Mayor – Sandy Sanders

City Administrator – Ray Gosack

City Clerk – Sherri Gard

Board of Directors

Ward 1 – Keith D. Lau
Ward 2 – Andre' Good
Ward 3 – Mike Lorenz
Ward 4 – George Catsavis
At Large Position 5 – Tracy Pennartz
At Large Position 6 – Kevin Settle
At Large Position 7 – Don Hutchings

AGENDA

Fort Smith Board of Directors
STUDY SESSION
April 28, 2015 ~ 12:00 Noon
Elm Grove Community Center
1901 North Greenwood Avenue

CALL TO ORDER

1. Review proposed regulations for mobile food trucks *~ Discussed at the August 12, 2014 and February 24, 2015 study sessions ~*

2. Review town hall meeting procedures *~ Hutchings/Pennartz placed on agenda at the April 7, 2015 town hall meeting ~*

3. Re-evaluation of the Traffic Calming Policy (Speed Table Policy) *~ Lorenz/Settle placed on agenda at the April 21, 2015 regular meeting ~*

4. Review preliminary agenda for the May 5, 2015 regular meeting

ADJOURN

Memorandum

To: Ray Gosack, City Administrator
From: Wally Bailey, Director of Development Services
Date: April 23, 2015
Subject: Outdoor Mobile Vending Ordinance

At the April 28th Board of Directors study session, we will provide the Board an update on the proposed Outdoor Mobile Vending Ordinance. This effort was initiated by a discussion of the Board of Directors regarding mobile food trucks downtown, action (ED-1.1.1) in the Comprehensive Plan, and the difficulty of administering the current regulations.

The current Ordinance allows mobile food trucks in Commercial-2 thru C-5 and Industrial-1 zoning districts for up to 120-days at a specific location. The truck or trailer must then move unless the Board of Zoning Adjustment (Planning Commission) approves a variance extending the time. The mobile food trucks are not allowed in the C-6 (downtown) zoning district.

The proposed ordinance would allow mobile food trucks and trailers in Commercial-2 thru C-6 and I-I and I-2 zoning districts. Some of the key features of the proposed ordinance include:

- Combines the sidewalk vending regulations with the proposed outdoor mobile vending ordinance
- Allows mobile food vending in the C-6 (Downtown) zoning district and the I-2 (Industrial Moderate) zoning district.
- Allows mobile food vending in parallel parking spaces downtown (with the exception of parking spaces within state highway rights-of-way and the truck route)
- Exempts temporary sales for non-profits that operate for less than five consecutive days as part of a festival or special event
- Allows mobile food courts in C-2 thru C-6 and I-1 & 1-2 zoning districts through the conditional use process
- Establishes separation restrictions and requirements covering public safety and health concerns for vending within a public right-of-way
- Requires mobile food vendors to be further than 300' from a public or private school property while the school is in session and one hour before and after school is in session (unless permission from the school is provided)
- Permits will be issued annually
- Allows a vendor to transfer their location within the one-year permit period
- Establishes an application process that allows a food vendor to list multiple locations where they will operate
- Establishes insurance requirements for vendors operating within the public right-of-way

The planning staff researched ordinances from other communities, recommendations for mobile food truck ordinances from the National League of Cities, and developed a list of the important features that should be considered in an outdoor mobile vending ordinance.

In addition to this research, we mailed survey forms to all property owners and restaurant owners located in the Commercial-6 (downtown) zoning district, and conducted a survey on Facebook. The surveys helped us gauge interest and identify important issues as the Planning Commission and staff proceeded with drafting an ordinance. In addition to these outreach efforts, the Planning Commission has discussed the proposed ordinance and gathered public comments at two study sessions, three special meetings, and two regular meetings. Staff also met with the Central Business Improvement District Commission to get their input on proposed regulations in the C-6 zoning district. We also sought input from all city departments and the city attorney and incorporated their comments into the ordinance.

The Planning Commission will consider the current draft of the proposed ordinance at a special voting meeting on Monday, April 27.

Attached is a copy of the proposed ordinance. At the study session, we will present the ordinance, the important points of the ordinance, and the results of the Planning Commission's special voting meeting.

Please contact me if you have any questions regarding this subject.

DRAFT OUTDOOR MOBILE VENDING ORDINANCE

27-_____ Sidewalk Vending

A. Definitions.

For purposes of this article, the following definitions shall apply:

Central Business District shall mean the following:

Parts of Sections 4, 5, 8, 9, 16, and 17, Township 8 North, Range 32 West, Sebastian County, Arkansas being more particularly described as follows:

All of the following parts of the Fitzgerald Addition to the City of Fort Smith: Blocks: A, B, K, 1, 2, 3, 7, 8, 9, 10, 58A, 62, and 65; and the East Half of Blocks: 66, 67, 68; and the West Half of Blocks: C, D, E, F, 50, 61 and 94.

All of the following parts to the Original City of Fort Smith: Blocks: A, 1, 2, 3, 4, 7, 8, 9, 10, 15, 16, 17, 18, 23, 24, 25, 26, 29, 30, 48, 49, 50 and 51.

All of the following parts to the Reserve Addition of the City of Fort Smith: Blocks: 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 512, 513, 514, 515, 516, 517, 518A, 519, 521, 522, 523, 524, 525, 526, 529, 530, 531, 532, 533, 536, 541, 542, 543, 544, 545, 546, 547, 548, 561, 562, 563, 564, 565 and 566; and the East Half of Blocks 549, 560, 567.

All of the following additions to the City of Fort Smith: Sparks Regional Medical Center Lots 1 and 2, Southside Garrison Avenue Addition, Corrected Stuart Daniels Addition, Shipley Addition 1, Kremer's Addition and ARS Addition Lots 2 and 3.

All properties contiguous (to the extent of the initial platted lot or, if not platted, legal ownership contiguous to the street Right-of-Way) to the West side of Towson Avenue between Dodson Avenue and South "D" Street.

All properties contiguous (to the extent of the initial platted lot or, if not platted, legal ownership contiguous to the street Right-of-Way) to the South side of South "D" Street between Wheeler Avenue and Towson Avenue.

