



**City of New Fairview
City Council
Regular Meeting
999 Illinois Lane
Monday, March 6, 2023, at 7:00 pm**

WORK SESSION

1. **Call to Order and Determination of Quorum**
2. **Receive and consider applications for appointment as Municipal Court Judge and Municipal Court Prosecutor.**
3. **Executive Session:** Recess to Executive Session to discuss matters relating to real property pursuant to §551.072, Texas Government Code; deliberation of economic development negotiations pursuant to §551.087, Texas Government Code; discuss personnel matters pursuant to §551.074, Texas Government Code; discuss IT network or critical infrastructure security pursuant to §551.089, Texas Government Code; and to consult with the City Attorney pursuant to §551.071, Texas Government Code. The Council may go into closed session at any time when permitted by Chapter 551, Texas Government Code or Chapter 418, Texas Tax Code.
4. **Adjournment**

REGULAR SESSION

1. **Call to Order and Determination of Quorum**
2. **Pledge to the Flags.**
 - A. **United States of America**
 - B. **Texas Flag Honor the Texas Flag, I pledge allegiance to thee, Texas, one state under God, one and indivisible.**
3. **Announcements & Special Recognitions:** The agenda shall provide a time when proclamations, recognitions, general reports, and updates may be presented by the City Council.
4. **City Administrator's Report:** The City Administrator's Report may provide information on status of current city projects and other projects affecting the City, meetings and actions of the city's boards and commissions, upcoming local community events, including but not limited to departmental operations and capital improvement project status. No action will be taken with respect to this report.
5. **Public Comment:** The City Council invites persons with comments or observations related to city issues, projects, or policies to briefly address the City Council. Anyone wishing to speak should sign-in with the City Secretary before the beginning of the City Council Meeting. In order to expedite the flow of business and to provide all citizens the opportunity to speak, there is a three-minute limitation on

any person addressing the City Council. State law prohibits the City Council from discussing or taking action on any item not listed on the posted agenda.

6. **Consent Agenda:** All matters as Consent Agenda are considered to be routine by the City Council and will be enacted by one motion. An item can be removed from the consent agenda by the City Administrator, Mayor, or any member of the City Council and will be considered after approval of the consent agenda.
 - A. **Approve the City Council Meeting minutes for February 20, 2023.**
7. **New Business:** All matters listed in New Business will be discussed and considered separately.
 - A. **Receive, consider, and act on a Resolution awarding the Drainage Improvement project for Stewart Street, and the City Park located at 150 Stewart Street, to 3H Concrete Inc. for a total of \$23,690, and establish a not-to-exceed project contingency of \$2,400.**
 - B. **Receive, consider, and act on an Ordinance amending Chapter 5, Business Regulations, by adding Article 5.07, Home Solicitor Registration, Sections 5.01.001- 5.07.011, creating a vendor/solicitation registration program.**
 - C. **Receive, consider, and act on appointing members to the Parks and Recreation Board and the Keep New Fairview Beautiful Committee.**
8. **Executive Session:** Recess to Executive Session to discuss matters relating to real property pursuant to §551.072, Texas Government Code; deliberation of economic development negotiations pursuant to §551.087, Texas Government Code; discuss personnel matters pursuant to §551.074, Texas Government Code; discuss IT network or critical infrastructure security pursuant to §551.089, Texas Government Code; and to consult with the City Attorney pursuant to §551.071, Texas Government Code. The Council may go into closed session at any time when permitted by Chapter 551, Texas Government Code or Chapter 418, Texas Tax Code. Before going into closed session, a quorum of the Council must be present, the meeting must be convened as an open meeting pursuant to proper notice, the presiding officer must announce that a closed session will be held and must identify the sections of Chapter 551 or 418, Texas Government Code authorizing the closed session.
9. **Return to Open Session:** Discuss and take appropriate action, if any, resulting from the discussions conducted in Executive Session.
10. **Mayor & Council Member Announcements:** The City Council may hear or make reports of community interest provided no action is taken or discussed. Community interest items may include information regarding upcoming schedules of events, honorary recognitions, and announcements involving imminent public health and safety threats to the city. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting.

11. Adjournment

I, the undersigned authority, do hereby certify the above notice of the meeting of the City Council of New Fairview, is a true and correct copy of the said notice that I posted on the official posting place at New Fairview City Hall, FM 407, New Fairview, Texas, a place of convenience and readily accessible to the general

public at all times, and on its website, said notice being posted this 3rd day of March, 2023 at 5:00 PM at least 72 hours proceeding the meeting time.


Brooke Boller, City Secretary

SEAL:



This facility is wheelchair accessible; parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary at City Hall 817-638-5366 or fax 817-638-5369 or by email at citysecretary@newfairview.org for further information.

CITY COUNCIL AGENDA MEMO

Prepared By: Susan Greenwood, Municipal Court Administrator

March 6, 2023

Municipal Court Judge and Prosecutor

DESCRIPTION:

Receive a report and hold a discussion of qualified licensed attorneys that are interested in being appointed as our municipal court judge and prosecutor.

BACKGROUND INFORMATION:

The City Council had a work session discussion on becoming a court of record February 6, 2023, meeting. Staff was directed to bring back an ordinance for the creation of a Municipal Court of Record.

On February 20, 2023, the council approved Ordinance 2023-04-106 amending Chapter 2, "Administration and Personnel", Article 2.06, "Municipal Court", Division 1, "Generally", of the City of New Fairview Code of Ordinances, by repealing Division 1 in its entirety and adding a new "Division 1", establishing the Municipal Court as a Court of Record.

As required when becoming a court of record, it requires the Judge to have Juris Doctorate, they must be a licensed attorney in the State of Texas and in good standing with the Texas State Bar, preferred to have been practicing law for at least two (2) years prior to appointment, with a preference for five (5) years of experience the majority of which is with criminal law and must be a qualified voter and hold a valid Texas driver's license.

The City of New Fairview Municipal Court Judge is a contract position (non-employee) and appointed by a majority vote of the City Council. The Judge's term is by contract only. The Judge is considered an Independent Contractor and reports to the City Administrator, and/or City Council.

The Prosecutor must be appointed by the Council in order to prosecute and have a Juris Doctorate with a license to practice law in the State of Texas and in good standing with the Texas State Bar. Staff has advertised the position of the Municipal Court Judge and the Municipal Court Prosecutor on TML and have reached out to several Municipal Court Judges and Prosecutor's to bring in qualified applicants.

