

MINUTES

FARRAGUT BOARD OF MAYOR AND ALDERMEN

October 9, 2014

MCREE-WENTWORTH GREENWAY CONNECTOR

RIBBON CUTTING

6:00 PM

BEER BOARD

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. September 25, 2014
- VI. Ordinances**
 - A. Public Notice and Second Reading**
 1. **Ordinance 14-11**, ORDINANCE TO AMEND THE TEXT OF THE ZONING ORDINANCE OF THE TOWN OF FARRAGUT, TENNESSEE, ORDINANCE 86-16, AS AMENDED, BY AMENDING CHAPTER 3., SECTION XI., MULTI-FAMILY RESIDENTIAL DISTRICT (R-6), BY PROVIDING FOR NEW REQUIREMENTS, AS AUTHORIZED PURSUANT TO SECTION 13-4-201, TENNESSEE CODE ANNOTATED
 2. **Ordinance 14-12**, ORDINANCE TO AMEND THE TEXT OF THE ZONING ORDINANCE OF THE TOWN OF FARRAGUT, TENNESSEE, ORDINANCE 86-16, AS AMENDED, BY AMENDING CHAPTER 3., SPECIFIC DISTRICT REGULATIONS., TO CREATE A NEW ZONING DISTRICT ENTITLED OPEN SPACE MULTI-FAMILY RESIDENTIAL OVERLAY (OSMFR), AS AUTHORIZED PURSUANT TO SECTION 13-4-201, TENNESSEE CODE ANNOTATED
 3. **Ordinance 14-13**, ORDINANCE TO AMEND THE TEXT OF THE ZONING ORDINANCE OF THE TOWN OF FARRAGUT, TENNESSEE, ORDINANCE 86-16, AS AMENDED, BY AMENDING CHAPTER 4., SECTION XX. PARKING AND LOADING, A., 2. AND 3., TO CHANGE THE OFF-STREET PARKING PROVISIONS FOR MULTI-FAMILY USES,

AS AUTHORIZED PURSUANT TO SECTION 13-4-201, TENNESSEE
CODE ANNOTATED.

4. **Ordinance 14-15**, Ordinance to amend Ordinance 14-06, FY2015
General Fund Budget

B. First Reading

1. **Ordinance 14-19**, Ordinance to Amend the Town of Farragut Municipal
Code Title 16 Streets and Sidewalks by adding Chapter 6 Everett Road
Corridor Improvement Fee

VII. Business Items

- A. Approval of Settlement and Release Agreement with Knox County
Schools

VIII. Town Administrator's Report

IX. Town 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, October 9, 2014 at 7:00 p.m. Members present were Mayor McGill, Aldermen Honken, Markli and Pinchok; Alderman LaMarche was absent.

Approval of Agenda

Motion was made to approve the agenda with the postponement of Ordinance 14-19. Moved by Alderman Honken, Seconded by Alderman Markli, voting yes; Mayor McGill, Aldermen Honken, Markli and Pinchok; Alderman LaMarche was absent; no nays; motion passed.

Mayor's Report

Mayor McGill announced that the board had attended the ribbon cutting for the new McFee/Wentworth Greenway.

Alderman Honken asked the board to take a moment to recognize Dan Olson, former Town Administrator, for the contribution to the Town of Farragut. Mr. Olson passed away October 1, 2014.

Approval of Minutes

Motion was made to approve the minutes of September 25, 2014 as presented. Moved by Alderman Honken, Seconded by Alderman Markli, voting yes; Mayor McGill, Aldermen Honken, Markli and Pinchok; Alderman LaMarche was absent; no nays; motion passed.