All properties contiguous (to the extent of the initial platted lot or, if not platted, legal ownership contiguous to the street Right-of-Way) to the North side of North "B" Street between Clayton Expressway and North 11th Street.

Also,

A Tract of Land between the Eastern Bank of Maximum Recession of the Arkansas River and the East Right-of-Way line of Clayton Expressway running from the South Right-of-Way line of Garrison Avenue Northeasterly to a line 1950 feet more or less, South of and parallel to the North line of Section 5, Township 8 North, Range 32 West, Sebastian County, Arkansas.

Stand shall mean any table, showcase, rack, pushcart, wagon or other wheeled vehicle or device which is hand pushed or pulled, without the assistance of a motor vehicle or other source of power, used for the displaying, storing or transporting of products offered for sale by a vendor.

Vendor shall mean any person engaged in the selling or offering for sale of food or beverages or art or crafts or other products on the public sidewalks from a stand.

(Code 1976, § 21-11; Ord. No. 54-87, § 2, 7-7-87; Ord. No. 70-08, § 1, 11-18-08)

B. Exemptions.

Temporary sales for non-profit entities that operate for less than five (5) consecutive days as part of a festival or special event shall be exempt from sidewalk vending regulations.

C. Findings and purpose.

It is found and declared that:

1. The primary purpose of public sidewalks is for use by pedestrian traffic.
2. Vending on the downtown public sidewalks promotes the public interest by contributing to an active and attractive pedestrian environment.
3. Reasonable regulation of sidewalk vending is necessary to protect the public health, safety and welfare.

(Code 1976, § 21-10; Ord. No. 54-87, § 1, 7-7-87; Ord. No. 70-08, § 1, 11-18-08)

D. Prohibited conduct.

No vendor shall:

1. Vend within one hundred (100) feet of any church assembly place while an assembly of the church is in session.
2. Vend on any sidewalks where vending is otherwise prohibited.

3. Leave any stand unattended.

4. Store, park or leave any stand overnight on any street or sidewalk.

5. Sell food or beverages for immediate consumption, unless there is a litter receptacle available within twenty (20) feet of the vending stand for public use.

6. Leave any location without first picking up, removing and disposing of all trash or refuse remaining from sales.

7. Place any items relating to the operation of the vending business anywhere other than in, on or under the stand.

8. Set up, maintain or permit the use of any table, crate, carton, rack or any other device to increase the selling or display capacity of his stand.

9. Solicit or conduct business with persons in motor vehicles.

10. Sell anything other than that which such vendor is licensed to vend.

11. Vend at any location where the sidewalk is not over five (5) feet in width.

12. Vend within fifteen (15) feet of an entrance way to any building unless written permission is provided by the property owner.

13. Vend within twenty-five (25) feet of any driveway entrance.

14. Vend within ten (10) feet of the crosswalk at the intersection.

(Code 1976, § 21-15; Ord. No. 54-87, § 6, 7-7-87; Ord. No. 70-08, § 1, 11-18-08)

E. Vendor stand specifications.

1. No stand shall exceed eight (8) feet in length, and all stands shall have a width compatible with that of a standard cart design.

2. The height of each stand may be determined by the design needs of the vendor's product, but in no case shall it be greater than six (6) feet.

3. All lettering shall be of constant height with smooth-painted edges having not more than one-eighth-inch variation.

4. No advertising shall be permitted on any stand, except to identify the name of the product and the name of the vendor and a posting of prices.

(Code 1976, § 21-16; Ord. No. 54-87, § 7, 7-7-87; Ord. No. 70-08, § 1, 11-18-08)

F. PERMIT. Required; display; fee; renewal.

1. Required. It shall be unlawful to sell or offer for sale any food or beverage or art or craft or any other product on any public sidewalk within the city without first obtaining a permit from the city.

2. Display. All city-required permits shall be displayed on the cart at all times.

3. Fee. A permit fee shall be required for a one-year permit in the amount of $150.00.

4. Renewal. All permits are valid for the entire approved one-year period, unless revoked or suspended by the city prior to expiration. An application to renew a permit shall be made no later than thirty (30) days before the expiration of the current permit.

(Code 1976, § 21-12; Ord. No. 54-87, §§ 3, 8—11, 7-7-87; Ord. No. 70-08, § 1, 11-18-08)

G. Applications.

1. Applications shall contain the following information:

   (a) The name, home and business address of the applicant and the name and address of the owner, if other than the applicant of the vending business.

   (b) A description of the type of food or beverage or art or craft or of any other product proposed for vending.

   (c) A description of the proposed location(s) and hours of operation.

   (d) A description and photograph of the stand to be used.

   (e) Certification by the city/county health department for food and/or beverage sales.

   (f) Proof of an insurance policy, issued by an insurance company licensed to do business in the state, protecting the licensee and the city from all claims for damages to property and bodily injury including death, which may arise from operations under or in connection with the license. Such insurance shall provide that the policy shall not terminate or be cancelled prior to the expiration date without thirty (30) days' advance written notice to the city administrator. The vendor shall obtain Commercial General Liability insurance

on an occurrence basis with limits of not less than $1,000,000 each occurrence, $1,000,000 personal and advertising injury, $2,000,000 products and completed operations aggregate, $2,000,000 general aggregate and $5,000 expense (any one person). The policy shall name the City of Fort Smith as Primary Additional Insured and include ISO forms CG2010 and CG2037 (or equivalent endorsements).

Vendor shall also provide evidence that ISO endorsement Products/Completed Operations Hazard Redefined-Changes (CG2407) has been added to the policy. Waiver of Subrogation shall apply in favor of the City of Fort Smith.

The policy shall include a statement that the vendor/insured shall hold the City harmless from and indemnify the city for all expenses, losses, cost, causes of action and judgments, including legal expense, arising from the vendor's/insured's' operations.

2. Applications shall be filed with the planning department of the city.

(Code 1976, § 21-13; Ord. No. 54-87, § 4, 7-7-87; Ord. No. 70-08, § 1, 11-18-08)

H. Issuance; denial, suspension and revocation; appeal.

1. Issuance of permit. No later than fifteen (15) days after the filing of a completed application for a vendor's permit the applicant shall be notified by the planning department of the decision on the issuance or denial of the license.