FINANCIAL CONSIDERATION:

None, discussion only.

RECOMMENDED MOTIONS:

None, discussion only.

ATTACHMENT(S):

Resumes for Judge

- Caprice Garcia
- Gregg Shalan
- JC Petty
- Bojorquez Law Firm

Resumes for Prosecutor

- Karen Alexander
- Antonio Gabilondo
- Bojorquez Law Firm
- Wyatt Hamilton Findlay, PLLC



**City of New Fairview
City Council Minutes
Monday, February 20, 2023**

THE CITY COUNCIL CONVENED INTO A CITY COUNCIL MEETING THE SAME BEING OPEN TO THE PUBLIC, THE 20TH DAY OF FEBRUARY IN THE NEW FAIRVIEW CITY HALL AND NOTICE OF SAID MEETING GIVING THE TIME PLACE AND SUBJECT THEREFORE HAVING BEEN POSTED AS PRESCRIBED BY ARTICLE 5 OF THE TEXAS GOVERNMENT CODE WITH THE FOLLOWING MEMBERS PRESENT:

CITY COUNCIL

**Mayor John Taylor
Mayor Pro Tem Steven King
Place 1 Councilman Harvey Lynn Burger
Place 2 Councilman Peter Kozlowski
Place 3 Councilman Walter Clements
Place 5 Councilman Richard Greene**

City Staff

**John Cabrales Jr, City Administrator
Brooke Boller, City Secretary
Susan Greenwood, Assistant City Secretary
Roberta (Robin) Cross, City Attorney (Virtual)**

WORK SESSION

- 1. Call to Order and Determination of Quorum (Work Session called to order by Mayor John Taylor at 7:00pm; Roll Call with the above-mentioned names.)**
- 2. Receive a report and hold a discussion regarding a vendor/solicitation permit.
Council received a presentation by City Administrator John Cabrales Jr.
The Permit would only cover door to door not stationary solicitation.
City staff was directed to move forward with an Ordinance and permit.**
- 3. Receive a report and hold a discussion regarding a Strategic Plan for the City, including a Vision and Mission Statement, Core Values, Strategic Goals and Objectives, and the results of the 2022 Citizen Satisfaction Survey.
Council received a presentation by City Administrator John Cabrelas Jr going over the result of the Survey.
City staff was directed to move forward.**
- 4. Receive a report and hold a discussion regarding an agreement for the City's plan review and building inspection services.**

Council received an update from City Administrator John Cabrales Jr. City staff was instructed to move forward with a PSA with Atlas Muni Services.

5. Adjournment

Motion: Councilman Walter Clements

Second: Councilman Richard Greene

Vote: All in Favor

Results: Work Session was adjourned at 8:17pm

REGULAR SESSION

1. Call to Order and Determination of Quorum (**Work Session called to order by Mayor John Taylor at 8:23pm; Roll Call with the above-mentioned names.**)
2. Pledge to the Flags.
 - A. United States of America
 - B. Texas Flag Honor the Texas Flag, I pledge allegiance to thee, Texas, one state under God, one and indivisible.
3. Announcements & Special Recognitions: The agenda shall provide a time when proclamations, recognitions, general reports, and updates may be presented by the City Council.
4. City Administrator's Report: The City Administrator's Report may provide information on status of current city projects and other projects affecting the City, meetings and actions of the city's boards and commissions, upcoming local community events, including but not limited to departmental operations and capital improvement project status. No action will be taken with respect to this report.
5. Public Comment: The City Council invites persons with comments or observations related to city issues, projects, or policies to briefly address the City Council. Anyone wishing to speak should sign-in with the City Secretary before the beginning of the City Council Meeting. In order to expedite the flow of business and to provide all citizens the opportunity to speak, there is a three-minute limitation on any person addressing the City Council. State law prohibits the City Council from discussing or taking action on any item not listed on the posted agenda.
6. Consent Agenda: All matters as Consent Agenda are considered to be routine by the City Council and will be enacted by one motion. An item can be removed from the consent agenda by the City Administrator, Mayor, or any member of the City Council and will be considered after approval of the consent agenda.
 - A. Approve the City Council Meeting minutes for February 3 & 6, 2023.
 - B. Approve the January 2023 Financial Report

Motion: Councilman Richard Greene
Second: Councilman Peter Kozlowski
Vote: All in Favor
Result: All consent items were approved.
7. New Business: All matters listed in New Business will be discussed and considered separately.

- A. Receive, consider, and act on a Resolution authorizing the City Administrator to enter into an agreement with Pacheco Koch Engineers, LLC for the survey and engineering for Latham Lane roadway in Chisholm Hills and drainage reconstruction for a CDBG-funded project.

Motion: Councilman Richard Greene

Second: Councilman Walter

Vote: All in Favor

Result: Council approved a Resolution authorizing the City Administrator to enter into an agreement with Pacheco Koch, Consulting Engineers, LLC for the survey and engineering for roadway and drainage reconstruction for a CDBG funded project.

- B. Receive, consider, and act on an Ordinance amending Chapter 2, "Administration and Personnel", Article 2.06, "Municipal Court", Division 1, "Generally", of the City of New Fairview Code of Ordinances, by repealing Division 1 in its entirety and adding a new "Division 1", establishing the Municipal Court as a Court of Record.

Motion: Councilman Walter Clements

Second: Councilman Richard Greene

Vote: All in Favor

Result: Council approved an Ordinance amending Chapter 2, "Administration and Personnel", Article 2.06, "Municipal Court", Division 1, "Generally", of the City of New Fairview Code of Ordinances, by repealing Division 1 in its entirety and adding a new "Division 1", establishing the Municipal Court as a Court of Record.

- C. Receive, consider, and act on a Resolution adopting the City's Legislative Priorities.

Motion: Councilman Richard Greene

Second: Mayor Pro Tem Steven King

Vote: All in Favor

Result: Council approved a Resolution adopting the City's Legislative Priorities.

- D. Receive, consider, and act on a Resolution adopting a Social Media Policy for Elected and Appointed City Officials.

Motion: Councilman Walter Clements

Second: Mayor Pro Tem Steven King

Vote: All in Favor

Result: Council approved a Resolution adopting a Social Media Policy for Elected and Appointed City Officials.