Ordinances

Public Notice and Second Reading

Ordinance 14-11, ORDINANCE TO AMEND THE TEXT OF THE ZONING ORDINANCE OF THE TOWN OF FARRAGUT, TENNESSEE, ORDINANCE 86-16, AS AMENDED, BY AMENDING CHAPTER 3., SECTION XI., MULTI-FAMILY RESIDENTIAL DISTRICT (R-6), BY PROVIDING FOR NEW REQUIREMENTS, AS AUTHORIZED PURSUANT TO SECTION 13-4-201, TENNESSEE CODE ANNOTATED

Motion was made to approve Ordinance 14-11 on second and final reading. Moved by Alderman Honken, Seconded by Alderman Markli, voting yes; Mayor McGill, Aldermen Honken, Markli and Pinchok; Alderman LaMarche was absent; no nays; motion passed.

Ordinance 14-12, ORDINANCE TO AMEND THE TEXT OF THE ZONING ORDINANCE OF THE TOWN OF FARRAGUT, TENNESSEE, ORDINANCE 86-16, AS AMENDED, BY AMENDING CHAPTER 3., SPECIFIC DISTRICT REGULATIONS., TO CREATE A NEW ZONING DISTRICT ENTITLED OPEN SPACE MULTI-FAMILY RESIDENTIAL OVERLAY (OSMFR), AS AUTHORIZED PURSUANT TO SECTION 13-4-201, TENNESSEE CODE ANNOTATED

Motion was made to approve Ordinance 14-12 on second and final reading. Moved by Alderman Honken, Seconded by Alderman Pinchok, voting yes; Mayor McGill, Aldermen Honken, Markli and Pinchok; Alderman LaMarche was absent; no nays; motion passed.

Ordinance 14-13, ORDINANCE TO AMEND THE TEXT OF THE ZONING ORDINANCE OF THE TOWN OF FARRAGUT, TENNESSEE, ORDINANCE 86-16, AS AMENDED, BY

AMENDING CHAPTER 4., SECTION XX. PARKING AND LOADING, A., 2. AND 3., TO CHANGE THE OFF-STREET PARKING PROVISIONS FOR MULTI-FAMILY USES, AS AUTHORIZED PURSUANT TO SECTION 13-4-201, TENNESSEE CODE ANNOTATED.

Motion was made to approve Ordinance 14-13 on second and final reading. Moved by Alderman Honken, Seconded by Alderman Markli, voting yes; Mayor McGill, Aldermen Honken, Markli and Pinchok; Alderman LaMarche was absent; no nays; motion passed.

Ordinance 14-15, Ordinance to amend Ordinance 14-06, FY2015 General Fund Budget

Motion was made to approve Ordinance 14-15 on second and final reading. Moved by Alderman Honken, Seconded by Alderman Markli, voting yes; Mayor McGill, Aldermen Honken, Markli and Pinchok; Alderman LaMarche was absent; no nays; motion passed.

Business Items

Approval of Settlement and Release Agreement with Knox County Schools

Motion was made to approve the Settlement Agreement of three (3) equal annual installments of \$368,943.00, payable on October 15, 2014; October 1, 2015; and October 1, 2016 and Release Knox County School, Knox County Government and the Town of Farragut. Moved by Alderman Honken, Seconded by Alderman Markli, voting yes; Mayor McGill, Aldermen Honken, Markli and Pinchok; Alderman LaMarche was absent; no nays; motion passed.

Town Administrator's Report

The following checks were approved for payment.

#34012, Mary Longworth, \$55,835

#33975, Quinn, \$15,489.02

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

Meeting adjourned at 7:25 PM

Ralph McGill, Mayor

Allison Myers
Allison Myers, Town Recorder

REPORT TO THE BOARD OF MAYOR AND ALDERMEN

PREPARED BY: Mark Shipley, Community Development Director and Ashley Miller, Assistant Community Development Director

SUBJECT: Ordinance 14-11, on second reading, to amend the Farragut Zoning Ordinance, Chapter 3, Section XI, Multi-Family Residential District (R-6), by providing for new requirements (Ross Bradley, TDK Construction and PMG, Applicants)

BACKGROUND:

Several months ago TDK Construction and PMG initiated the text amendment process to consider the possibility of amending portions of the existing Multi-Family Residential District (R-6) in an effort to encourage greater housing choice, as recommended in Strategy 3 of the Comprehensive Land Use Plan (CLUP).

