

## **MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING**

**TUESDAY ~ OCTOBER 18, 2011 ~ 6:00 P.M.**

### **FORT SMITH PUBLIC SCHOOLS SERVICE CENTER**

The meeting was called to order by Mayor Sandy Sanders, presiding. Invocation was given by Director Don Hutchings, followed by the Pledge of Allegiance. On roll call the following members of the Board were present: Directors Steve Tyler, Andre' Good, Don Hutchings, George Catsavis, Pam Weber, Kevin Settle and Phillip H. Merry, Jr. The Mayor declared a quorum present.

The Mayor inquired if any Board member had any item of business to present that was not already on the agenda. There was none presented.

The minutes of the October 4, 2011 regular meeting were presented for approval. Weber, seconded by Settle, moved approval of the minutes as written. The members all voting aye, the Mayor declared the motion carried.

Mayor Sanders urged all those who wish to address the Board of Directors during the meeting to promptly complete a speakers card and submit to the City Clerk.

With regard to the time limit policy for persons wishing to address the Board, the Mayor communicated that five (5) minutes per side would be granted for controversial items with three (3) minutes for rebuttal per side. Two (2) minutes will be allotted for consent agenda items and for those participating in the citizens forum.

Item No. 1 was an ordinance repealing Sections 22-2 (b) and 22-2 (c) of the Fort Smith Municipal Code.

Downtown Development Coordinator Jayne Hughes briefed the Board on the item

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advising Section 22-2(b) currently allows the display of merchandise on any sidewalk, street or right-of-way provided such does not infringe or impede pedestrian traffic or create a traffic hazard. Several complaints have been received regarding the display of items such as clothing racks, strollers, baby pens etc. in the downtown area. Such is not the preferred appearance for downtown; therefore, upon approval, display of merchandise will be prohibited on sidewalks, streets or right-of-ways. If the retailer maintains a recessed area, which is private property, display of merchandise will still be allowed.

Section 22-2 (c) currently deems it unlawful for any restaurant to sell any merchandise or culinary product of any kind in or through a window opening into the sidewalk on a city street. The aforementioned has been in place for many years; however, such has never been enforced. Said activity is now encouraged in the downtown area; therefore, she recommended approval of the ordinance.

Administrator Gosack clarified that although issues were prompted due to occurrences in the downtown area, the proposed ordinance will encompass all sidewalks, streets and right-of-ways within the city.

Director Catsavis questioned if downtown vendors have been advised of violations.

Ms. Hughes noted that letters requesting the removal of the aforementioned items had been forwarded to each vendor displaying said items; however, such could not be enforced.

Upon approval, Director Hutchings highly recommended vendors be advised of allowable items whereby Ms. Hughes confirmed such will be accomplished via formal letter and/or email.

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Settle, seconded by Merry, moved adoption of the item. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its readings and the members voted as follows: ayes - Tyler, Good, Hutchings, Weber, Settle and Merry; nays - Catsavis. The Mayor declared the motion carried. Good, seconded by Weber, moved adoption of Section 2 the emergency clause. The members voted as follows: ayes - Tyler, Good, Hutchings, Weber, Settle and Merry; nays - Catsavis. The Mayor declared the motion carried and the ordinance and emergency clause were adopted and given No. 86-11.

Item No. 2 was a resolution stating the Board of Directors' commitment to not increase the prepared food tax rate.

Administrator Gosack briefed the Board on the item. Reports have been circulating that the Board may raise the rate of the prepared food tax, if such is approved by the voters at the November 8, 2011 special election. The proposed ordinance states the Board's intent to not enact a prepared food tax rate higher than one-percent (1%) and reaffirms the Board's commitment to consider lowering the tax rate in five (5) years.

The following individuals were present to address the Board:

- Liz Armstrong  
Fort Smith, Arkansas

Re: Stated the proposed resolution is not legally binding and the Board may reconsider their current position at any time. She further urged all residents to vote against the 1% prepared food tax at the November 8, 2011 special election.

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- Elizabeth Mayo  
Fort Smith, Arkansas

Re: Expressed discontent with various issues, especially the 1% prepared food tax.

- Nan Bartlett  
Fort Smith, Arkansas

Re: Spoke in opposition to the 1% prepared food tax and alleged the convention center is not being adequately marketed or utilized.

- David Harris  
Fort Smith, Arkansas

Re: Reiterated comments of Ms. Armstrong stating the Board may reconsider their current commitment regarding the 1% prepared food tax whenever they so desire.

Director Merry spoke in favor of the item citing approval of the proposed resolution sends a clear message to the public of the Board's intent to not increase the prepared food tax greater than 1%. If the voters approve the prepared food tax at the November 8 special election and if the Board contains new members after the 2012 elections, he requested the new Board also formalize the same commitment.

Director Settle also spoke in favor of the item citing the Board has committed to keep the prepared food tax at 1% provided such is approved by the voters. He further conveyed much assurance the most beneficial way to keep the convention center "operational" is by leasing such to the Advertising and Promotion Commission, which has already been formally accomplished.

Mayor Sanders noted that the Fair and Exhibition Facilities Board recently voted unanimously to endorse the 1% prepared food tax.

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Good, seconded by Tyler, moved adoption of the resolution. The members voted as follows: ayes - Tyler, Good, Hutchings, Weber, Settle and Merry; abstention - Catsavis. The Mayor declared the motion carried and the resolution was adopted and given No. R-190-11.