8. **Executive Session:** Recess to Executive Session to discuss matters relating to real property pursuant to §551.072, Texas Government Code; deliberation of economic development negotiations pursuant to §551.087, Texas Government Code; discuss personnel matters pursuant to §551.074, Texas Government Code; discuss IT network or critical infrastructure security pursuant to §551.089, Texas Government Code; and to consult with the City Attorney pursuant to §551.071, Texas Government Code. The Council may go into closed session at any time when permitted by Chapter 551, Texas Government Code or Chapter 418, Texas Tax Code. Before going into closed session, a quorum of the Council must be present, the meeting must be convened as an open meeting pursuant to proper notice, the presiding officer must announce that a closed session will be held and must identify the sections of Chapter 551 or 418, Texas Government Code authorizing the closed session.

- A. § 551.071(1): Consultation with the City Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act regarding: Employment Agreement for John Cabrales, Jr.
- B. §551.074: (a) to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee: Employment Agreement for John Cabrales, Jr.

Council broke for executive session at 9:14pm.

- 9. **Return to Open Session:** Discuss and take appropriate action, if any, resulting from the discussions conducted in Executive Session.

Council returned from executive session at 9:28pm.

- 10. **Mayor & Council Member Announcements:** The City Council may hear or make reports of community interest provided no action is taken or discussed. Community interest items may include information regarding upcoming schedules of events, honorary recognitions, and announcements involving imminent public health and safety threats to the city. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting

- 11. Adjournment

Motion: Councilman Walter Clements

Second: Councilman Richard Greene

Vote: All in Favor

Result: Work Session was adjourned at 9:33pm

MINUTES APPROVED ON THIS, THE 6TH DAY OF MARCH 2023

John Taylor, Mayor

Brooke Boller, City Secretary



CITY COUNCIL AGENDA MEMO

Prepared By: John Cabrales Jr, City Administrator

March 6, 2023

Bid Award for Drainage Improvements

DESCRIPTION:

Receive, consider, and act on a Resolution awarding the Drainage Improvement project for Stewart Street, and the City Park located at 150 Stewart Street, to 3H Concrete Inc. for a total of \$23,690, and establish a not-to-exceed project contingency of \$2,400.

BACKGROUND INFORMATION:

In December 2020, the City issued \$2,930,000 in Certificates of Obligations for the use to reconstruct drainage and roads in the Chisholm Hills subdivision. The City worked with our engineering firm, Pacheco Koch, and bid out the road project and the City awarded the contract to Jagoe-Public. The project was scaled back due to funding issues and the total cost for the project was \$2,867,415, not including engineering and design (\$294,903) and land acquisition costs. As of December 2022, this project has been completed.

Stewart Street was included in the reconstruction contract with Jagoe-Public. However, approximately 200 feet of the eastern end of Stewart Street was not included so the drainage and street reconstruction is still needed. On January 16, 2023, the City Council approved a Project Agreement with Wise County that includes the grinding of the old asphalt, applying base material, and laying asphalt to Wilson Court, Creasser Lane, this section of Stewart Street, and the parking lot of the new park. Wise County Commissioner Precinct 1, Biff Hayes is supportive of the City's request and had the Commissioner's Court approve the Project Agreement. However, the County will not do any of the drainage work, only the road and parking lot paving.

On July 18, 2022, the City Council approved a contract for the construction of the City's first park. The park is being partially funded through a Texas Parks & Wildlife Department Local Park Grant. The entrance to the park parking lot is off this unimproved section of Stewart Street, and the storm water for a significant portion of Stewart Street runs off onto the park parking lot and the area where the park pavilion and playground are going to be reconstructed. In discussions with the City Engineer, Ryley Paroulek with Westwood, we will need to address the drainage on

Stewart Street, and along the western end of the park to prevent stormwater runoff from flowing on the parking lot and the pavilion and playground areas. This work will need to be done as soon as possible so that the area will be ready for when Wise County begins the road reconstruction per the approved Project Agreement.

Staff obtained three (3) quotes for the drainage work needed on Stewart Street and the city park. Attached are the quotes and 3H Concrete Inc. came in with the low bid.

Staff recommends approval of the Resolution.

FINANCIAL CONSIDERATION:

The low quote was 3H Concrete Inc. for a total of \$23,690. Staff is also asking for a not-to-exceed project contingency of \$2,400. On September 6, 2022, the City Council awarded a contract to JR West Texas Construction for drainage improvements to Wilson Court and Creasser Lane in the Chisholm Hills subdivision. This contract and project were later amended to remove unneeded driveway culvert work, resulting in a surplus of \$23,750. This surplus will be applied to complete the paving of Wilson and Creasser, and reduce the amount needed to come from the current Capital Improvement Projects (CIP) budget to complete the paving of these streets. The savings to the CIP budget will be used to pay for this Stewart Street and Park drainage project.

RECOMMENDED MOTIONS:

I move to **Approve/Deny** a Resolution awarding the Drainage Improvement project for Stewart Street and the City Park located at 150 Stewart Street, to 3H Concrete Inc. for a total of \$23,690, and establish a not-to-exceed project contingency of \$2,400.

ATTACHMENT(S):

1. Quote
2. Resolution 202303-02-121

STEWART DRIVEWAYS AND DITCH IMPROVEMENTS COST ESTIMATE

				3H Concrete Inc.		JR West Texas Concrete		Tex-Pro Construction	
	ITEM	UNIT	QTY	UNIT PRICE	ESTIMATE	UNIT PRICE	ESTIMATE	UNIT PRICE	ESTIMATE
1	18" SET 4:1 (P)	EA	2	\$ 785.00	\$ 1,570.00	\$ 1,150.00	\$ 2,300.00	\$ 1,500.00	\$ 3,000.00
2	18" CMP	LF	22	\$ 110.00	\$ 2,420.00	\$ 60.00	\$ 1,320.00	\$ 150.00	\$ 3,300.00
3	18" CMP BAND	EA	1	\$ 215.00	\$ 215.00	\$ 60.00	\$ 60.00	\$ 500.00	\$ 500.00
4	DRIVEWAY GRAVEL	SY	40	\$ 53.75	\$ 2,150.00	\$ 60.00	\$ 2,400.00	\$ 50.00	\$ 2,000.00
5	ADJUST EX. 18" SET	EA	1	\$ 2,000.00	\$ 2,000.00	\$ 1,500.00	\$ 1,500.00	\$ 2,000.00	\$ 2,000.00
6	UNCLASSIFIED DITCH EXCAVATION	CY	120	\$ 34.25	\$ 4,110.00	\$ 70.00	\$ 8,400.00	\$ 30.00	\$ 3,600.00
7	DITCH GRADING	LF	500	\$ 8.00	\$ 4,000.00	\$ 15.00	\$ 7,500.00	\$ 25.00	\$ 12,500.00
8	TREE REMOVAL (8"-10" HACKBERRY)	EA	3	\$ 375.00	\$ 1,125.00	\$ 800.00	\$ 2,400.00	\$ 800.00	\$ 2,400.00
9	HYDROMULCH SEEDING	SY	650	\$ 4.00	\$ 2,600.00	\$ 1.25	\$ 812.50	\$ 10.00	\$ 6,500.00
10	MOBILIZATION AND OVERHEAD	LS	1	\$ 3,500.00	\$ 3,500.00	\$ -	\$ -	\$ -	\$ -
				TOTAL	\$ 23,690.00	TOTAL	\$ 26,692.50	TOTAL	\$ 35,800.00



