

REGULAR MEETING
BOARD OF MAYOR AND ALDERMEN
JULY 9, 2013

REFERENCE VIDEO DATED JULY 9, 2013

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 July 9, 2013. Mayor John Ed Underwood, Jr. was present and presiding. The following named Aldermen were present:

Danny Bryant, Marty Pepper, Gwen Shelton, Dorothy Small, Michael Whisenant and Tom Young

Also, present was Johnny D. Hill, Jr., City Attorney.

The prayer was lead by Alderman Pepper and the pledge was lead by Alderman Small.

Approval of Minutes:

1. Motion was made by Danny Bryant, seconded by Dorothy Small, to approve the minutes of the Public Hearing for June 11, 2013 Meeting. Upon roll call, the following voted:

Aye

Danny Bryant, Tom Young, Dorothy Small, Michael Whisenant, Gwen Shelton and Marty Pepper

Nay

None

Mayor Underwood declared the Public Hearing Minutes approved.

2. Motion was made by Michael Whisenant, seconded by Marty Pepper, to approve the minutes of the June 2013 Meeting. Upon roll call, the following voted:

Aye

Tom Young, Dorothy Small, Michael Whisenant, Gwen Shelton, Marty Pepper and Danny Bryant

Nay

None

Mayor Underwood declared the Minutes approved.

Reports:

Fayetteville/Lincoln County Library:

Jill Rael, the Library Director, reported there were 110 children participating in the summer reading program. Ms. Rael explained that the 1812 Traveling Exhibit from the Tennessee State Museum will be on display during the month of August. The Library will hold a "Back to School Party" July 27, 2013.

Fire Report:

Fire Chief Danny Travis reported that the Fire Department had 72 calls for service with 51 medical calls and 3 accidents with injuries.

Police Report:

Police Chief Doug Carver reported that there were 212 incidents with 73 arrests, 45 crashes and 80 citations for a total of 1,468 events.

Recreation Report:

Ricky Honey, Recreation Director, reported that the youth baseball and softball seasons have ended. Soccer sign-ups will continue through August 3, 2013. Mr. Honey stated that the Firecracker Chase was a big success, with over 200 participates.

Public Works:

Eddie Plunkett, Public Works Director, reported that 2,759 tons of residential trash was picked up, along with 2,724 tons of brush and 219 tons of leaves were picked-up from July 1, 2012 through June 30, 2013.

Planning and Codes Report:

Jeff Seifert, Building Inspector, reported for the month of May there were ten (10) building permits issued for approximately Forty-Nine, Three Hundred Seventy-Five Dollars (\$49,375.00) in work to be done, with the fees being One Thousand, Three Hundred Twenty Dollars (\$1,320.00).

City Administrator Letter:

Motion was made by Danny Bryant, seconded by Michael Whisenant, to approve the letter of employment for Scott Collins as the new City Administrator. Upon roll call, the following voted:

Aye

Dorothy Small, Michael Whisenant, Gwen Shelton, Marty Pepper, Danny Bryant and Tom Young

Nay

None

Mayor Underwood declared the motion approved.

Appointment of City Clerk:

Motion was made by Danny Bryant, seconded by Marty Pepper, to appoint Scott Collins as the City of Fayetteville City Clerk. Upon roll call, the following voted:

Aye

Michael Whisenant, Gwen Shelton, Marty Pepper, Danny Bryant, Tom Young and Dorothy Small

Nay

None

Mayor Underwood declared the motion approved.

Rescind Bond Commitment:

Motion was made by Dorothy Small, seconded by Gwen Shelton, to rescind the 2009 Bond Series commitment for William D. Jones Boulevard and the matching STP Funds. Upon roll call, the following voted:

Aye

Gwen Shelton, Marty Pepper, Danny Bryant, Tom Young, Dorothy Small and Michael Whisenant

Nay

None

Mayor Underwood declared the motion approved.

William D. Jones Project and STP Matching Fund from Capital Projects:

Motion was made by Michael Whisenant, seconded by Marty Pepper, to approve the funding of the William D. Jones Project for One Hundred Eighty-Three Thousand Dollars (\$183,000.00) and the STP Matching Funds of Forty-Three Thousand, Five Hundred Ten Dollars (\$43,510.00) to be paid from Capital Project Fund. Upon roll call, the following voted:

Aye

Marty Pepper, Danny Bryant, Tom Young, Dorothy Small, Michael Whisenant and Gwen Shelton

Nay

None

Mayor Underwood declared the motion approved.