2. Denial, suspension and revocation. Any permit may be denied, suspended or revoked by the city for any of the following causes:

(a) Fraud or misrepresentation contained in the application for the permit.

(b) Fraud or misrepresentation made in the course of carrying on the business of vending.

(c) Conduct of the permitted business in such manner as to create a public nuisance or constitute a danger to the public health, safety, welfare or morals.

(d) Conduct of the vendor which is contrary to the provisions of this division.

(e)The proposed sale of food or beverages or art or crafts or other products inappropriate or incompatible with standards promulgated by the central business improvement district commission.

I. Appeals of Administrative Determinations.

The Planning Commission shall hear appeals from the Director's decision in respect to the enforcement and application of this Chapter, and may affirm or reserve in whole or in part the decision of the Director in accordance with Section 27-___(J) Appeals of Administrative Determinations.

J. Forfeiture of Fee. If the City revokes a vendor permit, the fee already paid for the permit shall be forfeited.

27-_____Outdoor Mobile Food Vending

The purpose of this chapter is to promote and encourage open-air retail environments, while preserving and protecting the health, safety and welfare of citizens through regulations that promote opportunities and management of such enterprises.

A. Definitions.

Angled parking space shall mean a parking space that is on a geometric angle to the street curb.

Edible goods shall include, but are not limited to prepackaged and prepared foods, excluding the sales of alcoholic beverages.

Food service establishment shall mean businesses that sell edible goods and have been inspected and approved by the Sebastian County Health Department and the City of Fort Smith.

Mobile shall mean the state of being active, but not necessarily continuous, movement.

Mobile food court shall mean a site that contains more than one mobile food vendor on a regular basis as the principal use of the land.

Mobile food vendor shall mean any person(s) who owns or operates a mobile food vehicle for the purpose of mobile food vending.

Mobile food vendor, private property shall mean any person(s) who exhibits, displays, or sells any food or beverage from a mobile food vehicle at a designated location on private property.

Mobile food vendor, public street right-of-way shall mean any person(s) who exhibits, displays, or sells any food or beverage from a mobile food vehicle at a designated location on the public street right-of-way.

Mobile food vehicle shall include, but not be limited to:

(a) **Mobile food truck**: A self contained motorized unit selling items defined as edible goods.
(b) **Concession trailers**: A vending unit which is pulled by a motorized unit and has no power to move on its own.

Parallel Parking Space shall mean a parking space that is adjacent to the curb the full length of the parking space.

Sell shall mean the act of exchanging a food for a profit or in return for a donation.

Stationary location shall mean the position of the mobile food vendor when not in motion and addressing the public for the purpose of sales.

Temporary building shall mean a structure not exceeding 160 s.f. used to vend edible foods and that is not permanently affixed to the ground, or on blocks, etc.

Tow Vehicle – A motorized land vehicle.

B. Exemptions

1. An approved Farmers Market;
2. Temporary sales for non-profit entities that operate for less than five (5) consecutive days as part of a festival or special event shall be exempt from sidewalk vending regulations.
3. Children's lemonade stands.

C. Outdoor Mobile Food Vendors Located on Private Property

The purpose of this section is to facilitate and control the ability of mobile food vendors and mobile food courts to operate on private property while ensuring such uses are compatible with nearby properties, fosters an aesthetically appealing streetscape, and does not create a dangerous traffic condition.

1. **Single Vendor**

   a. **Zoning Districts**. Outdoor mobile food vendors shall be permitted on private property in C-2 through C-6 commercial zoning districts and I-1 and I-2 industrial zoning districts. Outdoor mobile food vendors are prohibited in residential zoning districts.

   b. **Number of Vendors.** Only one (1) mobile food vendor shall be permitted per lot. However, if a lot has multiple street frontages, vendors may operate on the lot provided there is only one mobile food vendor proposed per street frontage. Otherwise, all proposed multiple mobile food vendors on a single lot shall be considered a Mobile Food Court and shall comply with the requirements for Mobile Food Courts below.

   c. **Permission required.** Outdoor mobile food vendors shall first obtain written permission from the property owner prior to submitting an application.

2. **Mobile Food Courts**

   a. **Zoning Districts.** Mobile food courts shall be permitted as a conditional use in C-2 through C-6 and I-1 and I-2 industrial zoning districts. Outdoor mobile food courts are prohibited in residential zoning districts.

   b. **Review Criteria.** A property owner, or agent, proposing a mobile food court shall submit an application for a Conditional Use Permit to the Planning Department. The Planning Commission will review the overall compatibility of the planned semi-permanent use with the surrounding property as well as such specific items as screening, parking and landscaping to make sure that no harmful effects occur to nearby property. The property owner, or agent, proposing a mobile food court may also be required to provide any of the following improvements to the property:

      i. Improvements necessary to provide permanent utility connections for each mobile vending unit location in the mobile food court. This may include permanent water, sanitary sewer and electricity connections.

ii. Improvements necessary to ensure safe pedestrian and vehicular access to the site.

iii. Off-street parking improvements in compliance with Section 27-601 of the Unified Development Ordinance.

iv. A minimum of 1 ½ spaces off-street parking spaces provided for each vending unit in the mobile food court. The number of parking spaces shall be rounded to the next higher whole number when the fraction is 0.5 or higher. Mobile food courts in the C-6 zoning district are exempt from the off-street parking requirements.

v. Provide adequate restrooms facilities on site or through the provision of a shared use agreement with a neighboring business for access to restroom facilities.

c. **Permit Requirements.** Individual mobile food vendors within a mobile food court shall comply with the permitting requirements in Section E – Mobile Food Vendor Permit Requirements – Private Property. The mobile food court owner/operator shall not pay an annual permit fee, but shall maintain a current business license. The owner/operator shall also provide the following information:

i. Name, address, and contact information of the individual mobile food vendors operating in the mobile food court.

ii. Name, address, and contact information of the mobile food court operator and/or owner.

D. **Public Street Right-of-Way.** Outdoor mobile food vending on public street right-of-way shall be permitted only within the Commercial Downtown (C-6) zoning district.