**CITY OF NEW FAIRVIEW, TEXAS
RESOLUTION No. 202303-02-121**

A RESOLUTION AWARDING THE DRAINAGE IMPROVEMENT PROJECT CONTRACT FOR STEWART STREET AND THE CITY PARK LOCATED AT 150 STEWART STREET, TO 3H CONCRETE, INC. FOR A TOTAL OF \$23,690, AND ESTABLISH A NOT-TO-EXCEED PROJECT CONTINGENCY OF \$2,400 AND FURTHER AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE THE NECESSARY CONTRACT DOCUMENTS FOR THE SAME .

WHEREAS, The City Council on December 2020, the City issued \$2,930,000 in Certificates of Obligation to reconstruct drainage and roads in the Chisholm Hills subdivision; and

WHEREAS, The City worked with its contracted engineering firm, Pacheco Koch for design specifications, and bid out the road project, with the City awarding the construction contract to Jagoe-Public. While the majority of Stewart Street was included in the reconstruction contract with Jagoe-Public, two hundred feet of the street’s eastern end were excluded and so still require completion; and

WHEREAS, Council later awarded another construction project contract to JR West Texas Construction for drainage improvements to Wilson Court and Creasser Lane, Chisolm Hills subdivision on September 6, 2022. This contract and project were later amended to remove unneeded driveway culvert work, resulting in a surplus of \$23,750. This surplus will be applied to complete the paving of Wilson and Creasser, and reduce the amount needed to come from the current Capital Improvement Projects (CIP) budget to complete the paving of these streets. The savings to the CIP budget will be used to pay for this Stewart Street and Park drainage project.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NEW FAIRVIEW, TEXAS:

That the City Administrator is hereby authorized to execute a construction Contract Agreement, in an amount not to exceed \$23,690, with a contingency amount of \$2,400.

PRESENTED AND PASSED on this 6th day of March, 2023, at a Regular meeting of the New Fairview City Council.

JOHN TAYLOR, Mayor

ATTEST:

BROOKE BOLLER, City Secretary



**CITY COUNCIL
AGENDA MEMO**

Prepared By: John Cabrales Jr, City Administrator

March 6, 2023

Vendor/Solicitor's Permit

DESCRIPTION:

Receive, consider, and act on an Ordinance amending Chapter 5, Business Regulations, by adding Article 5.07, Home Solicitor Registration, Sections 5.01.001- 5.07.011, creating a vendor/solicitation registration program.

BACKGROUND INFORMATION:

Peddlers, solicitors, and transient merchants can provide benefits and challenges to cities and their residents. They provide an opportunity to bring interested parties (such as buyers and sellers, or donors and charitable, religious, or nonprofit organizations) together. However, they can also cause problems not typically associated with permanently established local businesses.

Bad experiences can lead disgruntled home and business owners to contact City Council members, requesting relief, to include:

- Protection from fraud, scam artists, and other unwanted intrusions.
- Prevention of crimes and unlawful activities.
- A direct city response to their uneasiness and need for safety in the community.

State and local governments have used different terms to describe individuals who travel city-to-city or door-to-door offering products and services for sale, or expressing ideological and religious beliefs. Among the most commonly used names for those participating in these general practices include Solicitor, Peddler, Transient merchant, Hawker, Canvasser, Advocate, Itinerant vendor, Hucksters, Proselytizers, Door-to-door salespersons, Drummers, Missionaries

Such terms (and others) are generally defined by state statute or city ordinance. Language is often used interchangeably but may be applied differently. However, despite the use of these various terms for generally similar practices, there are fundamental differences in actual operations that affect a city's ability to regulate a particular type of activity.

A solicitor is any person who goes from house to house or from place to place in the city soliciting, selling, or taking orders for any services, goods, wares, or merchandise. Door to door solicitation is

currently an unregulated activity in the City of New Fairview and does not currently require a home solicitor permit.

Texas cities have the authority, both specifically within the state statutes and under their general police powers, to regulate the activities of peddlers, solicitors, and transient merchants. However, this authority is not absolute. Regulations must be “reasonable” and not violate any rights protected by the state or federal constitutions. Some cities require individuals who peddle, sell, solicit, or take orders for any services, wares, merchandise, or goods, or any article of value, from door to door to first obtain a Solicitation permit from the City.

Some solicitation activities have Federal protection through the 1st Amendment of the United States Constitution, as well as protections through Texas State law and the City may only regulate certain aspects of these activities and cannot outright prohibit them. Religious and political activities and their representatives are generally exempt from permit requirements.

Peddlers.

Also commonly known as hawkers, peddlers carry the actual products offered for sale from place to place. Cities generally have the authority to either license or register peddlers who wish to operate within the city’s jurisdiction. The licensing or regulation of peddlers usually does not raise constitutional concerns under the Commerce Clause of the US Constitution, because both product delivery and payment occur during the initial interaction. With peddling, goods are not typically shipped into the local jurisdiction for delivery at a later date and time.

Solicitor.

A solicitor also engages in door-to-door activities. However, unlike a peddler, a merchant solicitor goes from place to place and only obtains orders for goods or services that will be delivered or performed at a later date. Solicitors do not carry the merchandise they are offering for sale with them. Most often, a solicitor will use samples, or carry catalogs illustrating the goods or services available.

Canvasser.

