

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

**TUESDAY ~ JUNE 21, 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 June 7, 2011 regular meeting were presented for approval. Settle, seconded by Weber, 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. He further advised those who address the Board need only provide their name and city of residence.

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 consisted of Mayor Sanders presenting a proclamation to Mr. Cecil Perkins proclaiming June 21, 2011 as "*Cecil Perkins Day*". Such is in honor of recently being selected to referee a "last-chance" Olympic-qualifying boxing tournament in Cincinnati, Ohio in July 2011. Mr. Perkins is a 27-year employee of the Sanitation

**June 21, 2011 Regular Meeting**

Department, started boxing in Fort Smith at the age of 15 and maintains an impressive boxing career.

Item No. 2 was an ordinance amending Ordinance No. 53-10 authorizing the issuance and sale of Airport Refunding Revenue Bonds; establishing the maturity schedule for the bonds; ratifying and confirming the sale of the bonds; prescribing other matters relating thereto; and declaring an emergency.

City Administrator Ray Gosack briefed the Board on the item. In 1999, bonds were issued for improvements to the Fort Smith Municipal Airport terminal. At that time, the interest rates were much higher; however, last year, the Airport Commission identified the potential to reduce its annual debt service by refinancing the bonds. The Board of Directors passed Ordinance No. 53-10 on November 2, 2010, which authorized issuance of the bonds provided certain saving thresholds were met. No bonds have not been issued to date; however, the bond market has recently moved in a favorable direction and the required thresholds have now been met. Due to such, the proposed item amends the previous ordinance which provides for the particulars of the new issuance. The airport is solely responsible for the repayment of the bonds; however, Arkansas law requires approval by the governing body to issue the bonds.

The following individual was present to address the Board:

- Eric Arthur  
Fort Smith, Arkansas

Re: Questioned if the proposed bond maintains a flexible interest rate, as well as other existing municipal bonds.

Mr. Gosack clarified the proposed revenue bond, as well as other municipal bonds, maintain a fixed interest rate and do not fluctuate. The difference is due to the different interest rates and maturity dates.

**June 21, 2011 Regular Meeting**

Settle, seconded by Merry, moved to suspend 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 members all voting affirmatively, the Mayor declared the motion carried; therefore, the City Clerk the ordinance for its readings. Settle, seconded by Hutchings, moved adoption of the ordinance. The members all voting affirmatively, the Mayor declared the motion carried. Weber, seconded by Good, moved adoption of Section 14 the emergency clause. The members all voting affirmatively, the Mayor declared the motion carried and the ordinance and emergency clause were adopted and given No. 44-11.

Item No. 3 was an ordinance ordering owners of certain dilapidated and substandard structures to demolish same, authorizing the City Administrator to cause the demolition of such structures to occur, and for other purposes *(2501 South Independence Street, 2223 North 31<sup>st</sup> Street, and 103 North 16<sup>th</sup> Street - garage only)*

Administrator Gosack briefed the Board on the item advising the structures have been determined to be unsafe and detrimental to the public welfare; therefore, he recommended approval.

The following individuals were present to address the Board:

- Martha Ehlen, owner of 2501 Independence  
Fort Smith, Arkansas

Re: Simply advised she is awaiting settlement with the insurance company to repair the structure.

At the request of Mayor Sanders, Building Official Jimmie Deer advised the owners are currently in litigation with the insurance company. Due to a conversation today with the owners attorney, Mr. Chip Sexton, a settlement is expected within the next couple of weeks.

**June 21, 2011 Regular Meeting**

Director Good inquired if the owner plans to renovate or demolish the structure.

Ms. Ehlen noted she wishes to rebuild, but fears she will not obtain the necessary insurance funds to accomplish such.

- Rena Westbrook, owner of 103 North 16<sup>th</sup> Street  
Fort Smith, Arkansas

Re: Conveyed no opposition to demolition of the structure and advised she recently obtained a demolition permit to accomplish such.

At the request of Director Good, Mr. Deer advised that upon approval of the ordinance, the owners will have thirty (30) days to demolish the structures. If such is not accomplished, the City will proceed with demolition and bill the property owner for reimbursement. The owners may contact the City Clerk and make payment arrangements for the reimbursement. Upon approval, he clarified if the owner initiates substantial action to either demolish or repair the structures prior to the City proceeding with demolition, staff will work with the owners to allow them to complete such.

Tyler, seconded by Settle, moved adoption of the ordinance. 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 all voting affirmatively, the Mayor declared the motion carried.

Weber, seconded by Catsavis, moved adoption of Section 5 the emergency clause. The members all voting affirmatively, the Mayor declared the motion carried and the ordinance and emergency clause were adopted and given No. 45-11.