In the event new Board members are elected at the next election, Directors Merry and Good requested the City Clerk present the matter to the new Board to reaffirm the current Board's commitment to not increase the 1% prepared food tax.

The Consent Agenda (Item No. 3) was introduced for consideration, the items being as follows:

- A. Resolution authorizing a time extension for the construction of Drainage Improvements, Phase I, Project No. 10-06-B (extend 52 days)
- B. Resolution accepting completion of and authorizing final payment for the construction of Drainage Improvements, Phase I, Project No. 10-06-B (\$24,185.68 / Engineering Department / Budgeted - Sales Tax Fund)
- C. Resolution authorizing a change order for the construction of Carnall Avenue Sanitary Sewer Relocation, Project No. 11-06-C (\$15,598.20 / Engineering Department / Budgeted - Sales Tax Fund)
- D. Resolution accepting completion of and authorizing final payment for the construction of Carnall Avenue Sanitary Sewer Relocation, Project No. 11-06-C (\$34,345.72 / Engineering Department / Budgeted - Sales Tax Fund)
- E. Resolution affirming support for the passage of the 2011 Interstate Rehabilitation Program and urging Arkansas voters to vote FOR the ballot issue at the special election called for Tuesday, November 8, 2011
- F. Resolution authorizing partial payment to Crossland Heavy Contractors, Inc. for construction of the Lake Fort Smith Water

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Treatment Plant - Contract 3 (\$852,862.77 / Utility Department / Budgeted - 2008 Revenue Bonds)

- G. Resolution accepting the project as complete and authorizing final payment to Terra Renewal, LLC, for the Lee Creek Water Treatment Plant Residuals Lagoons Cleaning (\$320,120.00 / Utility Department / Budgeted - Operating Budget Fund Line Item 219)
- H. Resolution authorizing partial payment to Branco Enterprises, Inc. for construction of the Phase II "P" Street Wastewater Treatment Plant Wet Weather Improvements - Schedule 2 (\$1,330,901.00 / Utility Department / Budgeted - 2009 Sales Tax Bonds)

Hutchings, seconded by Good, moved adoption of all consent agenda items. The members all voting affirmatively, the Mayor declared the motion carried and the resolutions were adopted and numbered R-191-11 through R-198-11 respectively.

Mayor Sanders opened the Officials Forum with the following comments offered:

- ▶ Director Settle

Re: Announced the Christmas lights at Creekmore Park and Pendergraft Park will be lit the Friday and Saturday after Thanksgiving. He further noted the Holiday Express at Creekmore Park will be operational on said days as well.

- ▶ Director Merry

Re: Simply noted the Central Business Improvement District has also conveyed endorsement of the 1% prepared food tax.

- ▶ Mayor Sanders

Re: Announced the first public meeting for Ward 1 will occur at 6:00 p.m., December 1 at Creekmore Park.

An executive session was held and after reconvening, Mayor Sanders announced the following appointment nominations:

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**FIRE CODE BOARD OF APPEALS AND ADJUSTMENTS**

C. Leo Patterson

Term expires October 31, 2015

**OAK CEMETERY COMMISSION**

Phanita Williams (reappointment)

Barbara Coleman (reappointment)

Terms expire November 30, 2014

**NATIONAL LEAGUE OF CITIES CONFERENCE VOTING DELEGATES**

(November 9 - 12, 2011 / Phoenix, Arizona)

*No director attending; therefore, no delegate designation necessary.*

Settle, seconded by Hutchings, moved acceptance of the appointment nominations.

The members all voting aye, the Mayor declared the motion carried.

Mayor Sanders then opened the Citizens Forum with the following individuals present to address the Board:

- Elizabeth Mayo  
Fort Smith, Arkansas

Re: 1. Advised the average City employee salary is \$62,000 and conveyed discontent with such.

Administrator Gosack clarified the aforementioned average includes all employee benefits and noted the most expensive benefit is mandated by state law. The City's workforce consists 850 full time and approximately 50 part-time and seasonal employees.

2. Stated forty-four (44) companies have left Fort Smith since 2008 and alleged the City is "hostile" to potential businesses coming to the city.

- Doug George
- Linda George  
Fort Smith, Arkansas

Re: Each shared their two (2) minutes to read a letter, which was published in the Times Record, regarding their

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opposition to Board action pertaining to development of Fort Smith Pavilion. The letter was written was Ms. Linda George.

- Sarah Treece  
Fort Smith, Arkansas

Re: Expressed discontent with various Board actions and alleged City leaders do not listen to Fort Smith residents.

- Joel Culberson  
Fort Smith, Arkansas

Re: 1. Conveyed much appreciation to the Board for their decision to conduct quarterly meetings in each ward.

2. Advised a public forum to discuss the 1% prepared food tax will be held at 6:00 p.m. on October 19 at the public library on Rogers Avenue.

3. Encouraged any resident interested in the City to enroll in the Citizens Academy and directed those interested to contact Tracy Winchell or visit the City's website, [www.fortsmithar.gov](http://www.fortsmithar.gov) .

There being no further business to come before the Board, Tyler moved that the meeting adjourn. The motion was seconded by Good, and the members all voting aye, the Mayor declared the motion carried and the meeting stood adjourned at 6:43 p.m.

**APPROVED:**

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**Mayor**

**ATTEST:**

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**City Clerk**