

**Before the  
Tennessee Regulatory Authority**

**Docket No. 10-**

**Petition of Piedmont Natural Gas Company, Inc. for Approval,  
*Nunc Pro Tunc*, of Negotiated Franchise Agreement  
With the City of Fairview, Tennessee  
Pursuant to Tennessee Code Annotated § 65-4-107**

**Testimony  
of  
Eddie Davidson**

**On Behalf Of  
Piedmont Natural Gas Company, Inc.**

November 4, 2010

1 **Q. Please state your name and business address.**

2 A. My name is Eddie Davidson. My business address is 83 Century  
3 Boulevard, Nashville, Tennessee.

4 **Q. By whom and in what capacity are you employed?**

5 A. I am employed by Piedmont Natural Gas Company, Inc. ("Piedmont" or  
6 the "Company") as Senior Manager, Legislative and Community Affairs  
7 for our Tennessee Region.

8 **Q. Please describe your educational and professional background.**

9 A. I have a B.S. in Political Science from Middle Tennessee State University.  
10 I have worked in various capacities for the Tennessee House of  
11 Representatives, and served six years as the Assistant Chief Clerk of the  
12 House from 1996 until 2002. In 2002, I joined the administration of  
13 Nashville Mayor Bill Purcell as an Associate Director of the Metro  
14 Nashville Public Works Department. I then served as a legislative liaison  
15 to the Tennessee General Assembly on behalf of Metro Nashville,  
16 eventually becoming the Director of Legislative Affairs for the City,  
17 managing all government affairs at the local, state, and federal level. I  
18 stayed on with Metro Nashville in the administration of Mayor Karl Dean  
19 as a Senior Advisor for Infrastructure and Intergovernmental Affairs prior  
20 to joining Piedmont.

21 **Q. Have you previously testified before this Authority or any other**  
22 **regulatory authority?**

23 A. I previously testified before the TRA regarding Piedmont's flood recovery

1 efforts and also regarding Piedmont's Nolensville franchise.

2 **Q. Do you hold any positions in any professional or trade associations?**

3 A. I am a member of the Tennessee Gas Association serving as chair of the  
4 2010-2011 Legislative Committee. I am also a member of the Tennessee  
5 Lobbyists Association.

6 **Q. What is the purpose of your testimony in this proceeding?**

7 A. The purpose of my testimony is to present information to the Authority  
8 relating to the franchise agreement entered into between Piedmont Natural  
9 Gas Company and the City of Fairview, Tennessee.

10 **Q. Could you please explain the circumstances that caused a need for a**  
11 **franchise agreement between Piedmont and Fairview?**

12 A. Yes. Under Section 65-26-101 of the Tennessee Code Annotated,  
13 Piedmont is required to have the consent of the City of Fairview, in the  
14 form of a municipal ordinance, in order to enter onto the streets and alleys  
15 of Fairview for the purpose of placing, maintaining, or expanding its  
16 natural gas distribution and transmission facilities. Piedmont is desirous  
17 of expanding its natural gas facilities to serve customers within the City of  
18 Fairview and, accordingly, is required to obtain Fairview's consent to such  
19 service within its municipal boundaries.

20 **Q. When did Piedmont begin pursuing a franchise arrangement with**  
21 **Fairview?**

22 A. Piedmont started discussions with Fairview regarding a possible franchise  
23 agreement in approximately May of 2010, shortly after I became

1 employed by Piedmont and was assigned responsibility for franchise  
2 management and negotiations in Tennessee.

3 **Q. How were those negotiations pursued?**

4 A. The negotiations with Fairview for a franchise ordinance were undertaken  
5 primarily by me in my capacity as Senior Manager, Legislative and  
6 Community Affairs. Fairview was represented in these negotiations by  
7 Andrew Hyatt, City Manager of Fairview and Larry D. Cantrell,  
8 Fairview's city attorney.

9 **Q. What was the result of those negotiations?**

10 A. These negotiations were successful as evidenced by an approved  
11 Ordinance, attached hereto as Exhibit \_\_ (ED-1) and incorporated herein  
12 by reference. This ordinance establishes a franchise arrangement between  
13 Piedmont and the City of Fairview for a period of twenty (20) years.