Item No. 4 was a resolution of the Board of Directors of the City of Fort Smith certifying city government endorsement of business to participate in the Tax Back Program

**June 21, 2011 Regular Meeting**

(As authorized by Section 15-4-2706(d) of the Consolidated Incentive Act of 2003)

Administrator Gosack briefed the Board on the item advising Golden Living wishes to participate in the Tax Back Program, which allows a new or expanding business to request refunds of sales taxes paid on building materials and other eligible expenses. Golden Living plans to construct a new parking lot, undertake building renovations, purchase work stations and add IT equipment at their Fort Smith location on Fianna Way. The total investment is estimated at \$5.7 million, along with the addition of 200 new employees. Participation in the program requires local government endorsement; therefore, he recommended approval of the proposed resolution citing such supports one of the Board of Directors top goals to encourage economic development.

Hutchings, seconded by Merry, moved adoption of the resolution. The members all voting affirmatively, the Mayor declared the motion carried. Merry, seconded by Weber, moved adoption of Section 3 the emergency clause. The members all voting affirmatively, the Mayor declared the motion carried and the resolution and emergency clause were adopted and given No. R-111-11.

The Consent Agenda (Item No. 5) was introduced for consideration, the items being as follows:

- A. Resolution urging the federal government to continue metropolitan planning organizations for urbanized areas under 200,000 population
- B. Resolution approving the reduction of the overtime threshold for non-exempt uniformed police officers from 43 hours per work week to 42 hours per work week
- C. Resolution to accept the bids and authorize contracts for the construction of Street Overlays/Reconstruction, Project No. 11-03-D (\$1,751,418.72)

**June 21, 2011 Regular Meeting**

- D. Resolution to accept the bids and authorize contracts for the construction of Street Overlays/Reconstruction, Project No. 11-03-A (\$3,262,740.44)
- E. Resolution accepting bids for the re-roofing of Fire Station No. 6 (\$49,030.00)
- F. Resolution authorizing Change Order Number Six with Crossland Heavy Contractors, Inc. for construction of the Lake Fort Smith Water Treatment Plant - Contract 3 (\$155,516.00)
- G. Resolution accepting the bid of and authorizing the Mayor to execute a contract with M. Phillips Construction, Inc. For the 27-Inch Transmission Line Replacement - Lancaster Place (\$189,420.00)
- H. Resolution accepting the bid of and authorizing the Mayor to execute a contract with Terra Renewal, LLC for Lee Creek Water Treatment Plant Residuals Lagoon Cleaning (\$320,120.00)
- I. Resolution authorizing the Mayor to execute an agreement with Hawkins-Weir Engineers, Inc. for providing engineering services for the Mill Creek Force Main Evaluation (\$91,000.00)
- J. Resolution authorizing the Mayor to execute an agreement with Camp Dresser & McKee, Inc. for the design of Wastewater Pump Station Standby Power Improvements (\$77,700.00)

Regarding Item No. 5B, the following individual was present to address the Board:

- Eric Arthur  
Fort Smith, Arkansas

Re: Noted that according to the National Police Chiefs Association, the City of Fort Smith should maintain 144 police officers (alleging the City maintains too many officers). Due to the cost, he conveyed no opposition to the item citing police officers should work 40 hours per week.

With regard to the number of police officers, Director Settle conveyed disagreement with such citing he feels additional officers are needed in Fort Smith.

**June 21, 2011 Regular Meeting**

Director Tyler expressed concern with adoption of Item No. 5B due to recent notice that additional contributions into the Arkansas Local Police and Fire Retirement System (LOPFI) will be required in the near future. Due to such, he recommended the item be tabled for thirty (30) days to allow input from the Audit Committee regarding the matter.

Director Settle questioned if the resolution could be adopted retroactively if the resolution is tabled for thirty (30) days as recommended. He further conveyed no opposition to the item and requested Administrator Gosack comment on the matter.

Mr. Gosack confirmed increased contributions into LOPFI is an issue that must be considered, and unless such is accomplished in the near future, the Finance Department projects the LOPFI Fund will be "upside-down" by 2018. With regard to the recommended postponement and the ability to adopt retroactively, he conveyed much assurance that such can be done if the Board so desires.

Tyler, seconded by Settle, moved to table consideration of Item No. 5B for thirty (30) days. Prior to the vote, Director Merry spoke in opposition to the proposed postponement citing the issue must be addressed and spoke in favor of its adoption.

The motion remaining on the floor, the members voted as follows: ayes - Tyler, Good, Settle; nays - Hutchings, Catsavis, Weber and Merry. The Mayor declared the motion defeated and announced the item would remain on the consent agenda for consideration.