1. **Permit requirements.** Mobile food vendors are allowed to operate on public street rights-of-way within the Commercial Downtown (C-6) with the following requirements.

a. Each application for a permit to conduct a mobile food vendor business on a public street right-of-way shall be accompanied with a permit and processing fee of $150.00. Permits issued after September 30th shall be companied with a permit and processing fee of $75.00. Mobile food vendor permits shall be issued to the owner of the mobile food vendor vehicle. All permits shall expire December 31.

b. Submit name, address, contact information and signature of the mobile food vendor requesting to locate within a public street right-of-way.

c. Submit a scaled drawing, photo, or written documentation verifying the dimensions of the conveyance.

d. The mobile food vendor has the responsibility to dispose of all wastes in accordance with all applicable laws. Mobile food vendors are not permitted to dispose of their trash in public trash receptacles.

e. The mobile food vendor shall be permitted to conduct business in parallel parking spaces only.

f. Proof of an insurance policy, issued by an insurance company licensed to do business in the state, protecting the licensee and the city from all claims for damages to property and bodily injury including death, which may arise from operations under or in connection with the license. Such insurance shall provide that the policy shall not terminate or be cancelled prior to the expiration date without thirty (30) days' advance notice to the city administrator.

   The vendor shall obtain Commercial General Liability insurance on an occurrence basis with limits of not less than $1,000,000 each occurrence, $1,000,000 personal and advertising injury, $2,000,000 products and completed operations aggregate, $2,000,000 general aggregate and $5,000 expense (any one person). The policy shall name the City of Fort Smith as Primary Additional Insured and include ISO forms CG2010 and CG2037 (or equivalent endorsements).

   Vendor shall also provide evidence that ISO endorsement Products/Completed Operations Hazard Redefined-Changes (CG2407) has been added to the policy. Waiver of Subrogation shall apply in favor of the City of Fort Smith.

   The policy shall include a statement that the vendor/insured shall hold the City harmless from and indemnify the city for all expenses, losses, cost, causes of action and judgments, including legal expense, arising from the vendor's/insured's' operations.

2. The mobile food vendor shall occupy only one parallel parking space. If the mobile food vendor is utilizing a concession trailer, two parallel parking

spaces can be utilized provided the mobile food vehicle is connected to a tow vehicle at all times.

3. **Location Restrictions.** No vendor within the Commercial Downtown (C-6) zoning district on public right-of-way shall be permitted to operate in the following areas:

   a. Within 10 feet of any street intersection or pedestrian crosswalk.

   b. Within 10 feet of any driveway, loading zone or bus stop.

   c. Within 10 feet of any fire hydrant or fire escape.

   d. Within 10 feet of any parking space or access ramp designated for persons with disabilities

   e. Angled on-street parking spaces.

   f. Within 50 feet of a driveway to police or fire station.

   g. Within 50 feet of the principal public entrance to a food service establishment not owned by mobile food vendor, unless written permission has been given by the food service establishment, or the food service establishment is closed for business.

   h. Any area that obstructs pedestrian traffic.

   i. No customer shall be served on the street side of the mobile unit. All service must occur on curb side when the mobile unit is abutting a public street.

   j. No drive thru or drive-by customer service shall be provided or permitted as part of a mobile food vendor business.

   k. No mobile food vendor shall conduct business so as to violate any ordinances of the city regulating traffic and rights-of-way now in effect or hereafter amended.

   l. No seating or signage shall be provided or permitted in a street right-of-way or public sidewalk as part of a mobile food vendor business.

   m. No mobile food vendor shall sell or vend from his/her vehicle within 300 feet of a public or private school property while school is in session and one hour before and after school is in session; classes or school related events, except when authorized in writing by the school.

n. In the public street right-of-way on the designated truck route.

o. In the public street right-of-way of a state highway (Garrison Avenue, Towson Avenue, Rogers Avenue (east of Towson Avenue), North 10th Street, and North 11th Street).

p. In any parallel parking space that is designated as reserved.

4. **Hours of Operation**. Outdoor mobile food vending on public street rights-of-way within the Commercial Downtown (C-6) zoning district shall be allowed to engage in the business of mobile food vending only between the hours of 9:00 pm and 2:00 a.m. Mobile food vending vehicles shall be removed from the public street right-of-way when not in use.

E. Mobile Food Permit and Permit Requirements.

1. **Mobile Food Vendor Annual Permit – Private Property.** Mobile food vendors are allowed to operate on a temporary basis for one year in one location with administrative approval of the Planning Department. After the one-year period has expired, the mobile food vendor shall to move to another location or may request one-year renewal from the Planning Department.

2. **Mobile Food Vendor Permit Requirements – Private Property.** All mobile food vendors located on private property shall meet the following requirements and submittals prior to approval.

a. Each application for a permit to conduct a mobile food vendor business on private property shall be accompanied with a permit fee of $150.00. Permits issued after July 1 shall be companied with a permit fee of $75.00. Mobile food vendor permits shall be issued to the owner of the mobile food vendor vehicle. All permits shall expire December 31.

b. Submit name, address, contact information and signature of both the property owner and the mobile food vendor requesting to locate on private property.

c. Submit written permission, signed by the property owner or legal representative of record, stating that the mobile food vendor is permitted to operate on the subject property for a specified period of time.

d. The mobile food vendor has the responsibility to dispose of all wastes in accordance with all applicable laws. Mobile food vendors are not permitted to dispose of their trash in public trash receptacles.

e. The permit issued to a mobile food vendor shall not be transferrable to another owner or operator without a new application submitted and approved by the city.

f. The mobile food vendor permit issued shall be conspicuously displayed at all times during the operation of the mobile vending business.

g. Mobile food vendors shall maintain compliance with parking lot requirements for the existing businesses. The use of parking for a mobile food vendor may not reduce the number of spaces below the minimum required for other uses occurring on the property.

h. Verification that the applicant is registered with the Arkansas Department of Finance and Administration.

3. **Temporary Buildings – Private Property.** A temporary building can be used on private property to vend edible foods. A permit from the city building official is required for all temporary buildings. All temporary buildings must comply with the Arkansas Fire Prevention Code. Permits for temporary buildings are limited to 180 days unless a time extension is granted by the city Building Official. A temporary building must also comply with the requirements of this Chapter.