14 **Q. What are the primary provisions of the new franchise ordinance?**

15 A. The new franchise ordinance provides that in exchange for the right to  
16 provide service to customers within the municipal limits of Fairview and  
17 for access to the streets and public rights-of-way within the City, Piedmont  
18 agrees to pay an annual franchise fee (in quarterly installments) of five  
19 percent (5%) of annual gross revenues collected by Piedmont from  
20 customers who are located and provided service by the Company within  
21 the geographical areas identified on Exhibit A to the Ordinance.

22 **Q. Is Piedmont satisfied with the negotiated resolution of these issues?**

23 A. Yes. Both parties were ultimately able to agree with the negotiated result

1 and that result is reflected in the Ordinance approved by the Mayor and  
2 Board of Commissioners of Fairview on August 5, 2010 and August 19,  
3 2010 and subsequently accepted by Piedmont.

4 **Q. What is the standard to be utilized by the Authority in determining**  
5 **whether to approve the Ordinance?**

6 A. My understanding is that under the statute, the Authority is authorized to  
7 approve the Ordinance if it finds that it "is necessary and proper for the  
8 public convenience and properly conserves the public interest."

9 **Q. In your opinion, are the franchise terms set forth in the Ordinance**  
10 **necessary and proper for the public convenience and in the public**  
11 **interest?**

12 A. Yes, on a number of grounds.

13 First, the franchise terms reflected in the Ordinance will establish a  
14 twenty year arrangement through which the current and future residents,  
15 business enterprises and governmental facilities located within the City of  
16 Fairview will be able to receive, under the supervisory jurisdiction of the  
17 Authority, the benefits of natural gas service provided by Piedmont. This  
18 arrangement will help ensure the continuing availability of high quality  
19 natural gas service to Fairview for the foreseeable future.

20 Second, the franchise facilitates the provision of such natural gas  
21 service to Fairview by an established and proven provider of that service  
22 well known to this Authority and possessing the requisite expertise,  
23 facilities, systems and gas supply and transportation assets necessary to

1 provide such service.

2 Third, the new franchise arrangement establishes adequate and  
3 proper mechanisms for access by Piedmont to public rights of way, new  
4 and existing customers, and existing service lines, transmission and  
5 distribution facilities. These mechanisms help to ensure that Piedmont is  
6 able to provide both adequate and efficient service and to comply with the  
7 requirements of this Authority to ensure the safety and protection of  
8 residents and property within Fairview.

9 Fourth, the new franchise arrangement provides an incentive for  
10 Piedmont to invest in infrastructure needed to provide improved and  
11 expanded service within Fairview by ensuring that Piedmont will have the  
12 right to provide service within these areas for a sufficient period in order  
13 to permit Piedmont the opportunity to recover the capital investment in  
14 such facilities under the rates approved by the Authority.

15 Fifth, payment of the franchise fees provided for in the franchise  
16 agreement, in addition to Piedmont's ongoing duty to repair excavation  
17 work as it is performed, will act to offset long term road maintenance  
18 expenses that may be incurred by Fairview during the term of the new  
19 franchise arrangement and will help support the provision of municipal  
20 services by Fairview to its citizens.

21 **Q. Could you please summarize your thoughts on the public convenience**  
22 **issue?**

23 **A.** Yes. Approval of the franchise arrangement between Piedmont and

1 Fairview will ensure that the residents, businesses and governmental  
2 entities residing and operating within Fairview will receive high quality,  
3 safe, and economic natural gas service from a provider with a long and  
4 successful history of providing that service to these areas. The franchise  
5 ordinance also provides substantial protections to the citizens of Fairview  
6 while concurrently offering Piedmont a positive incentive to provide  
7 ongoing and expanded natural gas service to this area. That service will  
8 contribute to a stable infrastructure and expanded economic opportunity  
9 and will be beneficial to customers by bringing the desirable attributes of  
10 natural gas service to Fairview for some time into the future.

11 **Q. Do you know of any facts that would indicate that the new franchise**  
12 **arrangement reflected in the Ordinance is not in the public interest?**

13 A. No.

14 **Q. What are you asking the Authority to do in this proceeding?**

15 A. Based on the facts discussed above, we are asking the Authority to  
16 approve the new franchise agreement between Piedmont and the City of  
17 Fairview as reflected in the Ordinance.

