

MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ APRIL 20, 2021 ~ 6:00 P.M.

FORT SMITH CONVENTION CENTER

The meeting was called to order by Mayor George McGill, presiding. Invocation was given by Director Jarred Rego, followed by the Pledge of Allegiance led by Director Kevin Settle.

On roll call the following members of the Board were all physically present: Directors Jarred Rego, Lavon Morton, George Catsavis, Robyn Dawson, Kevin Settle, and Neal Martin. The Mayor declared a quorum present. Director Andre' Good arrived following roll call during presentation of Item No. 1.

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 April 6, 2021 regular meeting was presented for approval. Settle, seconded by Morton, moved approval of the minutes as written. The members present all voting aye, the Mayor declared the motion carried.

Item No. 1 consisted of the following items regarding taxicab rates and regulations ~ *Martin/Rego placed on agenda at the March 30, 2021 study session ~ (Administration):*

- A. Ordinance amending Ordinance No. 3164, as amended, to increase taxicab fares and for other purposes (*requested by Payless Taxi, LLC*)
- B. Ordinance amending the Fort Smith Municipal Code to remove the City's establishment of fares for taxicabs

Deputy City Administrator Jeff Dingman briefed the Board on the item as discussed at the March 30, 2021 study session. Item No. 1A amends taxicab rates as requested by Payless Taxi, Inc. Taxicab rates in Fort Smith have not been adjusted since the year 2000.

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Item No. 1B effectively removes the City of Fort Smith from the setting of taxicab rates. All other regulations and requirements for operating taxicabs in the city remain in effect; however, upon approval of Item No. 1B, such will remove the requirement that the City of Fort Smith set the specific rates that must be charged for taxicab services.

The following individual was present to address the Board:

- Jack Skinner, attorney for Razorback Cab of Fort Smith

Re: Spoke in favor of the proposed rate increase as requested, i.e. Item No. 1A, citing the current rate structure has been in place for twenty (20) years; however, he also conveyed no objection to Item No. 1B that allows taxicab operators to set their own rates, which would allow market and competition to drive the rate structures. Due to information of the potential for taxicab operators to utilize meters, he spoke in opposition to such citing such would impact the cost for shared rides of three (3) or more passengers in taxicabs, as well as create an expense to install a meter system. He further spoke in favor of retaining the public hearing requirement for any future taxicab service to operate within the city of Fort Smith.

Director Morton requested confirmation that Razorback Cab of Fort Smith maintains no objection to the proposed rate increase or retaining use of zones rather than utilizing meters, and that most taxicab usage in Fort Smith is by residents that do not own personal vehicles whereby Mr. Skinner responded affirmatively to each of the aforementioned.

Director Rego requested confirmation that neither of the proposed ordinances mandate the transition to a metering system whereby Mr. Dingman responded affirmatively.

Settle, seconded by Martin, moved adoption of Item No. 1B. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption

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and for the readings to occur on the same date. The City Clerk read the ordinance by caption for its readings. Prior to the vote, Director Settle spoke in opposition to government setting rates for private companies; therefore, he conveyed his intent to vote in favor of Item No. 1B.

Director Morton noted that significant usage of taxicabs in Fort Smith is by residents utilizing such for daily transportation, i.e. groceries, medical appointments, etc. He spoke in favor of Item No. 1A to approve the requested rate increase; however, he would prefer a charge be included for wheelchairs and groceries. Regardless, he conceded that Item No. 1B is “*very well-written*” and requires pertinent information be posted and made available to the public, which was his main concern.

The motion remaining on the floor, the members voted as follows: ayes - Rego, Good, Catsavis, Settle, and Martin; nays - Morton and Dawson. The Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 38-21.

Item No. 2 was an ordinance amending Ordinance No. 10-96 as previously amended granting a non-exclusive franchise to Elva Stoufer, d/b/a Non-Ambulatory Transportation Service, Inc. (*City Clerk*).