This item was first discussed at the planning commission meeting on May 15, 2014. Since that time, the planning commission has reviewed this item on June 19, 2014, July 17, 2014, and August 21, 2014. Additionally, the planning commission toured several multi-family developments in the area and assessed existing buffer strips in the Town on July 9, 2014. Throughout this lengthy public process, the drafting of Ordinance 14-11 evolved into the need for two additional ordinances: 1) Ordinance 14-12, which proposes the creation of a new zoning district, Open Space Multi-Family Residential Overlay (OSMFR), and 2) Ordinance 14-13, which proposes amendments to the parking regulations associated with multi-family developments.

Specifically, Ordinance 14-11 would amend the existing R-6 zoning district in the following areas:

- Redefine the areas within the Town where R-6 would be permissible to make it consistent with the CLUP;
- Update language to be consistent with other adopted plans and ordinances;
- Establish parameters for reducing setback and buffer strip requirements;
- Eliminate language related to Floor Area Ratio (FAR) and maximum lot size;
- Increase the overall density permitted in the R-6 district from ten (10) to twelve (12) units per acre;
- Establish parameters for transitioning building heights in relation to adjacent residential properties and increasing maximum height;
- Establish building façade and low impact development requirements.

This revision would remove limiting R-6 zoning to only areas adjacent to the interstate highway interchange, Dixie Lee Junction, and Watt Road and would allow, as appropriate, multi-family residential developments in areas identified for such uses in the adopted CLUP. The revision would also remove language related to blue line stream setbacks due to more stringent requirements that have been adopted in other ordinances and plans. And, the revision would require adherence to the Town's adopted lighting provisions, the CLUP, and the Pedestrian and Bicycle Plan.

As provided for in Ordinance 14-11, setback and buffer strip requirements have been amended to promote surface parking and accessory structures to be situated internal to the development. However, if the design includes surface parking on the perimeter, then the setback and buffer strip areas shall remain as established in the current provisions. As it relates to the buffer strip requirements, clarification has been provided for required buffer strips when the subject property adjoins properties that are zoned agricultural and/or residential.

During the planning commission tour on July 9, a point of discussion was the height of buildings when the subject property adjoins a residential or agricultural zone. In this regard, Ordinance 14-11 provides that any buildings within 100 feet of an adjoining property zoned residential or agricultural shall be no greater in height than the maximum height permitted for principle buildings in the adjoining residential or agricultural district. Beyond the 100 feet, the maximum building height would be three (3) stories or forty-five (45) feet. As mentioned above, this addresses the design concept of “transitions” described in the CLUP.

In order to be consistent with the Town’s current efforts in developing Architectural Design Standards, a section has been added to the R-6 District related to Building Façade Requirements. This is an effort to ensure that any multi-family developments that may be proposed prior to the standards being completed are consistent with the Town’s intent to develop and implement the standards. Staff worked with the Architectural Design Standards consultants, Winter & Company, in developing the proposed building façade language.

Another section added to the R-6 District is the Low Impact Development (LID) Requirements, which are the same requirements that were included in the BD-4 zoning district that was created in 2013. The LID Requirements are an effort to assist developers in utilizing more land area within the development by reducing the need for large detention basins while still meeting the requirements established in the stormwater ordinance.

DISCUSSION:

As mentioned above, the provisions in Ordinance 14-11 have been discussed at length and in some depth at a number of public hearings. Both the Strategic Plan and the CLUP have language that addresses the need for greater housing choice. Providing for more housing choices will also strengthen the local economy, as provided for in Goal 2 of the Strategic Plan, by enhancing the customer base to support local businesses and services. Ordinance 14-11 will also promote Goal 4, Objectives 4 and 5 of the Strategic Plan by providing for appropriate land uses for future development and ensuring that future development is consistent with Town plans and standards. The CLUP includes a number of areas where medium density residential may be appropriate. Ordinance 14-11 advances consistency with the plan in this regard.