Regarding Item No. 5C and 5D, the following individual was present to address the Board:

- Reverend Lorenzo Lee  
Fort Smith, Arkansas

**June 21, 2011 Regular Meeting**

Re: Questioned if either project includes the construction of sidewalks whereby Administrator Gosack simply responded "no".

With regard to Item No. 5F, Director Settle questioned if the Board was previously advised or provided notice that the proposed change order would be forthcoming whereby Director of Utilities Steve Parke responded "no". Due to such, he requested advance notice be provided to the Board prior to consideration of such significant change orders in the future.

Regarding Item No. 5H, Director Catsavis questioned how often lagoon cleanings are scheduled and requested the estimated cost for the City to purchase the necessary equipment to perform the cleaning in-house.

Mr. Parke advised such are scheduled annually; however, due to lack of funding, lagoon cleanings have not been accomplished in some time. The City has reviewed the cost of performing the cleaning in-house in the past; however, it was determined to be financially unfeasible.

Hutchings, seconded by Settle, moved adoption of all consent agenda items. The members all voting affirmatively, with the exception of Director Tyler voting "no" on Item No. 5B and Director Settle voting "no" on Item No. 5F, the Mayor declared the motion carried and the resolutions were adopted and numbered R-112-11 through R-121-11 respectively.

Relative to Consent Agenda Item No. 5B, Director Tyler requested staff prepare an employee cost comparison and offered a motion that such be presented at an upcoming study session in the near future. The motion was seconded by Director Weber; therefore, since placement of an item on an agenda requires two (2) directors, Mayor Sanders advised such will be scheduled as requested.

**June 21, 2011 Regular Meeting**

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

▶ Director Merry

Re: Requested an update regarding the Van Buren water reimbursement be provided by the next study session.

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

**FORT SMITH MUNICIPAL EMPLOYEES BENEVOLENT FUND  
BOARD OF ADVISORS**

*(Appointed by the Board of Directors)*

Mary C. Moore

Term expires June 30, 2014

**HISTORIC DISTRICT COMMISSION**

*(Appointed by the Mayor, confirmed by the Board of Directors)*

Graham Sharum (reappointment)

Clara Jane Rubarth (reappointment)

Terms expire July 31, 2014

**OAK CEMETERY COMMISSION**

*(Appointed by the Board of Directors)*

Charles Girard

*(to fill the unexpired term of Jerry Akins who resigned)*

Term expires November 30, 2012

**PORT AUTHORITY**

*(Appointed by the Mayor)*

Eddie Norman (reappointment)

Term expires July 31, 2016

Larry J. Combs

*(to fill the unexpired term of Stephanie Harper Easterling who resigned)*

Term expires July 31, 2015

**TRANSIT ADVISORY BOARD**

*(Appointed by the Mayor, confirmed by the Board of Directors)*

Charles Mills (reappointment)

Term expires July 15, 2014

**June 21, 2011 Regular Meeting**

Hutchings, seconded by Weber, moved acceptance of all appointment nominations which require confirmation by the Board of Directors. The members all voting aye, the Mayor declared the motion carried.

Prior to opening the Citizens Forum, Mayor Sanders reminded all in attendance that the Citizens Forum is an opportunity for citizens to address the Board with issues not already on the agenda. Two (2) minutes are allotted for each individual wishing to speak and such is not transferrable to other individuals. In order to maintain a civil meeting decorum, he encouraged the manner of speech be respectful to the Board, as well as others in attendance.

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

- Jerry Hamel  
Fort Smith, Arkansas

Re: Alleged according to "corporate law", speakers may yield their time to another individual and requested a "ruling" on the matter for meetings of the Board of Directors.

Mayor Sanders advised such will be provided.

- Eric Arthur  
Fort Smith, Arkansas

Re: Simply conveyed the Chamber of Commerce should more actively pursue business to come to Fort Smith.

- Randy Amon  
Fort Smith, Arkansas

Re: Advised he's been watching the board meetings on the City's Access Channel for approximately six (6) months and simply came to convey his appreciation to the Mayor and Board for their service.

**June 21, 2011 Regular Meeting**

- Louis Vincent  
Fort Smith, Arkansas

Re: Expressed discontent with members of the Board; therefore, he conveyed anticipation for the next election.

- Elizabeth Mayo  
Fort Smith, Arkansas

- Re: 1. Alleged the proposed pet ordinances, which were tabled at the April 5, 2011 regular meeting, are ineffective and do not address important issues.
2. Identified multiple businesses that have relocated out of the city and alleged the population of Fort Smith has scarcely increased in thirty-seven (37) years.

There being no further business to come before the Board, Good moved that the meeting adjourn. The motion was seconded by Tyler, and the members all voting aye, the Mayor declared the motion carried and the meeting stood adjourned at 7:20 p.m.

**APPROVED:**

  
**Mayor**

**ATTEST:**

  
**City Clerk**