18 **Q. Could you please explain the “gap” in the expiration date of the**  
19 **previous Fairview franchise and the submission of this new franchise**  
20 **for approval by the Authority?**

21 A. Yes. Piedmont’s prior franchise with Fairview was inadvertently allowed  
22 to expire on February 16, 2009. This was about the time I was hired by  
23 the Company. In the course of undertaking my duties and reviewing the

1 status of franchise arrangements under my responsibility, I became aware  
2 that the Fairview franchise required renewal. Upon coming to that  
3 realization, I began the process of initiating negotiations with Fairview.  
4 That process took from May until approximately early October to  
5 complete and to obtain a fully executed version of the franchise  
6 agreement. Piedmont regrets the need to ask for approval of this  
7 agreement to be effective February 17, 2009 and has taken steps to ensure  
8 that we will actively (and proactively) renegotiate franchise agreements on  
9 a going forward basis to avoid any "gaps" in approved franchise coverage  
10 for the municipalities we serve.

11 **Q. Does this conclude your testimony?**

12 **A.** Yes it does.



# **EXHIBIT (ED-1)**

**CITY OF FAIRVIEW**

Bill # 2010-04

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE GRANTING A LIMITED EXCLUSIVE FRANCHISE  
TO PIEDMONT NATURAL GAS COMPANY, INC., WITHIN THE  
CORPORATE LIMITS OF THE CITY OF FAIRVIEW, TENNESSEE.**

**WHEREAS**, it appears to the Board of Commissioners of the City of Fairview, Tennessee, that the franchise agreement previously granted to Piedmont Natural Gas Company, Inc., and or its successors has expired and that the best interest of all the citizens of the City of Fairview, Tennessee will be served by the granting to Piedmont Natural Gas Company, Inc., a franchise to operate within upon and below the streets of the City of Fairview, Tennessee within its existing or future corporate boundaries.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF  
COMMISSIONERS OF THE CITY OF FAIRVIEW, TENNESSEE, AS  
FOLLOWS;**

**I. DEFINITIONS**

**1.01 As used in this Ordinance, the following terms, words and phrases  
shall have the meanings respectively ascribed to them in this section:**

"Company" shall mean Piedmont Natural Gas Company, Inc., a corporation organized under the laws of the State of North Carolina and authorized to do business in the State of Tennessee, and any successor in interest to Piedmont Natural Gas Company, Inc. under this franchise Ordinance.

"City" or "City of Fairview" shall mean:

The City of Fairview, a municipal corporation located in Williamson County, Tennessee,

The area within the territorial city limits of the City of Fairview and within the extraterritorial area surrounding the City to the extent it may be lawfully included as presently or hereafter fixed by law or ordinance, or

The Board of Commissioners of the City of Fairview or any officer or agent duly authorized in acting on behalf of the City as a municipal corporation, as indicated by the context by which the term is used;

"Board of Commissioners" shall mean the governing body of the City of Fairview;

"Gas" when used as an unqualified term shall mean either natural or artificial gas, by whatever process or processes derived or manufactured, or both such gases either separately or a mixture of them.

"Notice" All notices required to be delivered to the City or Company shall be delivered to the Current City Hall of the "City" and to the Corporate Headquarters of the "Company." Notices shall be delivered or by Registered or Certified Mail. Notices sent by Registered or Certified Mail shall be deemed received when they are placed into the hands of the United States Postal Service and the Receipt stamped and returned to the Sender.

## II. FRANCHISE GRANTED

2.01 The Company is hereby granted the limited - exclusive right to construct, operate and maintain a gas utilities system within the Town for production, transmission, distribution and sale of gas to consumers and users within the Town and to the Town and any and all agencies and departments thereof. The franchise granted to The Company shall be exclusive except if any entity seeking gas service from The Company shall be denied said service for any reason by The Company the City shall have the right to allow but is not required to allow another provider of gas service to serve the customer's property located upon the map and parcel number within the City notwithstanding the provisions of the right of exclusivity. Said exclusive right to provide service to the refused map and parcel number only having been waived by The Company by refusing service to the particular map and parcel number. Such a waiver shall not apply to any other map and parcel numbers located within the Corporate Boundaries of the City and the limited exclusive right to provide service to all other customers within the City is preserved unless expressly refused service by The Company. Should any customer within the corporate limits of the city whose property is refused gas service by The Company not obtain said service to a particular map and parcel number located within the corporate limits of the City from another source and The Company having previously denied service to a particular map and parcel number of property located within the Corporate Boundaries of the City determine that The Company will provide service to a particularly previously denied map and parcel number property then and in that event the exclusive right to provide service to the previously denied customer shall be restored to The Company upon connection of the customer to the service lines of the Company.

