

REGULAR MEETING
BOARD OF MAYOR AND ALDERMEN
MARCH 9, 2010

REFERENCE VIDEO DATED MARCH 9, 2010

The Board of Mayor and Aldermen of the City of Fayetteville, Lincoln County, Tennessee, met in open, public session at the regular meeting place of said Board in the Municipal Building of said City at 5:00 p.m. on March 9, 2010. Mayor Gwen Shelton was present and presiding. The following named Aldermen were present:

Danny Bryant; Dorothy Small; Pat Fraley; and Michael Stewart

Also present was James S. Hereford, Jr., City Attorney, and James H. Lee, City Administrator.

Not present was Joe Askins and Marty Pepper.

The prayer and pledge was led by Reverend Kathy Bryson of Mount Olive Missionary Baptist Church.

Approval of Minutes:

Motion was made by Pat Fraley, seconded by Danny Bryant, to approve the minutes of the February 2010, Meeting. Upon roll call, the following voted:

Aye

Danny Bryant; Dorothy Small; Pat Fraley; and Michael Stewart

Nay

None

Mayor Shelton declared the minutes approved.

Approval of Bills and Additional Bills:

Motion was made Pat Fraley, seconded by Danny Bryant, to approve the bills and additional bills for payment. Upon roll call, the following voted:

Aye

Dorothy Small; Pat Fraley; Michael Stewart; and Danny Bryant

Nay

None

Mayor Shelton declared the bills and additional bills approved.

Reports:

Main Street Update:

Marie Caldwell, representing Main Street, thanked the community, local businesses, and City Officials for supporting Fayetteville Main Street during their annual fundraiser. Fayetteville Main Teen Board learned about city government last month with Mayor Shelton and would like to thank FPU in advance for allowing them to come to their facilities tomorrow. The Host had its first meeting last week and is excited with the possibility of having Gerald Charles Dickens (the great grandson of Charles Dickens) back this year.

FPU Report:

Pam Gentry reported that sewer rehab work on the Latten Bottom System is nearing completion. Ten road repairs were made during the month of February. FPU is currently working on the TDOT report combining the miles of lines, types of mains, types of services, and total leaks repaired to the system as of December 31, 2009. Telecom is working on the tower site to improve the signal for the Nashville stations.

School Board Report:

Dorothy Small reported the roof repair work on Ralph Askins School has been completed. The remodel work on the bathrooms will begin soon. It has been suggested to remodel the Junior High's Library. The school system calendar has been adjusted and the corrections have been posted on the School System's website.

Police Report:

Danny Bryant reported the police had 94 incidents, 49 arrests, 43 traffic crashes, 115 traffic citations, and police activity totaled 1,942. The Criminal Investigation Division has 184 cases: 11 open, 8 closed, and 8 arrests.

Fire Report:

Danny Bryant reported 48 calls for the Fire Department, 31 medical calls, 5 motor accident (with injuries), and 1 structural fire with a total of \$70,125 in damages.

Recreation Report:

Michael Stewart reported Babe Ruth inducted 23 people into the Hall of Fame. Signs banning guns from City Parks are now in place. Life Guards for the swimming pool have been hired and are currently in training. Sign-ups for the High School Softball tournament have been completed with 25 teams involved. All park bathrooms have been de-winterized.

Planning and Zoning Report:

Pat Fraley reported the Planning Commission approved a site plan for Sheree Le Mon at 102 Front Street for a Health Spa. A site plan on Carolina Heights plat, which had expired September 2009, was granted a sit plan renewal. On March 30th at 4pm, right before the regular monthly meeting, the Planning Commission will have a work session to discuss the Sign Ordinance.

Administrator's Report:

Jim Lee stated the City is currently accepting applications for a Communication Operator (dispatcher). Mr. Lee stated he attended a TML conference earlier this week. TML has 12 new laws, they want to have passed in the State Legislation; one of these laws will allow the City to put public announcements on the City website. On March 25th, Outside Agencies will be presenting their 2011 proposed budgets to the Finance Committee.