4. **Mobile Food Vendor Transfer Option – Private Property.** Within the permit period, mobile food vendors on private property may transfer to another location that allows mobile food vending. Each transfer request shall be accompanied with an application to the Planning Department and a permit and processing fee of $40.00.

5. **Mobile Food Vendor on Multiple Locations – Private Property.** Mobile food vendors are allowed to operate on a temporary basis on multiple locations after meeting the following conditions:

   a. The applicant has submitted an application to the Planning Department accompanied with permit and processing fee of $200.00.

   b. The property owner for each location must provide a written statement giving the mobile food vendor permission to operate on the property.

   c. The mobile food vendor has the responsibility to dispose of all wastes in accordance with all applicable laws. Mobile food vendors are not permitted to dispose of their trash in public trash receptacles.

6. **Renewal Requirements – Private Property**. Mobile vendors requesting a one-year renewal to stay in the same location shall comply with the following:

   a. Applicant shall submit a renewal request on a form provided by the Planning Department.

   b. Applicant shall provide verification that the mobile food vendor has a valid sales tax permit registered with the Arkansas Department of Finance and Administration.

   c. The Director or his designee shall review each application for renewal, and upon determining that the applicant is in full compliance with the provisions of these regulations, shall issue a new permit.

   d. Planning Commission approval shall be required for all mobile food vendors who have received formal enforcement actions from the city.

   e. Payment of a $150.00 permit fee.

F. Littering and Trash Removal.

1. Mobile food vendors shall keep the sidewalks, roadways, property where the vendor is located and other locations adjacent to their vending site clean and free of debris and refuse generated from the operation of their business.

2. Mobile food vendors shall provide a receptacle for litter that shall be maintained and emptied regularly.

G. Prohibited Conduct.

No person authorized to engage in the business of mobile food vending under these regulations shall do any of the following:

1. Locate in any residential zoning district.

2. Locate within a site triangle described as the area delineated by a distance of twenty-five (25) feet along the intersecting property lines, beginning at a property corner point and extending twenty-five (25) feet in both directions away from the corner point of an intersection and then connecting the terminus points by a line to form the triangular area.

3. No mobile food vendor shall sell or vend from his/her vehicle within 300 feet of a public or private school property while school is in session and one hour before

and after school is in session; classes or school related events, except when authorized in writing by the school.

4. Unduly obstruct pedestrian or motor vehicle traffic flow, except a reasonable time to load and unload the mobile food vendor vehicle.

5. Obstruct traffic signals or regulatory signs.

6. Stop, stand or park any mobile food vendor upon any street for the purpose of selling during the hours when parking, stopping and standing have been prohibited by signs or curb markings.

7. Leave any mobile food vehicle in a public street right-of-way overnight.

8. Sounds projecting from the mobile food vendor that violate Article II – Noise regulations of the Fort Smith Code of Ordinances.

9. Conducting the business in such a way that would restrict or interfere with the ingress or egress of the abutting property owner or tenant, create traffic congestion or delay, constitute a hazard to traffic, life or property, or obstruct adequate access to emergency and sanitation vehicles.

10. Use or install any lighting that does not comply with Section 27-602-5 Commercial and Outdoor Lighting requirements of the Unified Development Ordinance.

11. Run hoses, cords, or other apparatus across a pedestrian pathway or sidewalk.

12. Utilize any portion of a public sidewalk or public right-of-way where mobile food vending is not allowed or authorized.

13. Remove the wheels from a mobile food vehicle. The mobile food vehicle shall not be otherwise be rendered immobile such as being placed on blocks, railroad, ties, etc.

H. Revocation of Permit.

A license issued pursuant to this chapter may be revoked, in writing, by the Director or his designee for any of the following reasons:

1. Any fraud, misrepresentation or false statement contained in the application for license;

2. Any fraud, misrepresentation or false statement made in connection with selling of products;

3. Any violation of this chapter;

4. Conducting the business license under this chapter in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

I. Appeal.

Appeals to the Director's decision relating to this Chapter shall be made to the Planning Commission concerning the issuance of a license or revocation of a license pertaining to this Chapter.

J. Appeals of Administrative Determinations.

The Planning Commission shall hear appeals from the Director's decision in respect to the enforcement and application of this Chapter, and may affirm or reserve in whole or in part the decision of the Director.

1. Process. Any person, officer of the City, or other governmental agency not in agreement with a decision made by the director may appeal the decision within 10 (ten) days of the decision by filing with the Director a notice of appeal along with payment of the required appeal fee. The filing shall specify the reason for the appeal. The Director shall then transmit to the Planning Commission all the information on the details of the decision and reason for the appeal. This shall be done in advance of the next regularly scheduled meeting.

2. Stay. An appeal puts all processing of applications on hold until the appeal process is completed.

3. Hearing. The Planning Commission shall schedule a reasonable time for the hearing of the appeal or any other matter referred to it. Notice shall be published one (1) time in a local newspaper fifteen (15) days before the public hearing.

4. Action. In exercising its powers, the Planning Commission, in conformity with the provisions of law, may reserve or affirm, wholly or in part, or may modify the order, requirement, decision, or determination.

5. Appeals. Appeals from the decision of the Planning Commission shall be made to the Board of Directors within ten (10) days of the Planning Commission's decision.

K. Forfeiture of Fee. If the City revokes a mobile vending permit, the fee already paid for the permit shall be forfeited.

2

MEMORANDUM

April 24, 2015

TO: Mayor and Board of Directors

FROM : Ray Gosack, City Administrator

SUBJECT: Town Hall Meetings

The mayor and board of directors conduct town hall meetings following adjournment of the regular board meeting on the first Tuesday of each month. The town hall meeting is an opportunity for citizens to address their local elected officials in an informal atmosphere. Attached is the section of the Fort Smith municipal code which provides for town hall meetings.

During the April 7th town hall meeting, some directors were concerned about the conduct of a citizen. The board asked for a study session discussion about town hall meeting procedures.

There was a suggestion to reduce the amount of time granted for citizen presentations at town hall meetings. Currently, each citizen is allowed 5 minutes to present his/her item. A shorter time limit wouldn't prevent a citizen from engaging in uncivil behavior.