Purchase Street Sweeper:

Motion was made by Danny Bryant, seconded by Dorothy Small, to approve the commitment of One Hundred Seventy Thousand, Five Hundred Dollars (\$170,500.00) from the 2009 Bond Series to purchase a Street Sweeper. Upon roll call, the following voted:

Aye

Danny Bryant, Tom Young, Dorothy Small, Michael Whisenant, Gwen Shelton and Marty Pepper

Nay

None

Mayor Underwood declared the motion approved

Marty Road and Eldad Road Paving Project:

Motion was made by Dorothy Small, seconded by Tom Young, to approve the commitment of Sixty Thousand Dollars (\$60,000.00) from the 2009 Bond Series to pave Marty Road and Eldad Road. Upon roll call, the following voted:

Aye

Tom Young, Dorothy Small, Michael Whisenant, Gwen Shelton, Marty Pepper and Danny Bryant

Nay
None

Mayor Underwood declared the motion approved.

Accepting the Certified Tax Rate:

Motion was made by Danny Bryant, seconded by Gwen Shelton, to accept the Certified Tax Rate of \$1.2996. Upon roll call, the following voted:

Aye
Dorothy Small, Michael Whisenant, Gwen Shelton, Marty Pepper, Danny Bryant and Tom Young

Nay
None

Mayor Underwood declared the motion approved.

Ordinance No. 2013-06:

Ordinance No. 2013-06, an ordinance entitled, "An Ordinance Adopting A Property Tax Rate Exceeding The Certified Rate For The City Of Fayetteville, Tennessee For Fiscal Year 2014.", was considered. Said Ordinance is as follows:

ORDINANCE NO. 2013-06
AN ORDINANCE ADOPTING A PROPERTY TAX RATE EXCEEDING THE
CERTIFIED RATE FOR THE CITY OF FAYETTEVILLE, TENNESSEE FOR
FISCAL YEAR 2014,

Whereas, the City of Fayetteville undergoes property reappraisals every six years pursuant to the State statute in *Tennessee Code Annotated* § 67-5-1601;

Whereas, the process of reappraisal is intended to keep property tax assessments stable even though property values may increase or decrease;

Whereas, 2013 is a reappraisal year for the City of Fayetteville;

Whereas, the state determined that the new certified tax rate \$1.2996 is lower than the current rate of \$1.3195;

Whereas, the state requires cities that want to exceed the certified tax rate to do so by holding a public hearing and adopting an ordinance;

Whereas, the City of Fayetteville desires to comply with State statute and regulations set by the State Board of Equalization.

Now, therefore be it ordained by the Board of Mayor and Alderman of the City of Fayetteville, Tennessee;

Section 1. After holding a public hearing on July 9, 2013 at a regular Board meeting to allow the public to comment on raising the certified tax rate from \$1.2996 to \$1.65; the new rate is set at \$1.65.

Section 2. This ordinance shall take effect July 9, 2013, the public welfare requiring it. All ordinances or parts of ordinances in conflict with any provision of this ordinance are hereby repealed.

June 9, 2013

Date



John Ed Underwood, Jr., Mayor



Gregory Scott Collins, City Administrator

Motion was made by Marty Pepper, seconded by Danny Bryant, to adopt Ordinance No. 2013-06. Upon roll call, the following voted:

Aye

Michael Whisenant, Marty Pepper, Danny Bryant and Tom Young

Nay

Gwen Shelton and Dorothy Small

Mayor Underwood declared the Ordinance adopted.

Ordinance No. 2013-07:

Ordinance No. 2013-07, an ordinance entitled, "An Ordinance Adopting The Annual Budget And Capital Program And Tax Rate Of The City Of Fayetteville, Tennessee, For Fiscal Year 2014", was considered. Said Ordinance is as follows:

ORDINANCE NO. 2013-07
AN ORDINANCE ADOPTING THE ANNUAL BUDGET AND CAPITAL
PROGRAM AND TAX RATE OF THE CITY OF FAYETTEVILLE,
TENNESSEE FOR FISCAL YEAR 2014,

Whereas, the budget process is one of the most important activities undertaken by governments for the public welfare, the budget process being used to make program, service and capital decisions and allocate scarce resources to programs, services and capital;

Whereas, the financial plan developed in this process being the document to communicate the plan the Board of Mayor and Aldermen has decided to implement for the coming fiscal year;

Whereas *Tennessee Code Annotated* Title 9 Chapter 1 Section 116 requires that all funds of the State of Tennessee and all its political subdivisions shall first be appropriated before being expended and that only funds that are available shall be appropriated;