Mayor's Report:

Mayor Shelton stated the 2010 Census is taking place, and asked the citizens to fill out the mail outs and send them back to the Census Bureau. Mayor Shelton appreciates the work and job that Main Street

does in promoting the community. On March 25th the Finance Committee will be looking at Outside Agency proposed budgets for 2011.

Call for a Public Hearing on Downtown Historic Zoning Overlay:

Motion was made by Dorothy Small, seconded by Michael Stewart, to hold a Public Hearing on the Downtown Historic Zoning Overlay. Upon roll call, the following voted:

Aye

Michael Stewart and Dorothy Small

Nay

Pat Fraley and Danny Bryant

Mayor Shelton declared the motion failed.

Troy Long Lawsuit:

Motion was made by Dorothy Small, seconded by Michael Stewart, to accept suggested edit to the Troy Long agreement with respect to the structures allowed within the two hundred fifty foot radius; as stated on page 3 number 5(c) after “maintenance building”, insert “clubhouses or similar structures constructed within the 250 foot safety radius shall comply with the non-habitable space requirements of the approved plats”. Upon roll call, the following voted:

Aye

Michael Stewart; Dorothy Small; Pat Fraley; and Mayor Shelton (the Charter requires 4 votes to pass a motion)

Nay

None

Abstain

Danny Bryant

Mayor Shelton declared the motion adopted.

Bids on the Sanitation Building for Public Works:

Motion was made by Michael Stewart, seconded by Danny Bryant, to accept the bid from BVC for \$88,420. Upon roll call, the following voted:

Aye

Danny Bryant; Dorothy Small; Pat Fraley; and Michael Stewart

Nay

None

Mayor Shelton declared the motion adopted.

Appointments to Boards:

1. Fayetteville Housing Authority:

Motion was made by Dorothy Small, seconded by Michael Stewart, to appoint Tommy Holland to the Fayetteville Housing Authority to fill the remaining term of the late Bill Thomas, the term expires January 1, 2014. Upon roll call, the following voted:

Aye

Dorothy Small; Pat Fraley; Michael Stewart; and Danny Bryant

Nay

None

Mayor Shelton declared the motion adopted.

2. Library Board:

Motion was made by Dorothy Small, seconded by Pat Fraley, to appoint Danny Bryant to the Library Board due to the resignation of Mack Hamilton. Upon roll call, the following voted:

Aye

Pat Fraley; Michael Stewart; Dorothy Small; and Mayor Shelton (the Charter requires 4 votes to pass a motion)

Nay

None

Abstain

Danny Bryant

Mayor Shelton declared the motion adopted.

Repair to water line at the Library:

Motion was made by Pat Fraley, seconded by Danny Bryant, to pay for one-half (1/2) of the \$6,000 water line repair contingent on the County Government paying for the other one-half (1/2). Upon roll call, the following voted:

Aye

Michael Stewart; Danny Bryant; Dorothy Small; and Pat Fraley

Nay

None

Mayor Shelton declared the motion adopted.

Tile work for Bagley Drive:

Motion was made by Danny Bryant, seconded by Michael Stewart, to replace the tile on Bagley Drive with concrete tile for \$11,757. Upon roll call, the following voted:

Aye

Danny Bryant; Dorothy Small; Pat Fraley; and Michael Stewart

Nay

None

Mayor Shelton declared the motion adopted.

6TH Annual Andrea's Walk for Junior's House:

Motion was made by Dorothy Small, seconded by Michael Stewart, to allow the 6th Annual Andrea's Walk for Junior's House. Upon roll call, the following voted:

Aye

Dorothy Small; Pat Fraley; Michael Stewart; and Danny Bryant

Nay

None

Mayor Shelton declared the motion adopted.

Permit for "Relay for Life" – 5K run:

Motion was made by Dorothy Small, seconded by Pat Fraley, to allow the "Relay for Life" 5K run on May 8th at the estimated cost of \$430. Upon roll call, the following voted:

Aye

Pat Fraley; Michael Stewart; Danny Bryant; and Dorothy Small

Nay

None

Mayor Shelton declared the motion adopted.