City Clerk Sherri Gard briefed the Board on the item advising that since 1986, the City of Fort Smith has granted a non-exclusive franchise to David & Elva Stoufer to operate Non-Ambulatory Transportation Service, Inc., which serves handicapped and elderly persons living within Fort Smith. The existing franchise has been renewed every five (5) years, and the current term expires April 30, 2021. Mr. Stoufer passed away several years ago; however, Ms. Stoufer has requested the existing franchise be renewed effective May

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1, 2021. As required by law, the proposed ordinance has been on file in the City Clerk's Office and available for public review and inspection for one (1) week prior to Board consideration. A public notice indicating same was published in the Times Record on Tuesday, April 13, 2021. Upon approval, such will extend the existing franchise for another 5 year term to April 30, 2026.

Martin, 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 by caption for its readings. Prior to the vote, Director Dawson requested clarification that the proposed item merely grants the company to provide said service within the city whereby Mr. Dingman responded affirmatively. She further inquired if the City maintains any other non-ambulatory transportation service and if so, if a like franchise has been granted to said entity or entities.

Mrs. Gard confirmed there is only one (1) other non-ambulatory transportation service within the city, which is the Area Agency on Aging. Confirmation was provided that the Board of Directors has also granted a non-exclusive franchise to the aforementioned to operate said service.

The motion remaining on the floor and the members all voting affirmatively, the Mayor declared the motion carried. Catsavis, seconded by Good, moved adoption of Section 3 the emergency clause. The members all voting affirmatively, the Mayor declared the motion carried and the ordinance and emergency clause were adopted and given Ordinance No. 39-21.

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Item No. 3 was a resolution accepting and filing the external auditor's report on the audit of the City's financial statements, Uniform Guidance Audit, and report on the City's compliance with certain state acts for the year ended December 31, 2019 ~ *Rescheduled from the April 13, 2021 special meeting, which was canceled by unanimous consent of the Board on April 13, 2021 ~ (Finance)*

Mr. George Moschner, chairperson for the Audit Advisory Committee briefed the Board on the item and provided a written copy of his presentation to the Board, which is attached as Exhibit A. He further provided a detailed analysis of the process utilized to review the 2019 report citing the report was prepared by the City of Fort Smith Finance Department, which was subsequently submitted to the City's outside auditor, BKD, LLP, and thoroughly reviewed by the Audit Advisory Committee.

Mayor McGill commented that the City is fortunate to have such experienced individuals involved in the audit process, i.e. outside auditors, Finance Department staff, as well as members of the Audit Advisory Committee, and extended much appreciation for the work put forth to ensure the City's finances are in order.

Director Morton noted concurrence with the comments of Mayor McGill. He further noted that improvements have been made citing fewer material weaknesses from the prior year. Regardless, he questioned if it's common for a public entity to have the number of material weaknesses in internal controls as was indicated the report.

Mr. Moschner indicated it's "*very rare*" to have material weaknesses in internal control in both private and governmental entities, but more so for a governmental entity "*of this size.*"

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Director Martin requested Mr. Moschner convey an overall assessment of the City of Fort Smith's financial position at the end of 2019.

Mr. Moschner indicated multiple positives citing revenues exceeded expenditures; however, a more in-depth response would be better provided by the Finance Department or Administration.

Director Rego simply extended much appreciation to Finance Department staff, external auditors, and members of the Audit Advisory Committee for their efforts in completing the subject Audit. He further extended much gratitude to Director Morton for serving on the Audit Advisory Board citing his expertise is helpful and beneficial.

Morton, seconded by Martin, moved adoption of the resolution. The members all voting affirmatively, the Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-52-21.

Item No. 4 consisted of the following items regarding the CNG fueling station at the Fort Smith Sanitary Landfill:

- A. Resolution authorizing the Mayor to execute a contract with Clean Energy of California, Inc. for the construction of a CNG fueling station (*\$1,820,819.16 / Solid Waste Services / Budgeted - Solid Waste Sinking Fund*) ♦ *Future Fort Smith item*
- B. Resolution authorizing the Mayor to execute a contract with Clean Energy of California, Inc. for renovations to the Sanitation Maintenance Facility (*\$373,280 / Solid Waste Services / Budgeted-Solid Waste Sinking Fund*) ♦ *Future Fort Smith item*