2.02 The Company is hereby granted the limited - exclusive right (subject to the provisions outlined in paragraph 2.01), authority and privilege to construct and install, operate, maintain, lay or relay, renew, replace and repair gas pipes, mains, pipelines, conduits, regulators, connections and services thereto, in, through, across, along and under streets, avenues, roads, public alleys, lanes, parks and squares, and other public places and ways in the City for the production, pumping, handling, transmission, distribution and sale of gas for any and all purposes, subject to the terms and conditions hereinafter set forth in this Ordinance.

2.03 Whenever the Company wishes to enter upon any street, lane or public place for the purpose of constructing, replacing or repairing any gas mains, pipes, or other appliances, it shall notify the town, file a plan or map of the proposed work, if practicable, and comply with all provisions of any ordinances related to utility excavations in City right-of-way before commencing same. Whenever the Company causes any opening, excavation or alteration to be made in any street, lane or public place within the Town in the construction, operation or maintenance of any of its pipelines or other appliances owned or used by it, the Company shall repair and restore such portions of such streets, lanes or public places to the same condition in which it found them as nearly as practicable. Additionally, if the Company shall fail to restore the area to its approximate former condition within a reasonable period of time no less than thirty working days after notification by the City, the City shall proceed to restore such streets, lanes and public places as nearly as practicable to their original condition and the City shall submit a statement of the costs for this restoration to the Company. The Company agrees to pay the City for these costs within thirty days.

2.03.1 Whenever the Company shall cause any opening, excavation or alteration to be made in any street, lane or public place within the City in the construction, operation or maintenance of any of its pipelines or other appliances owned or used by it, the Company shall comply with all safety regulations required by federal, state and local laws.

2.04 In the event it becomes necessary or expedient for the City to change the course or grade of any street, lane or public place in which the Company is maintaining gas mains, pipes or other appliances and fixtures, upon reasonable (reasonable is defined to be not less than sixty (60) days before the initiation of any change as contained within this section) written request of the City, the Company will remove or change the location or depth of such main, pipes or other appliances and fixtures, at its own expense, as necessary to conform to the proposed street alteration. However, the Company shall be reimbursed its relocation costs whenever such reimbursement is authorized by a Federal or State statute, for either urban renewal development or street relocation. Provided the reimbursement funds are provided by the State or Federal Government. In no instance or circumstance, will the city be or become liable for such relocation expenses.

**2.05 This franchise is granted for a term of twenty (20) years beginning February 17, 2009 and ending at midnight February 17, 2029. Not with standing the provisions of the twenty (20) year term of this franchise the City may exercise the option to terminate the franchise granted herein at the ten (10) year anniversary date (February 17, 2019) of this franchising document and the fifteen (15) year anniversary date (February 17, 2024) of this franchise document by the passage and delivery to the Company by either February 17, 2019 or February 17, 2024 of an Ordinance duly passed by the City's Board of Commissioners clearly stating the City Governing Body's desire to terminate the Franchise Agreement. Prior to implementing the option to terminate, the City must notify the Company in writing pursuant to Section 1.01, "Notice" of this agreement of the intent to**

terminate the agreement not less than ninety (90) days prior to the consideration of an Ordinance to terminate the agreement.

The Company hereby expressly waives any right or privilege it has or may have to terminate this Franchise Agreement prior to the expiration of the twenty (20) year period for which it is granted.

If the option to terminate the Franchise Agreement is not exercised timely by the City this Franchise Agreement shall continue unabated to the next option date or the termination limit of the Franchise Agreement whichever event shall be the last to occur. This franchise supersedes any and all former rights or franchises of the Company to operate a gas utilities system in the City with respect to all acts and things done or admitted to be done, on or after February 17, 2009.

2.06.1 The COMPANY hereby agrees to indemnify, defend, and hold harmless the City, its elected officials, officers, boards, commissions, and employees, against any and all claims and liabilities arising from the Company's, and its assignees or licensees, activities or Gas System, including reasonable attorneys fees and court costs.