The municipal code contains a provision (attached) about meeting procedures and decorum. If the board believes these provisions aren't appropriate for town hall meetings or not specific enough, provisions from the board best practices document may be more appropriate. Those provisions are also attached. If the provisions from the board best practices document are more desirable, they should be added to the municipal code.

The board may also desire to reconsider the seating locations of the board and citizens (meeting proxemics). The current seating arrangement was established by the board to create an atmosphere which would encourage dialogue between citizens and elected officials.

Public participation is a hallmark of local governance. The City of Fort Smith embraces citizen involvement at board meetings. All participants have a responsibility to conduct themselves with civility and decency. If the current provisions which govern meeting conduct are inadequate, amendments to the municipal code will give greater assurance that meetings are conducted with proper decorum.

Attachment

TOWN HALL MEETING PROVISION IN SECTION 2-44(b) OF THE FORT SMITH MUNICIPAL CODE

(b) Following adjournment of the regular board meeting held on the first Tuesday of each month (or, if applicable, to its rescheduled date), the board shall conduct an informal town hall meeting at which citizens may introduce matters involving city government to the board of directors. Each citizen shall have up to five (5) minutes to present his or her matters. If a matter presented by a citizen requires consideration of possible action by the board of directors or the city administrator, the matter shall be handled in accordance with subsection 2-44(a).

MEETING DECORUM PROVISION IN SECTION 2-35(b) OF THE FORT SMITH MUNICIPAL CODE

(b) The mayor, assistant mayor or vice mayor, or other person presiding over the meeting shall have the affirmative duty and authority to require the members of the board of directors and other persons present at the meeting to comply with the rules of order. The chairman of the meeting shall constantly maintain the decorum of the meeting, and shall have authority to order the removal of persons not on the board of directors violating the rules of order or disturbing the meeting. The chairman of the meeting may require the city administrator to provide a person having police authority to be present at a meeting to assist in the performance of the duties of the presiding officer. It is the purpose of this subsection to require the chairman of the meeting to enforce the rules of order and to maintain the decorum of the meeting without a request for rule compliance or objection to rule violation by a member of the board of directors. If a member of the board of directors believes there is a violation of the foregoing by a citizen, he or she may make a motion to end the presentation or assert a point of order. If said motion receives a second, there shall immediately be taken a vote of the board of directors on the motion to end the presentation. The chairman may enforce the point of order or may submit same to a vote of the board of directors.

BOARD BEST PRACTICES DOCUMENT

Section 5: CODE OF CONDUCT

Practice civility and decorum in discussions and debate. Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of a free democracy in action. However, participants shouldn't make belligerent, personal, derogatory, impertinent, slanderous, threatening, abusive or disparaging comments. Shouting or physical actions that could be construed as threatening won't be tolerated.

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Memorandum

To: Ray Gosack, City Administrator

From: Stan Snodgrass, P.E., Director of Engineering

Subject: Re-evaluation of Traffic Calming Policy (Speed Table Policy)

Date: April 24, 2015

At the April 21, 2015 Board of Directors meeting, the Board requested a study session to re-evaluate the draft traffic calming policy. This draft policy focuses on speed tables and provides a detailed procedure for determining if the installation of speed tables could be considered.

The draft policy was presented to the Board at the February 3, 2015 meeting. This item included the installation of six speed tables and associated signage as a test area along Cliff Drive between South 30th Street and Old Greenwood Road as approved by Resolution R-18-15. A copy of the resolution along with the associated staff report and draft policy are attached. The location of the six speed tables have been determined and have been marked along Cliff Drive. This project is scheduled to be put out to bid in approximately four weeks with construction taking place this summer. The estimated cost is $18,000 to $30,000.

Enclosures

4A

RESOLUTION R-18-15

A RESOLUTION AUTHORIZING THE INSTALLATION OF SPEED TABLES ON CLIFF DRIVE

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS, THAT:

SECTION 1: There will be six speed tables and associated signage installed as a test area along Cliff Drive between South 30th Street and Old Greenwood Road as a means of traffic calming.

SECTION 2: This test area will be reevaluated in six to twelve months following the installation of the speed tables to determine the effectiveness of the speed tables and to allow for community feedback on desirability for speed tables.

SECTION 3: The adoption of a traffic calming policy will not take place until reevaluation of the test area. Requests for speed tables in other areas will be accepted and evaluated, but not acted upon until the Cliff Drive test area is reevaluated.

SECTION 4: Payment for construction authorized by Section 1 is hereby authorized from the Sales Tax Fund (1105).

This resolution adopted this 3rd day of February, 2015.

APPROVED:

Sandy Sanders

Mayor

ATTEST:

Sherri Gard

City Clerk

Approved as to Form

Amy Crofield

☐ No Publication Required

Memorandum

To: Ray Gosack, City Administrator

From: Stan Snodgrass, P.E., Director of Engineering

Subject: Speed Tables on Cliff Drive between South 30th and Old Greenwood Road

Date: January 29, 2015

At the August 5, 2014 town hall meeting, petitions were submitted to the Board of Directors requesting speed tables along Cliff Drive. The petitions stated that the speed of traffic flow has become hazardous to Sebastian Hills residents, pedestrians, pets and motorists and that it is not uncommon for vehicles to be traveling in excess of 50 mph. The petitioners recommended the City test speed tables on Cliff Drive as a means of ensuring public safety where needed in Fort Smith.

To evaluate the neighborhood's concerns about speeding, a traffic study along this section of Cliff Drive was conducted last fall. The results of the traffic study were presented to the Board of Directors at the October 28th Study Session. The study included determining the traffic volume and speed count data along Cliff Drive. At the study session, the board requested that the staff investigate a traffic calming policy for use on residential streets.

At the January 27th study session, a proposed traffic calming policy was presented. The policy focuses on speed tables and provides a detailed procedure for determining if the installation of speed tables could be considered. A copy of the draft policy is attached.

There was also discussion about the implementation of speed tables as a test area for a six to twelve month period. This test area would be located along Cliff Drive between Old Greenwood Road and South 30th Street. Six speed tables would be installed at an estimated cost of $18,000 to $30,000. This test would allow for community feedback on the effectiveness and desirability of speed tables before further installations are considered.

