

RESOLUTION NO. R-71-20

A RESOLUTION AMENDING BOARD BEST PRACTICES

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

The Board Best Practices document, which was adopted by Resolution No. 118-14 (and subsequently amended by Resolutions R-138-16 and R-146-19) is hereby further amended so that Section 4 of such document reads as follows:

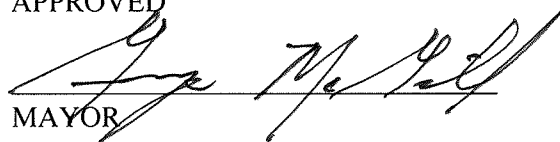
Section 4: CODE OF ETHICS

Board members should be mindful of the need for neutrality and impartiality, rendering equal service to all and to extend the same treatment each would want to receive himself/herself. They should abstain from deliberations and voting when and only when a conflict of interest exists in accordance with Ark. Code Ann. § 14-48-128 (Repl. 2013) or the Fort Smith Municipal Code Appendix B, Section II Code of Business Conduct. They should make decisions based on the merits of the issue with attention to due process and citizen participation. They should be knowledgeable and develop an understanding of local, state and national governmental guidance, directives, regulations and ordinances pertaining to a Board member’s office. They should maintain the utmost standards of personal integrity, truthfulness, honesty and fairness in carrying out public duties; avoid improprieties in roles as public servants including the appearance of impropriety; and never use city position or powers for improper personal gain. They should maintain and respect the confidentiality of private and confidential information. They should avoid personal gain by the misuse of confidential information. No member of the Board should condone any unethical or illegal activity.

BE IT FURTHER RESOLVED that the updated Board Best Practices document is attached, incorporated herein and reaffirmed.

Passed and Approved this 16th day of June, 2020.

APPROVED


MAYOR

ATTEST:


CITY CLERK

APPROVED AS TO FORM:


City Attorney

CITY OF FORT SMITH BOARD BEST PRACTICES



Adopted by Resolution No. R-118-14

September 2, 2014

Amended by Resolution No. R-138-16

September 20, 2016

Amended by Resolution No. R-146-19

September 17, 2019

Amended by Resolution No. R-71-20

June 16, 2020

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INTRODUCTION

The responsibilities of modern government depend upon having procedures which help a community function effectively in the current atmosphere of complex laws, rules and regulations. This board best practices document is intended to refine and expand those initial rules of self-government. Creation of the document was identified by the City Board as a priority during a strategic planning retreat in summer 2013.

The board best practices document is a valuable resource for Fort Smith, the City's citizens, the City Board and City administration as all continue to work together for responsive, effective, and efficient local government. The members of the City Board and City administration should be familiar with the contents of this document and keep it close at hand.

Section 1: USE OF THIS DOCUMENT

This board best practices document is designed to provide guidance for the Board and City Administration. It is not to be considered as restrictions or expansions of Board authority. This document is not intended to be an amendment or substitute for state laws, city ordinances, case law, or other authority. Because this document is designed to assist the Board and not to provide substantive rules affecting constituents, it is expressly stated that this document does not constitute land use regulations, official controls, "appearance of fairness rules", public hearing rules or other substantive rules binding upon or to be used by or relied upon by members of the public.

Section 2: STATEMENT OF VALUES

It is hereby the practice of the City to establish the values stated in this Section 2 as core values of City governance. City leaders listen to the community in a way that fully represents the community's interests and goals. Board and staff should make the maximum effort to collaborate, seeking consensus as far as possible. Board members should individually, and collectively, demonstrate the ability to lead and reason together. City leaders exhibit respect for the professionalism and ethical conduct of the City Administrator and staff; and the City Administrator and staff exhibit the same respect and professionalism for the Mayor and City Board. Leaders strive to achieve sustainable outcomes in City policies and administration, with sustainable bottom lines for the community, environment, and for City finances and the local economy. Holding public office is synonymous with public trust. A public officer's relationship with the public is that of a fiduciary. The public expects the utmost of integrity, honesty, and fairness in their dealings with public officials.