Whereas, the Municipal Budget Law of 1982 requires that the governing body of each municipality adopt and operate under an annual budget ordinance presenting a financial plan with at least the information required by that state statute, that no municipality may expend any moneys regardless of their source except in accordance with a budget ordinance and that the governing body shall not make any appropriation in excess of estimated available funds;

Whereas as the Board of Mayor and Aldermen held a hearing where the City Administrator submitted the proposed budget and capital program on July, 9 2013 at 5:00 pm in a regular meeting of the Board of Mayor and Aldermen and following the hearing, the Board considered final passage of the proposed budget;

Whereas, *Tennessee Code Annotated* Title 6 Chapter 56 Section 206 requires that the Board of Mayor and Aldermen publish the annual operating budget and budgetary comparisons of the proposed budget with the prior year (actual) and the current year (estimated) in a newspaper of general circulation not less than ten (10) days prior to the meeting where the governing body will consider final passage of the budget, and said budget was published on June 19, 2013 in *The Elk Valley Times*;

Now, therefore be it ordained by the Board of Mayor and Aldermen of the City of Fayetteville, Tennessee, that:

Section 1: **REVENUES.** The following is a list of funds available for appropriation. Any portion of the fiscal year 2013 appropriations remaining unexpended and unencumbered shall be credited to the general fund, except that any balance remaining in any other fund at the end of the fiscal year may remain to the credit of that fund and be subject to further appropriation in accordance with *Tennessee Code Annotated* Section 6-56-211.

FUND NAME	FISCAL YEAR 2012	FISCAL YEAR 2013	FISCAL YEAR 2014	EST. FUND BALANCE 07/01/13	AVAILABLE FUNDS
General Fund					
Current Taxes	\$ 6,392,310	\$ 6,595,417	\$ 7,140,730		
Delinquent Taxes	37,320	15,000	40,000		
Nontax Revenues	2,096,299	1,431,196	1,512,778		
State Street Aid:					
Street Repair	26,779	46,000	31,000		
Street Lighting	163,397	159,000	164,000		
TOTAL GENERAL FUND	\$ 8,716,105	\$ 8,246,613	\$ 8,888,508	\$5,954,383	\$ 14,842,891
Drug Fund	17,078	13,100	6,050	45,160	\$ 51,210
Refuse Collection Fund	434,377	355,350	460,700	\$468,086	\$ 928,786
CDBG Loan Fund	59	31	35	49,564	\$ 49,599
UDAG Loan Fund	490	500	325	405,742	\$ 406,067
Debt Service Fund	192,423	194,247	190,898	\$311,996	\$ 502,894
Industrial Park	265	260	250	169,918	\$ 170,168
Capital Projects	52,747	28,980	219,250	1,418,825	\$ 1,638,075
Landfill Fund	27,210	31,180	40,400	406,408	\$ 446,808
General Purpose School Fund	\$8,557,567	\$9,170,895	\$9,505,406	\$3,913,249	\$ 13,418,655
TOTAL ALL FUNDS	\$ 17,998,321	\$ 18,041,156	\$ 19,311,822	\$ 13,143,331	\$ 32,455,153

Details of these revenues and other sources of funds are shown in the detailed financial plan attached.

SECTION 2: APPROPRIATIONS. The governing body appropriates from these anticipated revenues and unexpended and unencumbered funds the following expenditures for fiscal year 2013:

FUND NAME	FISCAL YEAR 2012	FISCAL YEAR 2013	FISCAL YEAR 2014	EST. FUND BALANCE 6/30/14
General Fund				
General Government	\$ 1,275,770	\$ 1,395,975	\$ 1,335,960	
Public Safety	3,799,313	3,825,838	4,025,296	
Public Works	1,136,620	1,368,933	1,586,463	
Health & Welfare	1,462,914	1,414,724	1,494,698	
Debt Service	192,047	193,897	190,598	
Education				
Capital Projects	21,999	-	210,000	
TOTAL GENERAL FUND	\$ 7,888,663	\$ 8,199,367	\$ 8,843,015	\$ 5,999,876
Drug Fund	25,030	69,975	29,650	21,560
Refuse Collection Fund	478,879	473,524	628,557	300,229
CDBG Loan Fund	-	-	49,500	99
UDAG Loan Fund	-	1,000	1,000	405,067
Debt Service Fund	192,474	193,897	190,848	312,046
Industrial Park	-	50,000	70,000	100,168
Capital Projects	488,755	347,885	551,870	1,086,205
Landfill Fund	9,320	31,180	36,200	410,608
General Purpose School Fund	\$9,273,250	\$9,827,459	\$11,337,199	2,081,456
TOTAL ALL FUNDS	\$ 18,356,371	\$ 19,194,287	\$ 21,737,839	\$ 10,717,314

Details of these appropriated expenditures are shown in the detailed financial plan attached.