After some discussion at their most recent meeting on August 21, 2014, the planning commission decided that they were ready for a formal vote on this request. Consequently, the commission voted 8-0 to approve Resolution PC-14-06 which recommends approval of Ordinance 14-11.

RECOMMENDATION BY:

The planning commission recommended 8-0 to approve Ordinance 14-11. The staff also recommends approval of Ordinance 14-11.

PROPOSED MOTION:

To approve Ordinance 14-11, on second reading, to amend the Farragut Zoning Ordinance, Chapter 3, Section XI, to consider providing for new requirements to the Multi-Family Residential District (R-6).

BOARD ACTION:

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

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

REPORT TO THE BOARD OF MAYOR AND ALDERMEN

PREPARED BY: Mark Shipley, Community Development Director and Ashley Miller, Assistant Community Development Director

SUBJECT: Ordinance 14-12, on second reading, to amend the Farragut Zoning Ordinance, Chapter 3, Specific District Regulations, to create Section XXVIII, being a new zoning district entitled Open Space Multi-Family Residential Overlay District (OSMFR), (Ross Bradley, TDK Construction and PMG, Applicants)

BACKGROUND:

As with Ordinance 14-11, several months ago TDK Construction and PMG initiated the text amendment process to consider the possibility of amending portions of the existing Multi-Family Residential District (R-6) in an effort to encourage greater housing choice, as recommended in Strategy 3 of the Comprehensive Land Use Plan (CLUP). Based on these public discussions, the need arose for a multi-family district that would provide more flexibility and design freedom in exchange for conservation of environmentally sensitive areas.

The planning commission began discussing amendments to the R-6 zone at the meeting on May 15, 2014. Since that time, Ordinance 14-12 evolved from subsequent planning commission meetings. Primarily the discussion centered around providing for more flexible design standards which promote clustering of buildings in more suitable areas on a property, which also lessens development cost, in exchange for setting aside a minimum of 50% of the gross land area as preserved common open space.

Due to the success of the Town's two other open space overlay districts, Open Space Residential Overlay (OSR) and Open Space Mixed Residential Overlay (OSMR), the planning commission felt that an open space overlay district specifically for multi-family developments would be helpful for properties that contained significant physical limitations.

Specifically, Ordinance 14-12 establishes the following variations from Ordinance 14-11 (the ordinance that governs the base R-6 zoning district):

- Establish a minimum common open space requirement of 50%;
- Establish a reduced front yard setback requirement of thirty-five (35) feet;
- Establish lessened setbacks and buffer strips for side and rear yards that abut non-residential or non-agriculture zones;
- Establish an increased maximum height while maintaining some parameters for transitioning building heights in relation to adjacent residential properties.

Similar to Ordinance 14-11, a point of considerable discussion with the planning commission was the height of buildings when the subject property adjoins a residential or agricultural zone. In this regard, Ordinance 14-12 provides that any buildings within 100 feet of an adjoining property zoned residential or agricultural shall not exceed a maximum height of three (3) stories or forty-five (45) feet. However, beyond the 100 feet, the maximum building height could be four (4) stories or fifty-five (55) feet. As mentioned above, this addresses the design concept of "transitions" described in the CLUP.

DISCUSSION:

Also similar to Ordinance 14-11, the development of Ordinance 14-12 has been discussed at length and in some depth at a number of public hearings. Both the Strategic Plan and the CLUP have language that addresses the need for greater housing choice. Providing for more housing choices will also strengthen the local economy, as provided for in Goal 2 of the Strategic Plan, by enhancing the customer base to support local businesses and services. Ordinance 14-12 will also promote Goal 4, Objectives 4 and 5 of the Strategic Plan by providing for appropriate land uses for future development and ensuring that future development is consistent with Town plans and standards. The CLUP includes a number of areas where medium density residential may be appropriate. Ordinance 14-12 advances consistency with the plan in this regard.

Per the discussion as part of the first reading on September 11, the staff has made some very minor modifications to the Common Open Space section of Ordinance 14-12. These changes are noted in the ordinance for your consideration and are highlighted in red. Words being removed are shown with a strikethrough.