Although this memo often uses the terms “solicitors” and “solicitation” interchangeably with “canvassers” and “canvassing,” canvassing refers to the practice of going from location to location with the primary purpose of furthering religious, social, or political advocacy. Unlike solicitors, financial profit is not the canvassers’ primary motivation. A canvasser (sometimes known as an advocate) may:

- Ask for signatures on a petition.
- Request support for a political candidate or position.
- Espouse religious beliefs or causes.
- Seek donations, organization memberships, or other financial support for their religious, social, or political organizations.
- Take orders for goods, to be delivered later, to raise money for a non-profit or other charitable organization’s operations.

The regulation of these types of door-to-door advocates involves many basic constitutional rights, including a canvasser’s freedom of speech and possibly freedom of religion, a solicitor’s Commerce Clause protections, and a homeowner’s privacy and property rights.

Although statutory cities are specifically provided the power to “restrain or license and regulate” solicitors and canvassers (most home rule charter cities have similar language within their charters), most legal authorities suggest their authority is actually more limited.

The major restriction on local licensing of home solicitors is the Commerce Clause of the U.S. Constitution. The Texas Attorney General has advised that because states are prohibited from interfering with interstate commerce, local governments cannot collect license fees from solicitors who take orders in one state for goods to be delivered in the future from another state. In contrast, a municipal ordinance requiring all solicitors, including interstate merchants, to simply *register* with local authorities before engaging in their business activities may be a reasonable local regulation of interstate commerce.

And while most canvassing activities do not raise concerns under the Commerce Clause, these activities likely raise protections under the First Amendment. If the activity is pure advocacy (the expression of one’s views or religious principles), a city cannot impose a prior restraint, such as obtaining a license or registration before engaging in the activity. Unfortunately, it is less clear what regulations, if any, may be enacted when the canvassing involves the sale of goods and services that will be provided at a later date.

Any licensing or other city ordinances regulating transient merchants must apply uniformly to all transient dealers regardless of residence, locale, or otherwise. A volume of legal authority recognizes classifications based on the temporary nature of transient merchants as valid and finds that it is proper to distinguish between temporary enterprises and permanently established businesses.

The City’s interest in regulating door-to-door and transient merchant activities is generally two-fold: 1) to ensure residents’ privacy rights in their homes; and 2) To protect residents from fraud and other crimes. Regulations take different forms, from elaborate licensing schemes to more simple requirements such as registering with the city and agreeing to abide by time, place, and manner restrictions. Generally, city regulations should seek to control only the nuisance aspects of a particular type of business, not outlaw the activity completely.

On February 20, 2023, the City Council had a discussion regarding various options for the implementation of a solicitation program. Staff was directed to draft an ordinance for the creation of this program as a solicitation registration and draft the registration form. Staff was instructed to keep the cost down for this registration fee. As a result, there will be no fingerprinting or background check required of any applicant. Staff will print out an identification card and place in a plastic sleeve so that the public will be aware that an individual has registered with the City.

The Ordinance is attached.

FINANCIAL CONSIDERATION:

None, the costs are passed through to the applicant.

RECOMMENDED MOTIONS:

I move to **Approve/Deny** an Ordinance amending Chapter 5, Business Regulations, by adding Article 5.07, Home Solicitor Registration, Sections 5.01.001- 5.07.011, creating a vendor/solicitation registration program.

ATTACHMENT(S):

1. Ordinance 202303-01-107
2. Registration Form

AN ORDINANCE OF THE CITY OF NEW FAIRVIEW, TEXAS, AMENDING THE CITY CODE OF ORDINANCES, CHAPTER 5, BUSINESS REGULATIONS, BY ADDING ARTICLE 5.07, HOME SOLICITOR REGISTRATION, SECTIONS 5.01.001- 5.07.011 BY REGULATING DOOR-TO-DOOR SALE ACTIVITIES WITHIN CITY LIMITS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR AN EFFECTIVE DATE

Section One. Amendment to Municipal Code of Ordinances, Chapter 5, Business Regulations, Article 5.01 General Provisions, The City of New Fairview's Code of Municipal Ordinances, is hereby amended as follows, to add the following Sections:

Sec. 5-07.001 Purpose and findings.

- (a) The City Council finds that the City has received numerous and continuous complaints from citizens about persons going onto residential premises (including premises that contain conspicuous signs prohibiting solicitations) to solicit, sell, or take orders for goods and services and to distribute commercial printed matter; and:
 - (1) Those citizens have expressed concerns that such solicitations result in criminal activity (including burglary and fraud) and disturb the privacy of their homes;
 - (2) The City Council believes that establishing a registration program for those home solicitors will help protect the citizens against criminal activity, including, but not limited to, burglary and fraud, minimize the unwelcome disturbance of citizens and the disruption of their privacy and otherwise preserve the public health, safety, and welfare;
- (b) The City Council finds that the regulations of this article do not prevent door-to-door activity and that ample alternative channels of communication exist outside of the time limitations, including solicitation via telephone, electronic communication, public solicitation outside of the privacy of citizens' doorsteps, and solicitation via direct mail, television, radio, and internet.
- (c) The purpose of this article is to further the City's legitimate and compelling interest in securing City citizens' general health, safety and welfare by:
 - (1) Prohibiting door-to-door home solicitation during times when such activity is most intrusive and disruptive to citizens' privacy and the security of their homes;
 - (2) Regulating the manner in which door-to-door solicitation activity may occur so as to protect citizens in the privacy of their own homes from aggressive and intimidating practices; and
 - (3) Requiring home solicitors to register with the City and conspicuously display registration certificates while soliciting, so as to minimize deceptive practices, fraud and aid law enforcement in crime detection.

Sec. 5.07.002. - Violations; penalty.

- (a) A person who violates a provision of this article, or who fails to perform an act required of the person by this section, commits an offense. A person commits a separate offense for: (1) Each day

or portion of a day during which a violation is committed, permitted, or continued;(2)Each item placed, deposited, or distributed on residential premises in violation of this article; and(3)Each residential premises to which a home solicitation is conducted in violation of this article.(b)The penalties provided for in Section 5.07.002 are in addition to any other enforcement remedies and penalties which the City may have under City ordinances and State law.

Sec. 5-07.003. – Definitions

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

NON-COMMERICAL DOOR-TO-DOOR ADVOCATE. A person who goes door-to-door for the primary purpose of disseminating religious, political, social, or other ideological beliefs. For purpose of this ordinance, the term door-to-door advocate shall fall under the term solicitor and include door-to-door canvassing and pamphleteering intended for non-commercial purposes.

PEDDLER. A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement, for the purpose of offering for sale, displaying for exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise, or other personal property that the person is carrying or otherwise transporting. For purpose of this ordinance, the term peddler shall have the same common meaning as the term hawker.