Director of Solid Waste Services Kyle Foreman briefed the Board on the items advising Item No. 1A authorizes a contract for construction of the CNG fueling station, which includes an optional fast fill station that would allow other City vehicles to fuel quickly

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when they're at landfill or on the south side of town. The project will consist of fifty (50) "slow fill" stations that trucks will hook into at the end of their day. Item No. 1B authorizes a contract to upgrade the maintenance shop and bring such into CNG compliance. Upon approval, construction will begin in the fall of 2021. The proposed project will save the Solid Waste Services Department hundreds of thousands of dollars per year in fuel and maintenance costs. Conservatively, the hauling divisions consume approximately 130,948 gallons of diesel fuel each year. The last Price Per Gallon (PPG) received was \$2.30. The PPG equivalent at the AOG station across from the airport is \$1.00, which is an estimated savings of \$170,000. Twenty-five percent (25%) to thirty percent (30%) of maintenance cost and downtime is directly related to diesel emissions treatment. CNG powered vehicles do not have these emissions controls; therefore, the City will no longer experience the associated costs. Upon completion of fleet transition, the project will result in a decrease of 1,415 metric tons of CO₂ annually, which is the equivalent of taking 306 cars off the road each year. Another aspect of the project is fleet conversion whereby part of the project includes a grant from the Environmental Protection Agency (EPA) Diesel Emission Reduction Act (DERA) in the amount of \$1,603,672. The City will not know if we will receive said grant funding until May 2021; however, if granted, the City will replace fourteen (14) garbage trucks in 2022 and will convert the rest of the fleet either by attrition or by utilizing other clean energy grants over the next five (5) years. The aforementioned grant requires a mandatory cost share of \$2,978,248. The diesel trucks replaced under the program must be decommissioned and scrapped. If grant funds are not received, the station will still be constructed; however, the City will then re-evaluate truck replacement.

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It is the Solid Waste Department's vision to have the fleet powered by methane gas that is naturally produced in the landfill. Currently, the landfill gas is being captured, cleaned, and introduced into an AOG transmission line that feeds the above-mentioned filling station. Along with the aforementioned, he hopes to open discussions with Cambrian, the City's gas vendor, to come to the table and review/re-negotiate the contract, which has been in place for thirty (30) plus years. Regardless, it's desired to also get the community involved by inquiring if Fort Smith Public Schools students would like to compete in a competition to design a side panel to go on the trucks that speak to the sustainability and "circular economy" nature of the project. Additionally, the proposed will impact the sinking fund. For three (3) years, the Solid Waste Department has advised the Board of the need of funds to accommodate future landfill development. Due to different landfill management practices, better equipment, and filling in airspace deemed "to difficult," the Department extended Cell A-5's life by almost 3 years, whereby the required \$17 million needed for Phase A closure and Cell B-1 construction has been deferred by 3 years.

Settle, seconded by Good, moved adoption of Items No. 4A and 4B. Prior to the vote, there was lengthy discussion regarding the project whereby Directors Morton, Settle, and Good submitted multiple clarification inquiries whereby Mr. Foreman reiterated much of the information originally provided. Much appreciation was also extended to Mr. Foreman for his foresight and work associated with transitioning to CNG fuel.

The motion remaining on the floor and the members all voting affirmatively, the Mayor declared the motion carried and the resolutions were adopted and given Resolutions No. R-53-21 and R-54-21 respectively.

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Item No. 5 was a resolution accepting bid for the purchase of kitchenware and equipment for the Fort Smith Convention Center (\$295,661.47 / *Convention Center / Budgeted - Convention Center Fund*) (*Finance*).

Deputy Administrator Dingman briefed the Board on the item advising bids were advertised and solicited for the replacement of various kitchenware items and equipment for the Convention Center. Per the agreement with OVG Facilities, who manages the Convention Center, the City generated the bid document, collected the bid results, and OVG reviewed the responses and recommended such be awarded to Markham Restaurant Supply of Fort Smith. As stipulated in the agreement, once the items are received and invoiced by the vendor, the City will request funds from OVG to pay the invoices and the City becomes the owner of the equipment. OVG is repaid monthly via the Investment Payback provisions of the agreement. The proposed purchase fulfills all of the purchasing obligations as mandated by both state and local purchasing requirements.