2.07 The Company shall not be obligated to the City or any of its departments or agencies for any tax, license fee, other fee, or any other payment whatsoever, relating to the rights granted herein, other than that which is levied by state law.

2.08 The Company is hereby granted the right during the existence of this franchise to mortgage or hypothecate this franchise, together with all rights and privileges there under and any right or interest therein, as security for indebtedness, subject to acceptance by any legal successor in interest of the obligations, duties, liabilities, limitations and prohibitions set out herein and subject to the approval by the Tennessee Regulatory Authority or other governmental agency whose approval is required by law. The Company shall not assign or transfer its rights under this agreement, provided, however, that this provision shall not prohibit the Company from assigning its rights hereunder to the surviving corporation in any corporate reorganization in which the Company is a party.

2.09 The Company shall pay to the City an amount equal to five percent (5%) of the annual gross revenues collected from all customers who are located and provided service by the Company within the geographical areas identified on Exhibit A. The payment of the fee shall be on a quarterly basis, and the first payment shall be made by the Company within sixty (60) days after the approval by the TRA of the Ordinance. Thereafter, payment of such fee and the recovery thereof by the Company shall be pursuant to Tenn. Code Ann. Section 65-4-105(e).

### III. ACCEPTANCE OF FRANCHISE

This Ordinance shall be submitted to the Tennessee Regulatory Authority pursuant to Tenn. Code Ann. Section 65-4-107 for approval and shall take effect from the day and date of its passage, but only after it has been accepted in all its terms and revisions by the Company, in writing, within sixty (60) days after its passage; otherwise, the same shall be null and void and of no effect.

**BE IT FURTHER ORDAINED**, If any sentence, clause, phrase or paragraph of this Ordinance is declared to be unconstitutional by any Court of competent jurisdiction, such holding will not affect any other portion of this Ordinance.


**BE IT FINALLY ORDAINED**, that this Ordinance shall take effect fifteen days (15) days after its first passage or upon second reading, whichever is later, the public welfare requiring it and shall be subject to the provisions herein contained in the "Acceptance of Franchise" section of this Ordinance.

**PIEDMONT NATURAL GAS COMPANY, INC.**

BY: 

Senior Vice President - Utility Operations

ATTEST:



Vice President, General Counsel, Corporate  
Secretary and Chief Compliance Officer

**CITY OF FAIRVIEW**

BY: 

Mayor

ATTEST:



City Recorder

STATE OF ~~North Carolina~~ TENNESSEE

COUNTY OF Mecklenburg

This is to certify that on the 9<sup>th</sup> day of September, 2010, before me came Michael H. Yount, with whom I am personally acquainted, who, being by me duly sworn, says that he is the Senior Vice President - Utility Operations of Piedmont Natural Gas Company, Inc., and Jane R. Lewis-Raymond, with whom I am personally acquainted, who, being by me duly sworn, says that she is the Vice President, General Counsel, Corporate Secretary and Chief Compliance Officer of Piedmont Natural Gas Company, Inc.; that the Senior Vice President - Utility Operations and Vice President, General Counsel, Corporate Secretary and Chief Compliance Officer subscribed their names thereto, and the Company's corporate seal was affixed, all with the consent of the Board of Directors of the Company.

Witness my hand and official seal, this the 9<sup>th</sup> day of September, 2010.

Wanda R. O'Neil  
Notary Public

My Commission expires: April 26, 2011

STATE OF TENNESSEE

WILLIAMSON  
COUNTY OF ~~COUNTY~~

This 19<sup>th</sup> day of August, 2010, personally came before me, Larry D. Cantrell, City Attorney of the City of Fairview, Tennessee who, being by me duly sworn, says that he knows the common seal of the City of Fairview and he is acquainted with Ken Brison, Mayor of this City, and that he saw the Mayor sign the foregoing instrument, and that he affixed the City's seal to this instrument and he signed his name in attestation of the execution of this instrument in the presence of the Mayor of this Town.

Witness my hand and official seal, this the 19<sup>th</sup> day of August, 2010.