PERSON. Any natural individual, group, organization, corporation, partnership, or similar association

REGULAR BUSINESS DAY. Any day during which the city hall is normally open for the purpose of conducting public business. Holidays defined by state law shall not be considered regular business days.

SOLICITOR. A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property, or services of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person's activity is to obtain or attempt to obtain orders as discussed above. For purposes of this ordinance, the term solicitor shall have the same meaning as the term canvasser.

TRANSIENT MERCHANT. A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering goods, wares, products, merchandise, or other personal property and who does not remain in any one location for more than fourteen (14) consecutive days.

Sec. 5.07.004 EXCEPTIONS TO DEFINITIONS.

For the purpose of this chapter, the terms PEDDLER, SOLICITOR, and TRANSIENT MERCHANT shall not apply to:

(A) Non-commercial door-to-door advocates. Nothing within this ordinance shall be interpreted to prohibit or restrict non-commercial door-to-door advocates. Person engaging in non-commercial door-to-door advocacy shall not be required to register as a solicitor under Section 7.

(B) Any person selling or attempting to sell at wholesale, any goods, wares, products, merchandise, or other personal property to a retail seller of the items being sold by the wholesaler.

(C) Any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products, such as baked goods or milk.

(D) Any person making deliveries of perishable food and dairy products to the customers on his or her established delivery route.

(E) Any person making deliveries of newspapers, newsletters, or other similar publications on an established customer delivery route, when attempting to establish a regular delivery route, or when publications are delivered to the community at large.

(F) Any person conducting the type of sale commonly known as garage sales, rummage sales, or estate sales.

(G) Any person participating in an organized multi-person bazaar or flea market.

(H) Any person conducting an auction as a properly licensed auctioneer.

(I) Any officer of the court conducting a court-ordered sale.

Exemption from these definitions shall not, for the scope of this chapter, excuse any person from complying with any other applicable statutory provision or requirement provided by another city ordinance.

Sec. 5.07.005 Delivery of notices.

Any written notice that the City is required to give any applicant or registrant under this article is deemed to be delivered:

(1) On the date the notice is hand delivered to the applicant or registrant; or

(2) Three days after the date the notice is placed in the United States mail with proper postage and properly addressed to the applicant or registrant at the address provided for the applicant or registrant in the most recent registration application.

Sec. 5.07.006. - Presumption of distribution of commercial printed matter.

Whenever commercial printed matter is placed, deposited, or distributed, or caused to be placed, deposited, or distributed, in violation of this article, it is presumed that the person named on the commercial printed matter is the person who committed the violation, either personally or through an agent.

Sec. 5.07.007. - Prohibitions.

(a) It is unlawful for a person 14 years of age or older to solicit an occupant of residential premises, unrequested:

(1) Without first registering and obtaining a certificate of registration and identification badge issued by the City in accordance with this article;

(2) Except between the hours of 9:00 a.m. and 7:00 p.m.;

(3) If the residence conspicuously displays at or near the primary entrance to the residence, a readily legible sign, bearing any of the words:

"NO TRESPASSING," "NO PEDDLERS," "NO ADVERTISEMENTS," "NO SOLICITATION," "NO HANDBILLS."

(4) At a location other than the primary entrance to the residence.

(b) It is unlawful for the registrant to allow any other person to use or wear their personal City-issued certificate of registration and identification badge

(c) It is unlawful for any registrant or registrant's agent to represent that the City's issuance of a certificate of registration and/or identification badge constitute the City's endorsement or approval of the purposes of any particular solicitation.

Sec. 5.07.008. - Time and manner for conducting home solicitations.

(a) A person commits an offense if the person conducts or attempts to conduct (either personally or through an agent), a home solicitation at a residential premises:

(1) Before 9:00 a.m. or after 7:00 p.m., Monday through Sunday; or

(2) At any time on January 1st, July 4th, December 25th or on federal holidays.

(b) It is a defense to prosecution under Subsection (a) of this section that the visit to the residential premises resulted from the owner or occupant's request or appointment.

Sec. 5-07.009. - Home Solicitor Registration Required; defenses.

(a) A person commits an offense if that person:

(1) Personally, by an agent, or as the agent of another, engages in a home solicitation without a valid certificate of registration or home solicitor identification badge issued to the person under this division;

(2) Engages in a home solicitation by using an agent who does not hold a valid certificate of registration or home solicitor identification badge issued under this division; or

(3) Engages in a home solicitation by acting as an agent of another person who does not hold a valid certificate of registration or home solicitor identification badge issued under this division.

(b) Registration exemptions.

(1) No registration shall be required for any person to sell or attempt to sell, or to take or attempt to take orders for, any product grown, produced, cultivated, or raised on any farm.

(2) No registration shall be required for any person going from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement for the primary purpose of exercising that person's state or federal constitutional rights such as the freedom of speech, freedom of the press, freedom of religion, and the like. This exemption will not apply if the person's exercise of constitutional rights is merely incidental to what would properly be considered a commercial activity.

(c) It is a defense to prosecution under Subsection (a)(1) of this section that:

(1) The person was soliciting for a noncommercial purpose, including, but not limited to, a charitable, educational, civic, patriotic, philanthropic, political, or religious purpose;

(2) The person was on the residential premises by express invitation of the owner, occupant, or other person in control of the premises;

- (3)The person was a wholesale agent or factory representative who sells or exhibits for sale goods, wares, or merchandise and was conducting business with a person engaged in the business of buying, selling, and dealing in the same type of goods, wares, or merchandise;
 - (4)The person was soliciting newspaper sales, or delivering newspapers pursuant to a request by or contract with the owner, occupant, or other person in control of a residential premises;
 - (5)The solicitation, sale, or taking of orders for goods or services took place upon residential premises owned, leased, or controlled by the person or by the person's employer;
 - (6)The person was a governmental entity, or an officer, employee, or agent of a governmental entity, placing a notice or other information on the premises in the performance of official duties; or
 - (7)The person was the United States Postal Service or a private courier service registered with the Federal Motor Carrier Safety Administration, or an employee or agent of those services, delivering an item of mail, a notice, or a package to the premises.
- (d)Before taking any enforcement action under this section, the City Administrator or designee, any Police Officer, or any City Code Enforcement Officer shall ask the apparent offender's reason for being on the residential premises or for depositing any item on the premises. The City Administrator or designee, the Police Officer or the City Code Enforcement Officer shall not issue a citation or make an arrest under this section without a reasonable belief that an offense has occurred.