Section 3: RESPONSIBILITIES OF MAYOR, VICE MAYOR, AND BOARD MEMBERS

The roles and responsibilities of the Mayor, Vice Mayor, and Board members are as follows. These are in addition to those enumerated throughout the Fort Smith Municipal Code and [Arkansas statutes 14-48-101](#) et. seq. In the event of a conflict, the state statutes and municipal code shall govern.

3.1 Mayor

- Acts as the official head of the city for all ceremonial purposes.
- Selects substitute for City representation when Mayor can't attend.
- Issues proclamations.
- Supervise the preparation of Board meeting agendas by the City Clerk.
- Chairs Board meetings.

- Maintains order, decorum, and the fair and equitable treatment of all speakers at board meetings.
- Keeps discussion and questions focused on the specific agenda item under consideration.
- Recognizes citizens who wish to comment at public meetings.
- Signs documents on behalf of the City.
- Has no vote at board meetings, but may veto actions passed by the board (except personnel items).
- Recognized by the Governor for purposes of military law.

3.2 Vice Mayor

The Vice Mayor is elected by the Board at the first regular Board meeting in January of odd-numbered years following the seating of board members elected in the preceding November General Election. The Vice Mayor serves a 2-year term, and may serve multiple terms without limitation. In the event of a vacancy, the board shall elect a new Vice Mayor to serve the remainder of the unexpired term. The Vice Mayor may be removed by a majority vote of the Board members.

- Performs the duties of Mayor if the Mayor is absent or otherwise unable to perform his/her duties.
- If presiding at a Board meeting, the Vice Mayor retains his/her right to vote on matters before the Board.
- Represents the City at ceremonial functions at the request of the Mayor.

3.3 Board Members' Responsibilities

All members of the Board of Directors have equal votes. No Board member has more power than any other Board member, and all should be treated with equal respect. Board members should:

- Fully participate in City Board meetings and other public forums while demonstrating respect, kindness, consideration, and courtesy to others.
- Prepare in advance of Board meetings and be familiar with topics on the agenda.
- Represent the City at ceremonial functions at the request of the Mayor.
- Be respectful of other people's time. Stay focused and act efficiently during public meetings.
- Serve as a model of leadership and civility to the community.
- Inspire public confidence in Fort Smith government.
- Keep the community informed on municipal affairs.
- Encourage communications between citizens and the Board.
- Ensure the diverse interests of the community are represented.
- Be mindful of limited resources and avoid requests for unnecessary information in recognition of the limitations of staff time and resources.

Section 4: CODE OF ETHICS

Board members should be mindful of the need for neutrality and impartiality, rendering equal service to all and to extend the same treatment each would want to receive himself/herself. They should abstain from deliberations and voting when and only when a conflict of interest exists in accordance with Ark. Code Ann. § 14-48-128 (Repl. 2013) or the [Fort Smith Municipal Code Appendix B, Section II Code of Business Conduct](#). They should make decisions based on the

merits of the issue with attention to due process and citizen participation. They should be knowledgeable and develop an understanding of local, state and national governmental guidance, directives, regulations and ordinances pertaining to a Board member's office. They should maintain the utmost standards of personal integrity, truthfulness, honesty and fairness in carrying out public duties; avoid improprieties in roles as public servants including the appearance of impropriety; and never use city position or powers for improper personal gain. They should maintain and respect the confidentiality of private and confidential information. Avoid personal gain by the misuse of confidential information. No member of the Board should condone any unethical or illegal activity.

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.

Section 6: BOARD DECISION-MAKING PROCESS

6.1 Board Meetings Will Be Efficient and Businesslike

The information exchange, review, deliberation and vetting of issues during prior study sessions enables Board business meetings to be expeditious for the benefit of those who have business pending before the Board. The presiding officer's role, especially at the regular meetings, is to keep the Board business focused and expeditious. Board members, staff, and citizens should discuss only the topic before the Board so as not to become distracted by irrelevant discussion.