SECTION 3: STATEMENT OF INDEBTEDNESS. The Board of Mayor and Aldermen recognizes that the municipality has bonded and other indebtedness and includes a statement of this indebtedness.

STATEMENT OF BONDED OR OTHER INDEBTEDNESS	DEBT REDEMPTION (Principal)	INTEREST REQUIREMENTS	DEBT AUTHORIZED AND UNISSUED	CONDITION OF SINKING FUND
General Obligation Bond Series 2013	\$ 195,000	\$ 173,000		
General Obligation Bond Series 2009	\$ 110,000	\$ 55,819		
TN Energy Efficiency Loan	\$ 24,779	\$ -		

Appropriations of \$718,897 from the Debt Service Fund, have been included and authorized for the payment of current debt obligations and any planned debt obligations for the coming fiscal

year. The Board of Mayor and Aldermen anticipates and has budgeted for no new debt in the coming year.

Details of the debt services requirements are shown on in the detailed financial plan.

SECTION 4: CAPITAL IMPROVEMENT PROGRAM. During the coming fiscal year the Board of Mayor and Aldermen has planned for the following capital projects and has included a statement listing these capital projects and the sources of financing for these projects:

STATEMENT OF PROPOSED NEW CAPITAL PROJECTS	PROPOSED FINANCING BY APPROPRIATIONS	PROPOSED FINANCING BY DEBT
		\$ -
Street Sweeper	\$170,500	\$ -
2 - Tahoe Patrol Units	\$80,000	\$ -
2 - Leaf Machines	\$52,000	\$ -
Ballistic Helmets	\$8,500	\$ -
Body Armor	\$8,400	\$ -
Bullet Proof Vests	\$7,820	\$ -
Three point Harnesses	\$2,000	\$ -
22 cal Long Rifle Conversion	\$2,000	\$ -
		\$ -
		\$ -
		\$ -
		\$ -
		\$ -

Details of capital projects to be implemented in the coming fiscal year including sources of financing are in the detailed financial plan attached.

SECTION 5: BUDGET CONTROL. At the beginning of each quarterly period during the fiscal year and more often if required by the Board of Mayor and Aldermen, a report shall be submitted showing the relation between the estimated and actual revenues and other sources of funds and expenditures to date. At any time it is determined that revenue is not meeting estimates, the City Administrator may impound appropriations to ensure expenditures do not exceed revenues.

SECTION 6: EXCESS APPROPRIATIONS PROHIBITED. No appropriation listed above shall be exceeded without an amendment of the budget ordinance as required by the Municipal Budget Law of 1982 *Tennessee Code Annotated* Section 6-56-208 and Section 9-1-116. In addition, no appropriation may be made in excess of available funds except to provide for an actual emergency threatening the health, property or lives of the inhabitants of the municipality and declared by a two-thirds (2/3) vote of at least a quorum of the Board of Mayor and Aldermen in accord with Section 6-56-205 of the *Tennessee Code Annotated*. The budget and capital program budget ordinance may be amended in the same manner as any other ordinance may be amended.

SECTION 7: TRANSFER OF MONEY. Money, not to exceed \$5,000, may be transferred from one appropriation to another in the same fund by the City Administrator as allowed by

Section 6-56-209 of the *Tennessee Code Annotated*. Any resulting transfers shall be reported to the governing body at its next regular meeting and entered into the minutes.

SECTION 8: BUDGET DETAIL. A detailed financial plan will be attached to this budget and become part of this budget ordinance. In addition, the published operating budget and budgetary comparisons shown by fund with beginning and ending fund balances and the number of full time equivalent employees required by Section 6-56-206, *Tennessee Code Annotated* will be attached.

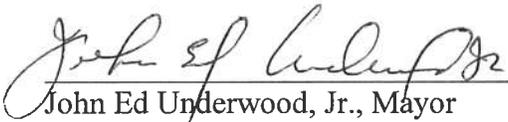
SECTION 9: DIRECTOR OF LOCAL FINANCE BUDGET APPROVAL. This ordinance will not be the official budget of the City of Fayetteville until it is approved by the Director of the Division of Local Finance in the Office of the Comptroller of the Treasury as required by *Tennessee Code Annotated* Section 9-21-403. The City of Fayetteville may operate under this ordinance as a continuation budget until the Director's approval has been obtained as long as operating expenditures do not exceed available funds and cash receipts during the continuation budget period and all outstanding debt service is paid.