David Mayberry  
Notary Public

ATTEST:

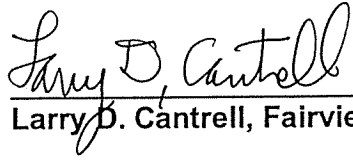
Larry D. Cantrell  
Larry D. Cantrell, Fairview, City Attorney

My Commission Expires: Dec 3, 2013



My Commission Expires DEC. 3, 2013

Approved as to Form:



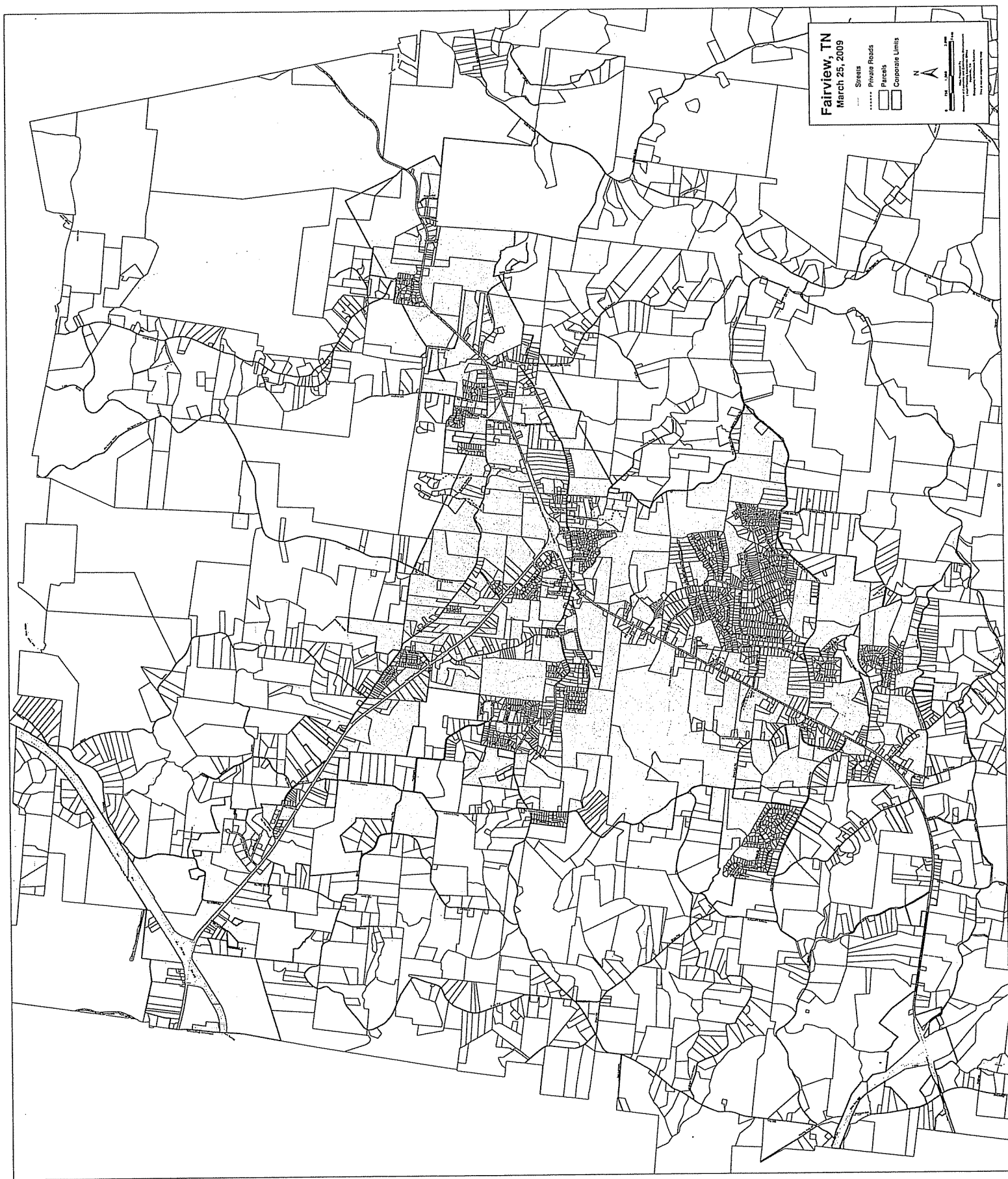
Larry D. Cantrell, Fairview, City Attorney

Passed first reading: August 5<sup>th</sup>, 2010

Passed second reading: August 19<sup>th</sup> 2013



# EXHIBIT A



**Fairview, TN**  
March 25, 2009

- ..... Streets
- ..... Private Roads
- ▨ Parcels
- ▨ Corporate Limits