6.2 Maintain a Policy Focus

The Board's major policy focus will be on the intended long-term impacts outside the operating organization, not on the administrative or programmatic means of attaining those effects. Ends policies should define what is to be accomplished in terms of benefits, recipients, and their relative priorities. The Board should emphasize strategic rather than short-term issues, policy rather than single events, and group rather than individual decisions. Members should make decisions and recommendations based upon research and facts involving staff and stakeholders which considers the goals, impacts and the best interest of the greatest number of those affected.

6.3 Staff Reports

The City Administrator and staff shall provide the Mayor and Board with briefing reports which clearly and concisely state the issue(s), identify options and provide analysis of the advantages, disadvantages, and likely outcomes of each option, and make recommendations.

6.4 Effective Decision Making Requires Finality

Effective decision making results in finality. While it's important to deliberate in many voices, the Board must govern with one voice.

6.5 Make No Promises on Behalf of the Board

Board members shall never overtly or implicitly promise a Board action, or to promise City staff will do something specific (issue a permit, fix a pothole, adjust a water bill, etc.). Only decisions of the Board acting as a body are binding.

Section 7: LEGAL COUNSEL AND LITIGATION

The City Attorney provides legal advice to the Board, City Administrator, and staff to the extent their interests coincide with the City's. The City Attorney should not be requested to provide research, advice, or counsel on matters unrelated to the City's direct legal interests. The Mayor and members of the Board are encouraged to make requests for legal advice through the City Administrator. This document doesn't prohibit the Mayor and Board members from having direct access to the City Attorney. Once an individual or organization has filed a legal proceeding against the City or threatened to do so, no Board member shall engage in discussions or other communications with such individual (or the officers or directors of the organization) or their legal counsel about the subject of the lawsuit without first disclosing the intent to do so to the Board.

Section 8: PUBLIC PARTICIPATION

Citizens are encouraged to participate at regular and special board meetings. Before the Board deliberates and votes on matters, citizens will have an opportunity to comment on the matters. A citizen wishing to comment on a matter which is not on a meeting agenda may do so at the town hall meeting. More specific procedures for public participation are in [Section 2-37](#) of the Fort Smith Municipal Code.

Section 9: OPEN, TRANSPARENT GOVERNMENT

All meetings of the City Board must be open and public in accordance with the [Arkansas Freedom of Information Act](#) (Arkansas Statute 25-19-101 et. seq.). Deliberations and decisions of the board should be made so that the public has opportunity to view the performance of its elected officials. The Board may convene in executive session as provided by law. Members of the Board should avoid unintended meetings about city business which may occur in-person, by telephone, or interactive e-mail discussion.

Section 10: FILLING VACANCIES ON THE BOARD OF DIRECTORS BY APPOINTMENT

Once the Board has determined there is a vacant seat on the Board, the Board shall act in accordance with state law ([Arkansas Statute 14-48-115](#)) and as expeditiously as possible to fill the vacancy. If the Board shall fill the vacancy, the Board shall publicly solicit applications/statements of interest from qualified citizens. Based on the number of applications received, the Board shall establish a process for screening and interviewing applicants. The Board shall not be obligated to interview all applicants, particularly if there is a large number.

Section 11: EXECUTIVE SESSION DISCUSSIONS

Discussions held in executive session are to remain confidential and should never be discussed with anyone except those who were present during the executive session discussion. Any notes taken during executive session discussions should be treated with the same confidentiality. There shall be no audio or video recordings of executive sessions.

Section 12: ENDORSEMENT OF CANDIDATES

Board members shall have the right to endorse candidates for all Board seats and for other elected offices. It is prohibited for anyone to make endorsements of candidates during Board meetings or other official City meetings.

Section 13: BOARD MEETING AGENDA PROCESS

Items may be placed on board meeting agendas in accordance with the processes outlined in [Section 2-31](#) of the Fort Smith Municipal Code. During a study session, two or more directors may

place an item on the agenda for a regular Board meeting. After a study session but at least 48 hours before the meeting, four directors may place an item on the agenda for the next regular meeting. An item requiring immediate action may be placed on the meeting agenda only with the concurrence of all seven directors. An item placed on a meeting agenda may be removed by four or more directors by giving notice to the City Clerk prior to the date of the meeting.