RECOMMENDATION BY:

The planning commission recommended 8-0 to approve Ordinance 14-12. The staff also recommends approval of Ordinance 14-12.

PROPOSED MOTION:

To approve Ordinance 14-12, on second reading, to amend the Farragut Zoning Ordinance, Chapter 3, to create Section XXVIII, being a new zoning district entitled Open Space Multi-Family Residential Overlay District (OSMFR).

BOARD ACTION:

MOTION BY: _____ SECONDED BY: _____

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

REPORT TO THE BOARD OF MAYOR AND ALDERMEN

PREPARED BY: Mark Shipley, Community Development Director and Ashley Miller, Assistant Community Development Director

SUBJECT: Ordinance 14-13, on second reading, to amend the Farragut Zoning Ordinance, Chapter 4, Section XX.A.2 and 3, Parking and Loading, to change the off-street parking provisions for multi-family uses (Ross Bradley, TDK Construction and PMG, Applicants)

BACKGROUND:

As part of the proposed amendments to the R-6 Zoning District and the proposed Open Space Multi-Family Residential Overlay District (OSMFR), Ordinance 14-13 proposes to amend the parking lot setbacks and parking space allocations which are addressed in Chapter 4 of the zoning ordinance in the Parking and Loading section.

As denoted in Ordinances 14-11 and 14-12, modifications to the multi-family zoning districts provide for language to encourage buildings rather than parking lots around the periphery of the development. Consequently, the setbacks for parking lots will be greater to reflect this comment.

As provided for in Ordinance 14-13, the number of parking spaces required is also being lowered from 2.25 spaces per unit to 1.75 spaces per unit. This would be more in line with what is commonly required in the region for new multi-family projects. This lower parking space ratio also lessens the project's footprint and provides an opportunity for increased green space and open areas.

DISCUSSION:

As part of the overall proposed amendments to the R-6 and creation of the OSMFR, the provisions in Ordinance 14-13 have been discussed at length and in some depth at a number of public hearings.

After some discussion at their most recent meeting on August 21, 2014, the planning commission decided that they were ready for a formal vote on this request. Consequently, the commission voted 8-0 to approve Resolution PC-14-08 which recommends approval of Ordinance 14-13.

The provisions in Ordinance 14-13 advance both the CLUP and the Strategic Plan. Updating parking space allocations and addressing how parking lots are situated on a property help provide for more aesthetically pleasing developments that promote better transitions to adjacent lower density residential developments. Ordinance 14-13 specifically enhances Goal 4, Objectives 5 and 6 of the Strategic Plan, which address consistency with Town plans and standards and providing for more attractive developments.

RECOMMENDATION BY:

The planning commission recommended 8-0 to approve Ordinance 14-13. The staff also recommends approval of Ordinance 14-13.

PROPOSED MOTION:

To approve Ordinance 14-13, on second reading, to amend the Farragut Zoning Ordinance, Chapter 4, Section XX.A.2 and 3, Parking and Loading, to change the off-street parking provisions for multi-family uses.

BOARD ACTION:

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

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

REPORT TO THE BOARD OF MAYOR AND ALDERMEN

PREPARED BY: Allison Myers, Town Recorder

SUBJECT: Ordinance 14-15, an Ordinance on Second and Final Reading to Amend Ordinance 14-06 Fiscal Year 2015 Budget

INTRODUCTION:

The purpose of this agenda item is to approve Ordinance 14-15, to amend the Fiscal Year 2015 General Fund Budget by allocating additional expenditures for the purpose of paying back mixed drink taxes received since 1999 to the Knox County Schools.

DISCUSSION:

The Board of Mayor and Aldermen on August 28, 2014 authorized the Town Administrator and Town Attorney to make an offer to the Knox County Schools (KCS) for the purpose of settling litigation regarding mixed drink tax revenues that had been received by the Town of Farragut. That agreement would stipulate that the Town would pay KCS \$1,106,829, which represents 50% of the revenues collected from the mixed drink tax from 1999-2013. This amount will be paid out in installments over a three year period, with each installment being \$368,943.