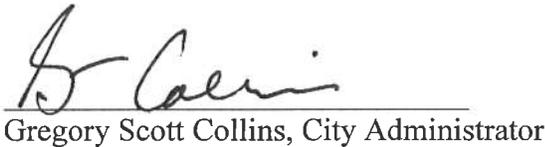
SECTION 10: TAX RATE. The City of Fayetteville's fiscal year 2014 tax rate for real property shall be \$1.65 per each \$100 of assessed value.

SECTION 11: This ordinance shall take effect July 9, 2013, the public welfare requiring it. All ordinances or parts of ordinances in conflict with any provision of this ordinance are hereby repealed.

July 9, 2013

Date


John Ed Underwood, Jr., Mayor


Gregory Scott Collins, City Administrator

Motion was made by Danny Bryant, seconded by Tom Young, to approve Ordinance No. 2013-07. Upon roll call, the following voted:

Aye

Marty Pepper, Danny Bryant, Tom Young and Michael Whisenant

Nay

Gwen Shelton and Dorothy Small

Mayor Underwood declared the Ordinance adopted.

Ordinance No. 2013-09:

Ordinance No. 2013-09, an ordinance entitled, “An Ordinance Amending The Zoning Ordinance Of Fayetteville, Tennessee, To Provide For The Inclusion Of Required Regulatory Changes To The Official Zoning Map.” Said Ordinance is as follows:

**ORDINANCE NO. 2013-09
CITY OF FAYETTEVILLE, TENNESSEE**

**AN ORDINANCE AMENDING THE ZONING ORDINANCE OF FAYETTEVILLE,
TENNESSEE TO PROVIDE FOR THE INCLUSION OF REQUIRED REGULATORY
CHANGES TO THE OFFICIAL ZONING MAP**

WHEREAS, an owner of the parcel of property listed below has requested that it be rezoned for the purpose of continued utilization of said property as residential; and,

WHEREAS, on May 28, 2013 the Fayetteville Municipal/Regional Planning Commission did review and recommend for adoption, rezoning the following parcel; and,

WHEREAS, the Fayetteville Regional Planning Commission does recommend to the Board of Mayor and Alderman that the "Zoning Map of Fayetteville, Tennessee", be amended as hereafter described; and,

WHEREAS, a public hearing was conducted by the Board of Mayor and Alderman of the City of Fayetteville, Tennessee on July 09, 2013; and,

NOW, THEREFORE, BE IT ORDAINED by the Board of Mayor and Alderman of the City of Fayetteville that the "Zoning Ordinance of Fayetteville, Tennessee" be amended as follows:

Section 1. Change the zoning classification of the following described parcel of real estate from C-3, General Commercial District, to R-2, Medium-Density Residential District, herein described as:

Section 2. Map, Parcel, Deed Book and Page number as follows, to wit:

	<u>Map</u>	<u>Parcel</u>	<u>Deed Book</u>	<u>Page</u>
Steven and Jennifer Wallis	79E	24.00	Z14	786

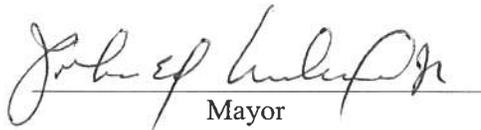
Section 3. The attached drawing, labeled "Exhibit A", depicting the above listed rezoning area shall be incorporated herein by reference.

BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage, the public welfare requiring it.

ADOPTED THIS 09th DAY OF JULY, 2013



City Clerk


Mayor

Lincoln County - Parcel: 079E J 024.00



Date Created: 6/28/2013

“Exhibit A”

Motion was made by Gwen Shelton, seconded by Michael Whisenant, to approve Ordinance No. 2013-09. Upon roll call, the following voted:

Aye

Marty Pepper, Danny Bryant, Tom Young, Dorothy Small, Michael Whisenant and Gwen Shelton

Nay

None

Mayor Underwood declared the Ordinance adopted.

Amend the Pay Scale:

Motion was made by Danny Bryant, seconded by Dorothy Small, to amend the City's Pay Scale. Upon roll call, the following voted:

Aye

Danny Bryant, Tom Young, Dorothy Small, Michael Whisenant, Gwen Shelton and Marty Pepper

Nay

None

Mayor Underwood declared the motion approved.