The attached Resolution authorizes the installation of the speed tables and associated signage along Cliff Drive as the test area. This test area will be reevaluated in six to twelve months following the installation of the speed tables to determine the effectiveness of the speed tables and to allow for community feedback on the desirability for speed tables. The adoption of a traffic calming policy will not take place until reevaluation of the test area. However, requests for speed tables on other residential streets will be accepted and evaluated, but not acted upon until the Cliff Drive test area is reevaluated.

A traffic calming policy is in alignment with the comprehensive plan policy TI-1.4 (Protect residential neighborhoods from excessive through traffic).

Enclosure

City of Fort Smith Arkansas
Traffic Calming Policy

Introduction

The generally accepted definition of Traffic Calming was presented by I.M. Lockwood in an Institute of Transportation Engineers Journal article published in 1997. The definition is:

> *"Traffic calming is the combination of mainly physical measures that reduce the negative effects of motor vehicle use, alter driver behavior, and improve conditions for non-motorized street users."*[1]

Traffic calming techniques apply to residential streets as all other types of streets are intended to carry larger volumes of motorized vehicles in an efficient manner.

Streets in Fort Smith serve different purposes. Streets are grouped together based on their intended purpose by classifications. The street classifications are designated in the City of Fort Smith's Master Street Plan approved by the Board of Directors.

At the high end of the classification range are the freeways or interstates. These roadways extend across the city, are high speed roadways, and are accessible only at interchange ramps. The next highest class is arterial streets. These streets extend several miles, typically are four or five lanes with speed limits of 35 miles per hour up to 55 miles per hour, and carry large volumes of traffic. Examples include Rogers Avenue, Waldron Road, Phoenix Avenue, and Old Greenwood Road. Driveway access to these roads is limited to reduce friction points and assist in carrying the traffic in an efficient manner. The third class of streets is collector streets. Collector streets are generally 2 miles or less in length and provide access for traffic from neighborhoods and other developed areas to the arterial streets. Traffic volumes are lower than arterial streets and the posted speed limits are generally 30 miles per hour to 40 miles per hour. Examples include Free Ferry Road, Meandering Way, Albert Pike Avenue and Brooken Hill Drive. The fourth class of streets is residential, or local, streets. The purpose of residential streets is to provide access to individual properties. These streets typically are of shorter length and carry low traffic volumes. Residential streets connect to either collector streets or arterial streets. The upper range of traffic volumes is 1,000 vehicles per day.

All classifications of streets, with the exception of residential streets, are designed and intended to carry higher volumes of traffic**. Therefore, traffic calming techniques and this policy shall only be implemented on streets with a residential functional classification as defined in the City of Fort Smith's Master Street Plan**.

Traffic calming can involve change in street alignment, vertical speed control techniques (speed tables), narrowing of the street, street closures, and other physical barriers to reduce the speed and volume of traffic. The techniques are intended to be self-enforcing. These techniques create inconvenience to motorists as well as emergency response vehicles and should be used judiciously. The techniques can also relocate the issue to other streets by diverting traffic. Therefore, it is necessary to determine if there is a speeding issue or if the traffic volumes are greater than the expected or accepted norms before embarking on traffic calming for an existing residential street. The policy delineates the process by which an evaluation can be made to determine the extent of the issue, if any. This policy will focus on vertical speed control techniques (speed tables) as it is the most commonly requested means of traffic calming.

Many residential streets in Fort Smith are straight long streets. Traffic volume generally increases as the length of a street increases because there are many residences served by the street. If a residential street connects to more than one arterial or collector street, the street can provide a route for traffic not living in the neighborhood to use the street. This type of traffic is known as "through" traffic (traffic that does not have an origin or destination on that street). It is difficult to determine how much of the traffic on a residential street is traffic generated by the houses on the street or "through" traffic. A 24 hour traffic count can provide some indication of how much "through" traffic exists. The length, width, and straightness can also encourage speeding. By state law, the speed limit on a residential street in Arkansas is 30 miles per hour. Thresholds for both speed and traffic volume are important to determine if a street or street segment exceeds acceptable traffic volumes or speeds.

Speed Tables

The installation of speed tables will only be considered for streets classified as residential streets in the Fort Smith Master Street Plan. Further, only streets with a 24 hour traffic volume between 1,000 and 2,000 vehicles per day will be considered. Streets with traffic volume above 2,000 vehicles per day may be classified as residential streets but are functioning as a collector street or greater and will not be considered for speed tables. Average daily traffic volumes are commonly expected to reach up to 1,000 vehicles per day on residential streets. This upper limit for traffic volume on residential streets is used as the lower volume threshold for the speed table policy to differentiate residential streets with higher traffic volumes.

There are numerous factors that must be considered before the installation of speed tables. Speed tables increase emergency vehicle response time. Speed tables on one street often divert the traffic and the issues to a surrounding street. Citizens may be divided on liking or disliking the installation of speed tables. Additional signage will be installed at each speed table and there

is increased noise from vehicles as they brake, go over, then accelerate away from the speed table. Drainage in the street has to be considered as speed tables can block the free flow of water at the curb and speed tables affect snow removal. There can be inconvenience along with increased wear and tear to vehicles including solid waste collection, transit buses and delivery vehicles. The introduction of speed tables in the street also can affect bicyclists and pedestrians waking in the street in the absence of sidewalks. There are installation costs associated with implementing speed tables and ongoing maintenance costs that should be considered. It will also require considerable staff time to administer the policy.

The following procedures outline the policy for administering the speed table policy for the city.

Property owners may request speed tables be placed on a residential street by initiating a petition. The form of the request shall be in writing accompanied by a petition of landowners fronting the affected street segment. The petition form to be utilized for gathering signatures will be provided by the City and is included with this document. A total of two thirds (67%) or greater of the landowners fronting the street must sign for approval of the proposal for the street to be considered for the installation of speed tables. There shall be only one signature per property. The absence of a signature for a property shall be considered against the proposal.