In the FY2015 budget, the Town has already allocated \$100,000 for this payment, making the necessary budget amendment a total of \$268,943. Funding for this additional expense will be transferred from General Fund reserves. We anticipate the formal settlement agreement to be available for the Board of Mayor and Aldermen's consideration on second reading of this ordinance.

RECOMMENDATION BY: Town Recorder Allison Myers for approval.

PROPOSED MOTIONS: Motion to approve Ordinance 14-15 on second and final reading.

BOARD ACTION:

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

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

ORDINANCE	14-15
PREPARED BY	Myers
1 ST READING	September 25, 2014
2 ND READING	October 9, 2014
PUBLISHED IN	
DATE	

**AN ORDINANCE OF THE TOWN OF FARRAGUT, TENNESSEE
AMENDING THE FISCAL YEAR 2014-2015 BUDGET, PASSED BY ORDINANCE 14-06**

WHEREAS, the Town of Farragut adopted the fiscal year 2014-15 budget by passage of Ordinance Number 14-06 on June 12, 2014; 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 2014-2015 BUDGET AS FOLLOWS:

SECTION 1. Ordinance 14-06 is hereby amended by:

- Increasing the appropriated expenditures in the General Fund by \$268,943. Expenditures for the General Fund will total \$6,729,400.
 - Mixed Drink Tax payment to Knox County Schools

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:** David Smoak, Town Administrator**SUBJECT:** Approval of Settlement Agreement between the Town of Farragut, the Knox County School System and Knox County Government

INTRODUCTION: The purpose of this agenda item is to approve a settlement agreement between the Town of Farragut, the Knox County School system and Knox County Government regarding mixed drink taxes that were received by the Town of Farragut.

BACKGROUND: The Town of Farragut enacted a mixed drink tax in 1987 and has been receiving revenues directly from the State of Tennessee Comptroller's office since that time. In the fall of 2013, Farragut, along with 41 other cities across Tennessee were notified that half the proceeds from the mixed drink tax were to be distributed to the local school system in the county, which included prior years' receipts. Furthermore, in the spring of 2014, the Tennessee General Assembly approved legislation that would permit cities that owed prior years' mixed drink tax revenues to negotiate with the local school systems on the payment terms and past due amount owed.

DISCUSSION: Prior to June 1, 2014, the Knox County School system and Knox County Government filed a lawsuit against the Town of Farragut requesting back payment of the mixed drink taxes due. Since that time, town officials and school officials have met to discuss possible parameters of a settlement between the parties.

On August 14, 2014 the Board of Mayor and Aldermen authorized the Town Administrator to make a proposal to the Knox County School Board in hopes of settling the lawsuit. The basis of the settlement offer was for the Town to pay back the mixed drink taxes owed from 1999-2013, which equals \$1,106,829, over a three year period, for an annual allocation of \$368,943.

The Knox County School Board accepted the settlement proposal at their meeting in September, as did the Knox County Commission. Approval of the attached settlement agreement would result in the dismissal of the current lawsuit by the Knox County School Board against the Town of Farragut and ensure an orderly three year payment schedule to satisfy the terms of the agreement.

PROPOSED MOTION: To approve the attached Settlement Agreement and Release between Knox County Schools, Knox County Government and the Town of Farragut.

BOARD ACTION:

MOTION BY: _____ SECONDED BY: _____

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

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (hereafter referred to as the "Agreement") is voluntarily entered into between **Knox County Tennessee**, a political subdivision of the State of Tennessee, on behalf of itself, affiliates, successors, and assigns, its current and former directors, officers, agents and employees, in their corporate as well as personal capacities, **Knox County Schools**, a Local Education Agency ("LEA") of the State of Tennessee charged with providing a local school system for the state of Tennessee, on behalf of itself, affiliates, successors, and assigns, its current and former directors, officers, agents and employees, in their corporate as well as personal capacities, and the **Knox County Board of Education**, an elected body existing under Tennessee law for the purpose of administering and operating the LEA public school system in Knox County, on behalf of itself, affiliates, successors, and assigns, its current and former directors, officers, agents and employees, in their corporate as well as personal capacities (hereinafter collectively referred to as "**Plaintiffs**") and the **Town of Farragut, Tennessee**, a municipal corporation existing under the laws of the State of Tennessee and within Knox County, on behalf of itself, its affiliates, successors, and assigns, its current and former directors, officers, agents and employees, in their corporate as well as personal capacities (all hereafter collectively referred to as "**Defendant**" or "**the Town.**") The Plaintiffs and the Town are collectively referred to as the "**Parties.**"

WHEREAS, the Town has collected liquor-by-the-drink or mixed drink tax revenues ("the tax revenue") since 1987; and

WHEREAS, the Town was unaware until recently of its obligation under Tenn. Code Ann. §57-4-301, *et seq.*, to remit fifty percent of the subject taxes to the Knox County School Fund, and Plaintiffs filed a lawsuit demanding such payment bearing Docket No. 187586-1 on the docket of the Knox County Chancery Court (the "Lawsuit"); and

WHEREAS, the Parties agree that it is in their mutual best interests to enter into this Agreement to resolve all matters arising out of or in any way related to the remittance of the liquor-by-the-drink or mixed drink tax revenues; and

WHEREAS, it is understood that this Agreement represents a compromise and settlement between the Parties, and finally and forever resolves any and all claims Plaintiffs brought or could have brought, whether known or unknown, which arise out of or in any way relate to remittance of the liquor-by-the-drink or mixed drink tax revenues prior to 2014.

NOW THEREFORE, in consideration of the premises, covenants, promises and conditions contained herein, the receipt and sufficiency of which is hereby acknowledged, the Parties set out the terms and conditions of this Agreement as follows:

1. **Payment.** Upon execution of this Agreement, entry of the Order attached hereto as **Exhibit 1**, and pursuant to the schedule outlined below, the Town will pay for the benefit of Plaintiffs, one million, one hundred and six thousand, eight hundred and twenty-nine dollars (\$1,106,829.00). The Town will pay this amount in checks made payable to _____ in three (3) equal annual installments of \$368,943.00, payable on October 15, 2014; October 1, 2015; and October 1, 2016. The payment to Plaintiffs hereafter

referred to as the "Total Consideration Payment." The Total Consideration Payment is being made in complete compromise and settlement of any and all claims Plaintiffs asserted or could have asserted, whether known or unknown, arising out of or in any way related to the remittance or failure of remittance of the liquor-by-the-drink or mixed drink tax revenues prior to 2014, as more particularly described in Section 2 of this Agreement. Upon execution and delivery of this Agreement, the attorneys for the Parties shall deliver for entry by the Court an Order in the form of Exhibit 1 dismissing the Lawsuit with prejudice.

2. **Waiver and Release of the Town.** In exchange for the Total Consideration Payment in Section 1 of this Release Agreement, Plaintiffs hereby knowingly, voluntarily and unconditionally release, acquit and forever discharge the Town and its affiliates, successors, or assigns, and any and all current or former directors, members, officers, agents and employees, in their representative and personal capacities (hereinafter collective referred to as the "Releasees"), of and from any and all claims Plaintiffs have, or could have alleged in the Lawsuit, or that any of them may have arising out of the Town's collection of the liquor-by-the-drink or mixed drink tax revenues prior to 2014, whether known or unknown, including any and all claims, liabilities, rights and causes of action it may have against the Releasees, of every kind and nature, whether based on federal or state law, statute, ordinance, regulation, or common law principle. The claims Plaintiffs are releasing include any or all claims or causes of action arising out of or related to the collection of the tax revenue and subsequent failure to remit a portion of same to Plaintiffs pursuant to T.C.A. §§ 57-4-301, *et seq.*, whether known or unknown, suspected, or unsuspected, and any claim for monetary, legal, compensatory, punitive, liquidated or other damages, equitable relief, costs, interest, expenses of any kind, or attorney's fees.