City Cell Phone Policy:

Motion was made by Dorothy Small, seconded by Gwen Shelton, to approve the Cell Phone Policy. Upon roll call, the following voted:

Aye

Tom Young, Dorothy Small, Michael Whisenant, Gwen Shelton, Marty Pepper and Danny Bryant

Nay

None

Mayor Underwood declared the motion approved.

Resolution R-13-10:

Resolution R-13-10, a resolution entitled, "A Resolution Authorizing The City Of Fayetteville To Participate In The TML Risk Management Pool "Safety Partners" Loss Control Matching Grant", was considered. Said Resolution is as follows:

**CITY OF FAYETTEVILLE
RESOLUTION NO. R-13-10**

A RESOLUTION AUTHORIZING THE CITY OF FAYETTEVILLE TO PARTICIPATE IN THE TML RISK MANAGEMENT POOL "SAFETY PARTNERS" LOSS CONTROL MATCHING GRANT PROGRAM.

WHEREAS, the safety and well being of the employees of the City of Fayetteville are of the greatest importance; and

WHEREAS, all efforts shall be made to provide a safe and hazard-free workplace for the City of Fayetteville employees; and

WHEREAS, the TML Risk Management Pool seeks to encourage the establishment of a safe workplace by offering a "Safety Partners" Loss Control Matching Safety Grant Program; and

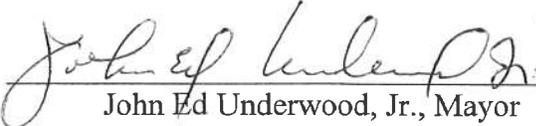
WHEREAS, the City of Fayetteville is now seeking to participate in this important program.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMAN OF FAYETTEVILLE, TENNESSEE:

SECTION 1. The City of Fayetteville is hereby authorized to submit application for the "Safety Partners" Loss Control Matching Safety Grant Program through the TML Risk Management Pool.

SECTION 2. The City of Fayetteville is further authorized to provide a matching sum to serve as a match for any monies provided by this grant.

Approved and adopted this the 9th day of July, 2013.



John Ed Underwood, Jr., Mayor

ATTEST:



Gregory Scott Collins, City Clerk

Motion was made by Danny Bryant, seconded by Dorothy Small, to adopt Resolution R-13-07. Upon roll call, the following voted:

Aye

Dorothy Small, Michael Whisenant, Gwen Shelton, Marty Pepper, Danny Bryant and Tom Young

Nay

None

Mayor Underwood declared the Resolution adopted.

Safety Grant Matching Funds:

Motion was made by Gwen Shelton, seconded by Marty Pepper, to approve the matching fund for the Safety Grant (Resolution R-13-07) for One Thousand, Five Hundred Dollars (\$1,500.00). Upon roll call, the following voted:

Aye

Michael Whisenant, Gwen Shelton, Marty Pepper, Danny Bryant, Tom Young and Dorothy Small

Nay

None

Mayor Underwood declared the motion approved.

Ordinance No. 2013-08:

Ordinance No. 2013-08, an ordinance entitled, "An Ordinance Amending Title 11 Chapter 8 Of The Fayetteville Municipal Code To Provide For The Regulation Of The Sale Of Ephedrine and Pseudoephedrine Within The Municipal Boundaries Of The City Of Fayetteville." Said Ordinance is as follows:

ORDINANCE NO. 2013-08

**AN ORDINANCE AMENDING TITLE 11, CHAPTER 8 OF
THE FAYETTEVILLE MUNICIPAL CODE TO PROVIDE
FOR THE REGULATION OF THE SALE OF EPHEDRINE
AND PSEUDOEPHEDRINE WITHIN THE MUNICIPAL
BOUNDARIES OF THE CITY OF FAYETTEVILLE**

WHEREAS, the Mayor and Board of Aldermen of the City of Fayetteville recognize that the clandestine manufacture of the illegal drug methamphetamine endangers citizens and residents of the City of Fayetteville; and

WHEREAS, clean-up costs that must be expended when a methamphetamine manufacturing operation is discovered are high and create a hardship on the City of Fayetteville; and

WHEREAS, products containing ephedrine/pseudoephedrine are routinely used in the illegal manufacture of methamphetamine; and

WHEREAS, unduly restricting the sale and purchase of ephedrine/pseudoephedrine has been shown to be an effective deterrent to the manufacture of methamphetamine in that community; and

WHEREAS, the Mayor and Board of Aldermen of the City of Fayetteville believe there is a current and immediate threat to the public health, safety and welfare in that the manufacture, transportation, possession and sale of methamphetamine is inherently dangerous, and that the chemicals, compounds, substances, by-products and wastes associated with the manufacture of methamphetamine are both dangerous and injurious to the health, safety and welfare of the citizens of the City of Fayetteville; and