Once a valid petition and request is received by staff, the street segment will be evaluated. Traffic counts will be collected along the roadway on an average weekday. In addition, a speed study will be conducted to determine the existing speeds on the street. Streets where a request has been made for the placement of speed tables must meet minimum criteria to be candidates. The criteria are based on the prevailing speeds and traffic volumes.

Acceptable qualification for residential streets to be considered for speed tables are 85th percentile speeds in excess of 5 miles per hour over the statutory speed limit of 30 miles per hour and at least 1,000 vehicles for a 24 hour period. The 85th percentile speed is the speed at which 85% of the motorists are driving at or below. It is the nationally accepted method of setting speed limits for a street and is also the accepted value for the prevailing speed on the street. If the 85th percentile speed is less than or equal to 35 miles per hour, or if the 24 hour traffic volume is less than 1,000 vehicles per day or greater than 2,000 vehicles per day, speed tables shall not be installed and the street segment will no longer be considered. A minimum of one year shall pass before the street segment can be submitted for consideration again, and a new petition meeting the requirements noted above is required.

If a street qualifies, a point system will be assigned to the street segment based on the results of the speed study and the traffic volume count. Qualifying streets will be prioritized based on the total points calculated.

The point system will give 5 points for every mile per hour over the 85th percentile speed of 35 miles per hour. The speed studies will be conducted for traffic traveling in both directions. The highest 85th percentile from either direction will be used. For example, if the 85th percentile speed in one direction is measured at 37.5 miles per hour and the 85th percentile speed in the opposite direction is measured at 40.2 miles per hour, the 40.2 miles per hour will be used for calculation purposes. The 40.2 miles per hour speed is over the minimum threshold of 35 miles per hour by 5.2 miles per hour. The number of points based on the speed for this street segment would be 5.2 x 5 points, or 26.0 points.

One point will also be given for every 100 vehicles exceeding 1,000 vehicles per day, up to the maximum of 2,000 vehicles per day (maximum of 10 points). The traffic count will be the sum of both directions of travel. For example, if the 24 hour count is 1,641 vehicles, the resulting points will be (1,641 – 1,000)/100 x 1 point or 6.4 points. The total points for the example are 26.0 + 6.4 = 32.4 points.

For the example stated, with a petition of two thirds (67%) of the landowners in favor of speed tables, the residential street would be eligible for speed tables. It qualifies based on an 85th percentile speed over 35 miles per hour, a petition greater than 67% in favor and the daily traffic volume between 1,000 vehicles per day and 2,000 vehicles per day. The total point value assigned to the request would be 32.4 points. The point system allows a prioritization system and allows staff to install speed tables on the streets with the highest points with funding available. An annual report will be made to the Board of Directors for their approval and placement on the priority list based on the number of total points. The Board will take into consideration if a neighborhood association offers to pay all or a portion of the installation costs if the street meets all the speed table requirements.

Removal of Speed Tables

Placement of speed tables is controversial. If after placement of the speed tables a majority of the property owners believe they have not been effective or disapprove of their installation, a petition can be submitted to the city requesting removal. A petition cannot be submitted within the first year of placement of the speed tables. The petition form to be utilized for gathering signatures will be provided by the City and is included with this document. The petition must be signed by two thirds (67%) or greater of the property owners fronting the street where removal is requested. Only one signature per property will be valid.

Once the city receives a valid petition, traffic volumes and speeds will again be measured. A report will be prepared for the Board of Directors comparing the “before” traffic data with the “after” traffic data. The Board of Directors will make the final decision on whether the speed

tables should be removed or remain. If the decision is to leave the speed tables, another petition cannot be submitted for a one year period. If the decision is to remove the speed tables, due to the expense of the study, installation and removal costs, the street segment shall not be reconsidered for speed tables for a 5 year period after removal. A new petition meeting the requirements noted above is required to reconsider the street segment for speed tables.

References

1. I.M. Lockwood, "ITE Traffic Calming Definition," *ITE Journal,* Vol. 67, July 1997, pp. 22–24.

CITY OF FORT SMITH **DATE: _____**
PETITION FOR SPEED TABLE EVALUATION STUDY

We request the City of Fort Smith Engineering Department to conduct a speed/traffic volume study to determine if the following street satisfies the city adopted criteria for speed table installation:

_____ between _____ & _____
Name of affected Street (Intersecting Streets)

Note:

1. Study will be conducted ONLY if two thirds (67%) of the property owners (houses fronting the affected street) support speed table installation.
2. Speed tables may be installed ONLY if funding is available and study results indicate that speed tables warrants are satisfied.
3. Signatures of all property owners on the affected street must be obtained. The absence of a signature for a property will be considered against the request for speed tables.
4. Signature must be of the property owner. Only one signature per property allowed.

Name/Address of the person representing the neighborhood:_____

_____

Phone: _____

Return **originals** to: City of Fort Smith
Engineering Department
623 Garrison Avenue, Room 409
Fort Smith, AR 72902

Please read carefully before signing:
While speed tables generally reduce vehicle speeds, they also create other inconveniences such as increased vehicular noise in the vicinity of speed tables and increased response time for emergency vehicles. Also, because of spacing requirements, it is possible that a speed table, associated pavement markings and signage may be installed adjacent to your property.

Signature	Printed Name	Street Address	For	Against

CITY OF FORT SMITH **DATE: _____**
PETITION FOR SPEED TABLE REMOVAL

We request the City of Fort Smith to remove the speed tables on the following street segment:

_____ between _____ & _____
Name of affected Street (Intersecting Streets)

Note:

1. Removal will ONLY be considered if two thirds (67%) of the property owners (houses fronting the affected street) support the speed table removal.
2. Signatures of all property owners on the affected street must be obtained. The absence of a signature for a property will be considered against the request for removing the speed tables.
3. Signature must be of the property owner. Only one signature per property allowed.

Name/Address of the person representing the neighborhood:_____

_____

Phone: _____

Return **originals** to: City of Fort Smith
Engineering Department
623 Garrison Avenue, Room 409
Fort Smith, AR 72902

Please read carefully before signing:
This petition is for the removal of speed tables on the above referenced street segment. If the speed tables are removed, this street segment will not be reconsidered for speed tables for a five (5) year period after removal.

Signature	Printed Name	Street Address	For	Against