Section 14: BOARD MEETING TYPES AND PROCEDURES

The Board of Directors conducts regular meetings, special meetings, study session meetings, executive sessions, town hall meetings, neighborhood ward meetings, retreats, budget review meetings, and brain storming meetings. The procedures for conducting meetings are outlined in [Chapter 2, Article II](#) of the Fort Smith Municipal Code.

Section 15: TRAINING AND PROFESSIONAL DEVELOPMENT FOR BOARD MEMBERS

Board members are encouraged to attend training events that are beneficial to the performance of their elective duties. Such events may be found at conferences of the Arkansas Municipal League, the National League of Cities, and other similar organizations. Attendance at such events is subject to funding availability in the Board's budget.

Section 16: TRAVEL AUTHORIZATIONS

16.1 Need for Travel

The Mayor and Board members will sometimes find it necessary to travel to conduct city business. Travel paid with public funds shall be for purposes directly related to the conduct of official city business and for which the elected official's presence is necessary.

16.2 Authorized Expenses

Expenses for official travel shall be for purposes and uses only as permitted by the City's travel policy which may be found [in Section III of the City's Human Resources Policies](#). Reimbursement amounts shall be in accordance with established allowances for meals, lodging, mileage, etc. Travel expenses for spouses or others accompanying the elected official shall be the sole responsibility of the elected official.

Section 17: RELATIONSHIP BETWEEN BOARD, CITY ADMINISTRATOR, AND STAFF

17.1 Cooperation

Cooperation and mutual respect are essential from each individual for the good of the community. Staff should not be intimidated or manipulated by a Board member's individual comments or actions.

17.2 Informal Communications Encouraged

Individual members of the Board are encouraged to interact informally and casually with City staff for the purpose of gathering information, following up on routine constituent service requests, obtaining progress reports on policies and programs, and providing information to staff. Such informal contacts can serve to promote better understanding of specific City functions and services.

17.3 Limit Contact to Specific City Staff

Questions of City staff and requests for additional background information should be directed only to the City Administrator, Deputy City Administrator, City Attorney, Internal Auditor, and department heads. Requests for information which require a substantial work effort should be made to the City Administrator or Deputy City Administrator rather than to the department head. Requests for follow-up, directions, or action to staff should be made only through the City Administrator or Deputy City Administrator. Requests of the Internal Auditor may be made directly to that official without the need to coordinate with the City Administrator. When in doubt about what staff contact is appropriate, Board members should ask the City Administrator or Deputy City Administrator for assistance.

17.4 Avoid Administrative Functions

Except for the hiring of the City Administrator and department heads, individual Board members shall not attempt to influence City staff on employment decisions, awarding contracts, purchasing decisions, selecting consultants, or issuing City licenses and permits.

17.5 Solicitation of Political Support from City Employees

Board members shouldn't solicit any type of political support (financial contributions, display of posters or yard signs, name on list of supporters, etc.) from City employees. City employees may, as private citizens with constitutional rights, support political candidates. All political activities must occur away from City workplaces, without the use of any City resources, and never during an employee's work time.

Section 18: ORIENTATION OF NEW BOARD MEMBERS

The City Administrator shall provide each newly elected Board member with appropriate orientation services, preferably before the member takes office. Such orientation should include, but not necessarily be limited to, the following:

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|-----------------------------------|----------------------------|
| The Board Best Practices Document | Board Meeting Procedures |
| Agenda Preparation | Freedom of Information Act |
| Contacts/Making Requests of Staff | Code of Business Conduct |
| Tours of City Facilities | |

Section 19: COMMUNICATION WITH BOARDS, COMMISSIONS, AND COMMITTEES

Any comments by a City Board member at a board, commission, or committee meeting should be clearly made as individual opinion and not as a representation of the feelings of the entire City Board. It is inappropriate for a City Board member to contact a member of a board, commission, or committee to lobby on behalf of an individual, business, or developer. It is acceptable for City Board members to contact members of boards, commissions, or committees in order to seek clarification of a position taken by the board, commission, or committee.