WHEREAS, the Mayor and Board of Aldermen of the City of Fayetteville believe and hereby find and determine that the limitations hereinafter adopted will assist the City in its

efforts to combat the criminal activity associated with the illegal manufacture of methamphetamine in the City of Fayetteville, and will not unduly restrict legitimate businesses from lawfully selling such products or legitimate customers from lawfully purchasing such products; and

WHEREAS, the Mayor and Board of Aldermen of the City of Fayetteville deem it to be in the best interests of the City and its citizens to amend Title 11, Chapter 8 of the Fayetteville Municipal Code as follows:

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF FAYETTEVILLE, TENNESSEE, AS FOLLOWS:

Section 1. Title 11, Chapter 8 of the Fayetteville Municipal Code is hereby amended to add the following:

Section 11-807. Ephedrine Control.

(a) **Definitions:** As used in this Section, the following words and/or phrases shall have the following meanings as set forth herein.

Ephedrine. All forms of ephedrine, pseudoephedrine, ephedrine hydrochloride, pseudoephedrine hydrochloride, phenylpropanolamine and all other combinations of these chemicals.

Ephedrine Produce. Any product that contains ephedrine, its salts, isomers, or salts of isomers, as its sole active ingredient or in combination with less than therapeutically significant qualities of other active ingredients.

Person. Any individual, corporation, partnership, trust, limited liability company, firm, association or other entity selling an ephedrine product to customers.

Sell. To knowingly furnish, give away, exchange, transfer, deliver, surrender or supply, whether for monetary gain or not.

Package. Any number of pills, tablets, capsules, caplets or individual units of a substance held within a container intended for sale.

(b) **Restrictions on Public Access to Ephedrine Products.**

It shall be illegal to sell, deliver, or distribute ephedrine, pseudoephedrine, their salts, their optical isomers or salts of their optical isomers, to any person unless that person has a valid prescription to obtain the same from a physician or other healthcare professional licensed to issue prescriptions to be filled by a licensed pharmacist in the State of Tennessee.

(c) **Exceptions.**

The prohibition contained in subsection (b) shall not apply to the sale of animal feed containing ephedrine or dietary supplement products containing naturally occurring or herbal Ephedra and extract of Ephedra.

(d) **Reporting Theft of Ephedrine Products.**

(1) Any person who sells ephedrine products and who discovers a theft, disappearance or other loss of an ephedrine product shall report the theft, disappearance, or loss in writing to the Fayetteville Police Department within twenty-four (24) hours of such discovery.

(2) Any person who sells ephedrine products shall report to the Fayetteville Police Department any difference between the quantities of ephedrine products shipped and the quantity of ephedrine products received within 24 hours of discovery.

(e) **Penalty and Injunctive Relief.**

(1) Each violation of this ordinance shall be considered a separate offense.

(2) The City Administrator may institute an action for injunctive relief to enforce the provisions of this ordinance.

(3) Every act or omission constituting a violation of any of the provisions of this ordinance by any agent or employee of any person shall be deemed and held to be the act of such person, and said person shall be punishable in the same manner as if said act or omission had been done or omitted by him/her/it personally, provided such an act or omission was within the scope of employment or the scope of authority of such agent or employee.

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed insofar as they do not conflict.

Section 3. Nothing contained herein shall in any manner be deemed or construed to alter, modify, supersede, supplant or otherwise nullify any other Ordinance of the City of the requirements thereof whether or not relating to or in any manner connected with the subject matter hereof, unless expressly set forth herein.

Section 4. If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respect and continue to be effective, and each and every remaining provision hereof shall be valid and shall be enforced to the fullest extent permitted by law, it being the intent of the Mayor and Board of Aldermen to enact this Ordinance without invalid or unenforceable provisions. In the event of a subsequent change in the applicable law so that the provision that had been held invalid is no longer valid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding.

