ 275.00
2.12	Sodding & Fertilizer (New Sod), Fescue (TDOT 803-01)	300	SY	\$ 4.50	\$ 1,350.00	\$ 4.95	\$ 1,485.00	\$ 5.00	\$ 1,500.00	\$ 6.50	\$ 1,950.00	\$ 5.50	\$ 1,650.00	\$ 5.18	\$ 1,554.00
2.13	Water (Seeding & Sodding) (TDOT 801-03)	7	MG	\$ 200.00	\$ 1,400.00	\$ 10.00	\$ 70.00	\$ 50.00	\$ 350.00	\$ 61.50	\$ 430.50	\$ 100.00	\$ 700.00	\$ 92.00	\$ 644.00

[illegible]