Sec. 5-07.010. - Application; fee; expiration; non-transferability; material changes.

- (a)To obtain a certificate of registration to conduct home solicitations, a person must file a written application with the City Administrator or designee on the City-issued form. The application must include the following information regardless of whether the applicant is an individual or company:
- (1)The applicant's name, address, and telephone number and if an individual his or her date of birth, even if the individual is acting as an agent or submitting the application for the applicant.
 - (2)If the applicant is a company the title of each of its officers and date and place of incorporation or location of the business establishment.
 - (3)The name, address, date of birth and telephone number of each person conducting home solicitation in the City for the applicant.
 - (4)A photograph of the applicant and of each person soliciting taken within the preceding 12 months, which clearly depicts the applicant's facial features.
 - (5)The applicant's and each person soliciting date of birth and proof of driver's license including the driver's license number and the issuing state, or if the person does not have a driver's license, proof of a government issued personal identification card with the government number, the person's photograph, and date of birth.
 - (6)The names of other cities or jurisdictions in which the applicant and each person soliciting has worked as a home solicitor in the past 12 months and if the person was an agent of different companies in the other cities or jurisdictions, the names of those companies.
 - (7)The nature, character, and quality of the goods or services to be advertised, offered for sale, or delivered as part of the home solicitation.
 - (8)Whether the applicant and each person soliciting, upon obtaining an order for goods or services, will demand, accept, or receive payment or a deposit of money in advance of final delivery of the goods or services.

(9)The dates, times, and locations for which the applicant and each person soliciting proposes to conduct home solicitations in the City.

(10)An outline of the method to be used in conducting the home solicitations.

(11)Proof that the applicant and each person soliciting possesses all licenses or permits required by this Code or by State or Federal law for the operation of the proposed business.

(12)If the applicant is an agent of an individual or company, sufficient written proof of the applicant's authority to represent and act on behalf of the individual or company.

(13)If a company, proof of applicant's compliance with State or Federal law for the operation of the proposed business, to include Texas Labor Code ch. 51, as amended.

(15)Any other information the City Administrator or designee determines necessary to the enforcement and administration of this article.

(b)Any application filed under this section must be accompanied by a nonrefundable registration or renewal fee which includes the cost of a home solicitor identification badge for each home solicitor established in Section 07.009. Initially, the registration fee is established as \$20.00, as is any renewal, inclusive of the badge. Thereafter, the fees shall be as established by the City's annual fee schedule, as it may be amended from time to time.

(c)Upon expiration, the registrant may apply for a registration renewal in the same manner prescribed by this division for a new registration.

(d) Neither a certificate of registration nor an identification badge are transferable from one person to another, but:

(1)Both may be used by the registrant to act as an agent for different individuals or companies during the registration term if the City Administrator or designee is notified in accordance with this section; and

(2)A registrant under subsection (a)(1) of this section may request additional copies of the certificate of registration at the time of issuance so that each agent may comply with the display requirements of this section.

(e)A registrant shall notify the City Administrator or designee within five days after any material change in the information on the application during the registration term. A material change includes, but is not limited to:

(1)When a registrant becomes an agent for another individual or company;

(2)When a registrant terminates an individual's authority to serve as the registrant's agent;

(3)A change in the nature, character, and quality of the goods or services; or

(4)A change in the dates, times, and locations proposed for conducting home solicitations in the City.

(f)A certificate of registration expires 120 days after the issue date. The registration may be renewed for a successive 90-day period, if the application is made within the previous 120-day registration period. Before expiration, the registrant may apply for a registration renewal in the same manner prescribed by this section for a new registration, submitting any renewal fee.

Sec. 5-07. 011. - Issuance, denial, and display of registration

(a) **Procedure.** Upon receipt of the application and payment of the registration fee, the City Administrator or designee will, within two (2) regular business days, determine if the application is complete. An application will be considered complete if all required information is provided. If the application is determined to be incomplete, the City Administrator or designee will inform the applicant of the required, necessary information that is missing. If the application is complete and

there have been no misrepresentations, the City Administrator or designee shall issue a certificate of registration to the applicant within three business days after receipt of the application unless any of the following applies:

(1)The applicant has failed to provide material information requested or made a false statement of a material fact on the application form or in a hearing concerning the application or registration.

(2)The required registration fee has not been paid.

(3)The applicant has failed to comply with or the proposed business will violate any applicable ordinance or regulation of the City or applicable State or Federal law.

(b)If the City Administrator or designee determines that a certificate of registration should be denied the applicant, the City Administrator or designee shall notify the applicant in writing that the application is denied and include in the notice the reason for denial and a statement informing the applicant of the right of appeal. If the City Administrator or designee denies the registration application, the applicant must be notified in writing of the decision, the reason for denial and the applicant's right to appeal the denial by requesting, within twenty (20) days of receiving notice of rejection, a public hearing before the City Council. The City Council shall hear the appeal with twenty (20) days of the date of the request for a hearing.

(c)Upon issuing a certificate of registration, the City Administrator or designee shall issue the registrant and each person soliciting an identification badge. At all times the registrant and each person soliciting is conducting home solicitations in the City, the registrant the identification badge on the registrant's clothing and maintain the certificate of registration on the registrant's person. The registrant shall allow the certificate of registration and the identification badge to be examined upon request by the City Administrator or designee, any Police Officer, any City Code Enforcement Officer, or the owner or occupant of the residential premises on which a home solicitation is being conducted.

(d)If a City-issued home solicitor's identification badge is lost, mutilated, or destroyed, the City Administrator or designee shall issue the registrant or each person soliciting a duplicate identification badge upon payment of a duplicate identification badge fee in the amount of \$2.50 per identification badge , which fee may be later modified by the City's fee schedule, as modified from time to time.

(e) ***Duration.*** A registration granted under this ordinance shall be valid for 120 days from the date of issuance.

Sec.5-07.012- Suspension.

(a)The City Administrator or designee may suspend a certificate of registration for a definite period of time not to exceed 30 days if the City Administrator or designee determines that:

(1)A violation of this Code or any other law concerning the sale or distribution of goods or services, or the distribution of commercial printed matter, by the registrant or the registrant's agent has occurred; or

(2)The registrant or a representative authorized to supervise the registrant's agents has failed to establish policy and take action to discourage, prevent, or correct violations of this article by agents.