Section 5. Civil Penalty. Any City of Fayetteville sworn law enforcement officer is hereby empowered to issue a citation to any person for any violation of the provisions of this section. Citations so issued may be delivered in person to the violator or may be delivered by registered mail to the person so charged if the person cannot be readily found. Any citation so delivered or mailed shall direct the alleged violator to appear in City Court on a specific date and

at a specific hour stated upon the face of the citation. The time so specified shall be not less than seventy-two (72) hours after its delivery in person to the alleged violator, or not less than ten (10) day so mailing the same. Citations issued for a violation of any of the provisions of this section shall be tried in the City Court. The City Court Judge shall determine whether a defendant has committed a violation of this section. The City shall bear the burden of proof by a preponderance of the evidence. If a defendant pleads guilty or “no contest” to the alleged violation, or is found guilty by the City Court Judge, the City Court Judge shall assess a civil monetary fine as a penalty against any person found to have violated any of the provisions of this section, said fine to be in an amount of fifty dollars (\$50.00) for each violation. Each day of violation shall be deemed a separate violation. Each separate package containing any substance containing any ephedrine as defined herein shall be deemed a separate violation. In action to the civil monetary find, any defendant who pleads guilty or “no contest” to the alleged violation, or who is found guilty by the City Court Judge, shall be assessed court costs as provided by law. Appeal may be had as provided by law.

Approved and adopted this the _____ day of _____, 2013.

John Ed Underwood, Jr., Mayor

ATTEST:

City Clerk

Motion was made by Danny Bryant, to postpone Ordinance 2013-08 until August 2013 Board of Mayor and Alderman Meeting. The motion died, due to the lack of a second.

Ordinance 2013-08 died, due to the lack of a motion.

Motion was made by Dorothy Small, seconded by Marty Pepper, to hold an informational meeting on July 22, 2013, at 9:00 a.m. to hear from Tennessee Bureau of Investigation (TBI) Agent Tommy Farmer. Upon roll call, the following voted:

Aye

Gwen Shelton, Marty Pepper, Danny Bryant, Tom Young, Dorothy Small and Michael Whisenant

Nay

None

Mayor Underwood declared the motion approved.

Parade Permits:

1. Motion was made by Gwen Shelton, seconded by Marty Pepper, to approve the parade permit for the "Christmas in July Blood Drive" for July 19, 2013. Upon roll call, the following voted:

Aye

Marty Pepper, Danny Bryant, Tom Young, Dorothy Small, Michael Whisenant and Gwen Shelton

Nay

None

Mayor Underwood declared the motion approved.

2. Motion was made by Gwen Shelton, seconded by Dorothy Small, to approve the parade permit for the Spooky Tails 2013 Run on October 12, 2013. Upon roll call, the following voted:

Aye

Danny Bryant, Tom Young, Dorothy Small, Michael Whisenant, Gwen Shelton and Marty Pepper

Nay

None

Mayor Underwood declared the motion approved.

3. Motion was made by Michael Whisenant, seconded by Gwen Shelton, to approve the parade permit for the 8th Annual Trail of Tears Re-Enactment Walk on October 26, 2013. Upon roll call, the following voted:

Aye

Tom Young, Dorothy Small, Michael Whisenant, Gwen Shelton, Marty Pepper and Danny Bryant

Nay

None

Mayor Underwood declared the motion approved.

4. Motion was made by Dorothy Small, seconded by Gwen Shelton, to approve the parade permit for the Kiwanis Reindeer Run on November 9, 2013. Upon roll call, the following voted:

Aye

Dorothy Small, Michael Whisenant, Gwen Shelton, Marty Pepper, Danny Bryant and Tom Young

Nay

None

Mayor Underwood declared the motion approved.

Board Appointments:

1. Motion was made by Dorothy Small, seconded by Marty Pepper, to reappoint Janine Wilson to the FPU Board. Upon roll call, the following voted:

Aye

Michael Whisenant, Gwen Shelton, Marty Pepper, Danny Bryant, Tom Young and Dorothy Small

Nay

None

Mayor Underwood declared the motion approved.

2. Motion was made by Gwen Shelton, seconded by Marty Pepper, to reappoint Glenn Oldham to the FPU Board. Upon roll call, the following voted:

Aye

Gwen Shelton, Marty Pepper, Danny Bryant, Tom Young, Dorothy Small and Michael Whisenant

Nay

None

Mayor Underwood declared the motion approved.

3. Motion was made by Dorothy Small, seconded by Danny Bryant, to reappoint Danny Shelton to the Board of Appeals. Upon roll call, the following voted:

Aye

Marty Pepper, Danny Bryant, Tom Young, Dorothy Small, Michael Whisenant and Gwen Shelton

Nay

None

Mayor Underwood declared the motion approved.

4. Motion was made by Michael Whisenant, seconded by Dorothy Small, to appoint Myron Parks to the Planning Commission. Upon roll call, the following voted:

Aye

Danny Bryant, Tom Young, Dorothy Small, Michael Whisenant, Gwen Shelton and Marty Pepper

Nay

None

Mayor Underwood declared the motion approved.

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

Mayor

Assistant City Clerk