3. **No Reliance.** Plaintiffs acknowledge that they have received a copy of this Agreement; that they have had a reasonable time to review it; that they have read and understand all the terms, conditions and effect thereof; that they have consulted with an attorney prior to executing this Agreement; that they have executed this Agreement knowingly and voluntarily; that they do not rely upon any representations or statements made by the Town, or any of its affiliates, successors, assigns, their current or former directors, agents or attorneys associated with them with regard to the subject matter, basis or effect of this Agreement, other than those made in this Agreement; and that the consideration it is receiving under this Agreement is in addition to anything of value to which they are already entitled.

4. **No Admission of Liability.** Neither this Agreement itself nor any payment, covenant or provision associated with the Agreement is to be construed as an admission of liability, or evidence of liability or guilt on the part of the Town, by whom knowledge and/or malice is expressly denied.

5. **Governing Law and Venue.** This Agreement is made and entered into in the State of Tennessee and shall in all respects be interpreted, enforced and governed under the laws of Tennessee. The language of all parts of this Agreement shall in all cases be construed as a whole, according to fair meaning and not strictly for or against either of the parties. Any action to enforce this Agreement shall be brought in the courts of Knox County, Tennessee.

6. **Severability.** In the event any one or more provisions of this Agreement should be held invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not

affect any other provision hereof, and this Agreement shall be construed by disregarding the invalid, illegal, or unenforceable provision or provisions.

7. **Entire Agreement.** This Agreement contains the entire understanding between the parties hereto and represents full and final resolution of any and all issues related to the tax revenue. This Agreement may not be modified or amended in any manner without a written agreement signed and dated by the Parties who have executed this Agreement.

8. **Binding Effect.** This Agreement shall be binding on the affiliates, successors and legal representatives of the Parties.

9. **Miscellaneous.** This Agreement shall include the following provisions:

(a) This Agreement shall be deemed to have been jointly prepared by the counsel for the parties.

(b) This Agreement may not be modified or amended in any manner without a written agreement signed and dated by all the parties, and such requirement shall not be subject to oral waiver.

IN WITNESS THERETO, the parties have signed this release effective as of the ____ day of _____, 2014.

For Knox County, Tennessee, Knox County
Schools, the LEA of Knox County,
Tennessee and Knox County Board of
Education

Town Of Farragut

Ralph McGill, Mayor

Timothy F. Burchett, County Mayor

Approved as to Form:

Approved as to Form:

County Attorney

Town Attorney

IN THE CHANCERY COURT FOR KNOX COUNTY, TENNESSEE

KNOX COUNTY TENNESSEE, KNOX)
COUNTY SCHOOLS an LEA OF THE)
STATE OF TENNESSEE and KNOX)
COUNTY BOARD OF EDUCATION,)

Plaintiffs,)

v.)

THE TOWN OF FARRAGUT,)
TENNESSEE,)

Defendant.)

No. 187586-1

ORDER OF COMPROMISE AND DISMISSAL

Come the parties and announce to the Court that this matter has been resolved by agreement of the parties, pursuant to which this matter is to be dismissed with full prejudice in bar of the right of Plaintiffs to refile the same. It is accordingly

ORDERED, ADJUDGED AND DECREED that this matter is dismissed with full prejudice and the court's costs are to be taxed equally, one-half to the Plaintiffs in care of Richard B. Armstrong, Jr., 400 Main Street, Suite 612, Knoxville, Tennessee, 37902, and one-half to the Defendant in care of Thomas M. Hale, P.O. Box 629, Knoxville, Tennessee 37901, for which execution may issue if necessary. Each party shall bear its own discretionary costs.

ENTER this _____ day of _____, 2014.

Chancellor John F. Weaver

APPROVED:

Richard B. Armstrong, Jr. (BPR #027072)
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Knoxville, TN 37902
(865) 215-2327
Attorney for Plaintiffs

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Attorney for Defendant