(b)The City Administrator or designee shall send to the registrant by certified mail, return receipt requested, a written statement setting forth the reasons for the suspension and notifying the

registrant of the right to appeal. A timely request for appeal by the registrant stays the effect of the suspension unless the City Administrator or designee determines that an emergency exists.

(c) For purposes of this section, an emergency exists if the City Administrator or designee determines that a violation has occurred and constitutes an imminent and serious threat to the public health or safety. In case of an emergency, the City Administrator or designee may order the registrant or the registrant's representative to correct the violation immediately or cease home solicitations to the extent the City Administrator or designee determines is necessary to abate the threat until the violation is corrected.

Sec. 5-07.013. - Revocation.

(a) The City Administrator or designee shall revoke a certificate of registration if the City Administrator or designee determines that:

(1) The registrant or an agent of the registrant, individually or cumulatively, has been convicted in any court of two violations of this Code, within a 12 month period. The fact that a conviction is being appealed has no effect;

(2) The registrant has given false or misleading information of a material nature or has withheld material information on the application or in any hearing concerning the application or registration;

(3) The registrant or an agent of the registrant has intentionally or knowingly or otherwise impeded a lawful inspection by the City Administrator or designee, his or her authorized representative, or any representative of another department who has the authority to inspect the registrant and the registrant's business procedure; or (4) A cause for suspension under Section 8-212 (a) or (b) occurs and the certificate of registration has been suspended within the preceding 12 months.

(b) The City Administrator or designee shall send to the registrant by certified mail, return receipt requested, a written statement setting forth the reasons for the revocation and notifying the registrant of the right to appeal.

(c) If the City Administrator or designee revokes a certificate of registration, the fee already paid for the registration will be forfeited. A person whose certificate of registration has been revoked under this section may not apply for or be issued a new registration for a period of one year after the date the revocation took effect, except that, if the City Administrator or designee determines that the basis for the revocation has been corrected, the person may apply for and be issued a new certificate of registration if at least 90 days have elapsed since the date the revocation took effect.

Section Two. Cumulative and Conflicts. This Ordinance shall be cumulative of all provisions of ordinances of the City of New Fairview, Texas, except where the provisions of the Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed. Any and all previous versions of this Ordinance to the extent that they are in direct conflict herewith are repealed.

Section Three. Severability. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences,

paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section Four. Any person, firm or corporation who violates, disobeys, omits, neglects, or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Five Hundred Dollars (\$500.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense

Section Five. Effective Date. This Ordinance shall become effective immediately upon its passage, approval and publication as provided by law.

PASSED AND APPROVED on this ___th day of _____, 2023.

APPROVED:

John R. Taylor
Mayor

ATTESTED:

Brooke Boller
City Secretary

DRAFT



SOLICITOR'S REGISTRATION

FEE \$20.00

Name of solicitor: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Business Name: _____

Business Mailing Address: _____

Telephone number: (____) _____

Driver's License Number: _____

This registration expires 190 days from today's date.

This registration is valid starting _____ through _____

Please note that the Solicitor's hours are from 9:00 AM -6:00 PM Monday through Saturday.

Executed this _____ day of _____, _____

Signature

Printed Name

For City Use Only
Approved By: _____ Date: _____
Total Paid \$ _____



Solicitor Identification Badge

Name: _____

Business Name: _____

This registration is valid starting _____ to _____

Solicitor's hours are from 9:00 AM – 7:00 PM Monday through Sunday. The City of New Fairview does not endorse the solicitor or is the solicitor a representative of the City of New Fairview.



AGENDA ITEM: 7C

CITY COUNCIL AGENDA MEMO

Prepared By: John Cabrales Jr, City Administrator

March 6, 2023

Parks and Recreation Board Appointment

DESCRIPTION:

Receive, consider, and act on appointing members to the Parks and Recreation Board and the Keep New Fairview Beautiful Committee.

BACKGROUND INFORMATION:

On February 6, 2023, the City Council approved an Ordinance (202302-01-103) creating a Parks and Recreation Board and Keep New Fairview Beautiful Committee. The Board is an advisory body to the City Council and staff regarding the recreational needs of the community including developing plans for future recreation programs, facilities, and areas; recommending policies to carry out recreational programs and initiatives; reviewing maintenance of recreation facilities; recommending funding for recreation facilities; and informing the public of recreation opportunities or needs.

The board will also serve as the Keep New Fairview Beautiful Committee and will make recommendations on issues related to community appearance, beautification, the environment, and entrances into the City. This Committee can assist the City in becoming an affiliate of Keep Texas Beautiful (KTB) (<https://ktb.org/>). KTB affiliates are qualifying cities, counties and/or communities that work with KTB to educate and engage Texans to take responsibility for improving their communities. Affiliates are the volunteers who organize local cleanups, design and implement recycling programs, and educate local populations. KTB also has numerous resources available to affiliates such as grant and funding opportunities, youth programs, assistance with special clean up events.

The Ordinance creates for four members and one alternate to serve two-year terms with staggered terms for the initial appointment on the creation of this board.

Sec. 10.03.002. Members and Terms

The City Council shall appoint a Parks and Recreation board of five members and one alternate member.

- (a) Members of the Parks and Recreation Board shall be residents and qualified voters of the city.
- (b) Members, including alternate members, shall be appointed by the City Council for a term of two (2) years, provided however, that two (2) members and the alternate member shall be initially appointed for a term of one (1) year, with those terms being for two (2) years thereafter.
- (c) If a replacement has not been designated by the end of a member's term, that members shall continue serving until a successor is appointed.
- (d) In the event of a vacancy, the City Council shall appoint a member to serve for the unexpired term. The City Council may remove any member from the Board.

Staff created a flyer and placed information on the website and social media informing the public of this new board and encouraged residents to apply for consideration of appointment onto this board. Attached are the applications received.

<u>Board Members</u>	<u>Place</u>	<u>Term</u>
Vacant	Place 1	(March 2024)
Vacant	Place 2	(March 2025)
Vacant	Place 3	(March 2024)
Vacant	Place 4	(March 2025)
Vacant	Alternate	(March 2024)

FINANCIAL CONSIDERATION:

None

RECOMMENDED MOTIONS:

I move to **Approve/Deny** the appointment of _____ to the Parks and Recreation Board and the Keep New Fairview Beautiful Committee, Place _____.

ATTACHMENT(S):

- 1. Application(s)
 - a. Deborah Greene