Petition on Historical Zoning Board:

Motion was made by Pat Fraley, seconded by Danny Bryant, for the Historical Zoning Board to be disbanded indefinitely until it can be further investigated. Upon roll call, the following voted:

Aye

Danny Bryant and Pat Fraley

Nay

Michael Stewart and Dorothy Small

Mayor Shelton declared the motion failed.

Ethics Complaint against Mayor:

Alderman Bryant stated he would like to withdraw the Ethics Complaint against the Mayor because he had no intention of putting the Board or the Citizens of Fayetteville through a costly legal battle.

Resolution R-10-01 – Revenue Sales Tax Contract:

Resolution R-10-01, a resolution ratifying sales tax agreements between the City of Fayetteville and Lincoln County Tennessee, heretofore executed on behalf of the City by Mayor Gwen Shelton; was considered, which is as follows:

CITY OF FAYETTEVILLE
Resolution No. R-10-01

**RESOLUTION RATIFYING SALES TAX AGREEMENTS
BETWEEN THE CITY OF FAYETTEVILLE, HEREINAFTER REFERRED TO
AS "CITY", AND LINCOLN COUNTY, TENNESSEE, HEREINAFTER
REFERRED TO AS "COUNTY", HERETOFORE EXECUTED ON BEHALF OF
CITY BY MAYOR GWEN SHELTON**

WHEREAS, on November 6, 1969, the voters of the County approved by referendum a one-half cent local option sales tax to be levied within the County;

WHEREAS, on March 10, 1992, the voters of the County approved by referendum a one cent local option sales tax to be levied within the County;

WHEREAS, *Tennessee Code Annotated* § 67-6-712 provides for the distribution of funds derived from said local option tax with one-half of the proceeds to be expended and distributed in the same manner as the County property tax for school purposes is expended and distributed; and further, said § 67-6-712 provides that a county and city may by contract provide for other distribution of the one-half not allocated to school purposes;

WHEREAS, the City and County have agreed on the division of the sales tax funds by agreement dated November 12, 1969, with respect to the one-half cent local option sales tax; and by agreement dated July 1, 1992, with respect to the one cent local sales tax option;

WHEREAS, said agreements have been extended by either written agreements or implied agreements until June 4, 2009, when Mayor Gwen Shelton and County Mayor Peggy G. Bevels executed sales tax agreements pertaining to the one-half cent local option sales tax approved by the November 6, 1969, referendum and the one cent local option sales tax approved by the March 10, 1992, referendum extending said agreements through June 30, 2009, which agreements are attached hereto and marked collective Exhibit 1;

WHEREAS, on July 6, 2009, said agreements were further extended by written agreements executed by Mayor Gwen Shelton and County Mayor Peggy G. Bevels extending said agreements through June 30, 2010, which agreements are attached hereto and marked collective Exhibit 2;

WHEREAS, on October 14, 2009, said agreements were further extended by written agreements executed by Mayor Gwen Shelton and County Mayor Peggy G. Bevels extending said agreements through June 30, 2011, which agreements are attached hereto and marked collective Exhibit 3;

WHEREAS, Mayor Gwen Shelton inadvertently executed said agreements on behalf of City without first obtaining appropriate authorization from the Board of Mayor and Aldermen of the City of Fayetteville;

NOW, THEREFORE, be it resolved by the Board of Mayor and Alderman of the City of Fayetteville that the action of Mayor Gwen Shelton with respect to executing said agreements dated June 4, 2009, and July 6, 2009, on behalf of City is ratified and shall have the same force and effect as if approved in advance by the Board of Mayor and Alderman.

BE IT FURTHER RESOLVED that a copy of this Resolution be delivered to the Mayor of Lincoln County, Tennessee, forthwith.

ADOPTED AND APPROVED this ____ day of March, 2010.

Gwen Shelton, Mayor

ATTEST:

James H. Lee, City Clerk

Resolution-SalesTax.LincolnCo-1.jsh

Motion was made by Dorothy Small, seconded by Michael Stewart, to adopt Resolution R-10-01 (A) ratifying sales tax agreement between the City and the County through the fiscal year 2011. Upon roll call, the following voted:

Aye

Dorothy Small and Michael Stewart

Nay

Danny Bryant and Pat Fraley

Mayor Shelton declared the Resolution Failed.

CITY OF FAYETTEVILLE
Resolution No. R-10-01

**RESOLUTION RATIFYING SALES TAX AGREEMENTS
BETWEEN THE CITY OF FAYETTEVILLE, HEREINAFTER REFERRED TO
AS "CITY", AND LINCOLN COUNTY, TENNESSEE, HEREINAFTER
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WHEREAS, on March 10, 1992, the voters of the County approved by referendum a one cent local option sales tax to be levied within the County;

WHEREAS, *Tennessee Code Annotated* § 67-6-712 provides for the distribution of funds derived from said local option tax with one-half of the proceeds to be expended and distributed in the same manner as the County property tax for school purposes is expended and distributed; and further, said § 67-6-712 provides that a county and city may by contract provide for other distribution of the one-half not allocated to school purposes;

WHEREAS, the City and County have agreed on the division of the sales tax funds by agreement dated November 12, 1969, with respect to the one-half cent local option sales tax; and by agreement dated July 1, 1992, with respect to the one cent local sales tax option;

WHEREAS, said agreements have been extended by either written agreements or implied agreements until June 4, 2009, when Mayor Gwen Shelton and County Mayor Peggy G. Bevels executed sales tax agreements pertaining to the one-half cent local option sales tax approved by the November 6, 1969, referendum and the one cent local option sales tax approved by the March 10, 1992, referendum extending said agreements through June 30, 2009, which agreements are attached hereto and marked collective Exhibit 1;

WHEREAS, on July 6, 2009, said agreements were further extended by written agreements executed by Mayor Gwen Shelton and County Mayor Peggy G. Bevels extending said agreements through June 30, 2010, which agreements are attached hereto and marked collective Exhibit 2;

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WHEREAS, Mayor Gwen Shelton inadvertently executed said agreements on behalf of City without first obtaining appropriate authorization from the Board of Mayor and Aldermen of the City of Fayetteville;

NOW, THEREFORE, be it resolved by the Board of Mayor and Alderman of the City of Fayetteville that the action of Mayor Gwen Shelton with respect to executing said agreements dated June 4, 2009, July 6, 2009, and October 14, 2009, on behalf of City is ratified and shall have the same force and effect as if approved in advance by the Board of Mayor and Alderman.

BE IT FURTHER RESOLVED that a copy of this Resolution be delivered to the Mayor of Lincoln County, Tennessee, forthwith.

ADOPTED AND APPROVED this ____ day of March, 2010.

Gwen Shelton, Mayor

ATTEST:

James H. Lee, City Clerk

Resolution-SalesTax.LincolnCo.jsh

Motion was made by Danny Bryant, seconded by Pat Fraley, to adopt Resolution R-10-01 (B) ratifying sales tax agreement between the City and the County through the fiscal year 2010. Upon roll call, the following voted:

Aye

Danny Bryant and Pat Fraley

Nay

Dorothy Small and Michael Stewart

Mayor Shelton declared the Resolution Failed.

Community Comments:

Community improvements comments were as follows:

1. Kevin Freeman – 210 Forest St. – stated the Great American Clean-up was a success. Mr. Freeman thanked various business for feeding the volunteers and FPU for telephone poles.
2. John Fraser – Elk Ave. S. – requested to be put on next month’s Work Session Agenda for 15 minutes, to bring various information to the Board.
3. Steve Griggs - 215 Wallace Dr. – asked Alderman Fraley why she was adamant about the Historical Zoning Board.
4. Sam Gates - asked for some clarification on the sales tax agreement.
5. Debra Griggs – 215 Wallace Dr. – thanked Alderman Bryant for dropping the Ethics complaint against the Mayor. Mrs. Griggs question Alderman Fraley’s motives on the Historical Zoning Board.
6. Alan Booth – 411 Cherry St. – stated he agreed with the previous speakers in regarding Alderman Fraley’s motion to disband the Historical Zoning Board. The phrase “conflict of interest” came to mind.

Motion was made, seconded, and unanimously adopted to adjourn.

Mayor

Clerk