Rego, seconded by Morton, moved adoption of the resolution. There being no director commenting and the members all voting affirmatively, the Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-55-21.

Item No. 6 was an ordinance amending the 2021 Budget and appropriating funds for 2020 encumbrances and carry-overs (*Finance*).

Director of Finance Andy Richards briefed the Board on the item advising in accordance with the City's Fiscal Policies adopted via Ordinance No. 79-19, all appropriations lapse at year-end. Any encumbrances at year-end may be reappropriated by the Board of Directors in the subsequent year. In December 2020, all departments were

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required to collect and submit their Carryforward and Carry Over requests along with explanations of the circumstances necessitating the need to roll these requests into the 2021 Budget. Carryforwards (Encumbrances) are legal obligations that the department entered into in 2020, but either the request for payment or service/item was not delivered by December 31, 2020. This request is to use 2020 monies to pay those obligations. Carry Overs are requested when objectives are not finished due to various reasons/circumstances or if another need can be met with remaining budget balances. Carry Overs are a request to use available budgets from the prior fiscal year that were not obligated via contract or purchase order. The total amount of Carryforward requests are \$1,109,238 and \$337,134 for Carry Overs as outlined in Attachments A and B to the proposed ordinance. Both lists were thoroughly reviewed by the City Administrator and Director of Finance; therefore, he recommended approval.

Morton, seconded by Martin, moved adoption of the ordinance. Prior to the vote, Director Morton requested confirmation that the proposed item provides no impact to the 2021 Budget as originally approved whereby Mr. Richards responded affirmatively.

The motion remaining on the floor and the members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 40-21.

Item No. 7 was an ordinance authorizing the appropriation of insurance proceeds for the Solid Waste Services Department (*Solid Waste Services*).

Mr. Foreman briefed the Board on the item advising that on March 16, 2021, Asset No. 203 was involved in an accident and received damage to cab on the driver side.

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Insurance proceeds were received and the proposed appropriation is necessary to transfer said funds to the Solid Waste Services operating budget to accommodate repair the vehicle.

Settle, seconded by Martin, moved adoption of the ordinance. There being no director commenting and the members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 41-21.

The consent agenda (Item No. 8) was presented for consideration, the items being as follows:

- A. Resolution authorizing the Mayor to execute Change Order No. 2 with Forsgren Inc. for the Highway 255 Utility Relocations (\$225,129.55 and adding 200 days / Utility Department / Budgeted - 2018 Revenue Bonds) ♦ Future Fort Smith item
- B. Resolution approving Change Order No. 1 for Amendment No. 3 to the agreement with Van Horn Construction, Inc. for providing construction management services for the Wastewater Pump Station Flood Damage Remediation, Project 19-29-C3 (Reduce GMP by \$1,446.13 / Utility Department / Budgeted - 2018 Revenue Bonds) ♦ Future Fort Smith item
- C. Resolution authorizing the Mayor to approve the project reconciliation for Amendment No. 3 to the agreement with Van Horn Construction, Inc. for providing construction management services for the Wastewater Pump Station Flood Damage Remediation Project and declaring the Amendment closed and authorizing the final payment (\$142,894.47 / Utility Department / Budgeted - 2018 Revenue Bonds) ♦ Future Fort Smith item

Catsavis, seconded by Settle, moved adoption of all consent agenda items. Prior to the vote and regarding Item No. 8A, Director Morton inquired if the Arkansas Department of Transportation (ARDOT) will reimburse the cost for utility relocations associated with the

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project. He further questioned if the proposed twelve (12) inch water line, as well as the existing wastewater lines, are adequate for future growth citing the area is anticipated to experience much growth in the future. Additionally, he expressed concern that the map provided indicates that a portion of the lines are located within the city of Barling.

Mr. McAvoy confirmed that ARDOT will reimburse the City of Fort Smith for the cost of utility relocation, and that the proposed 12 inch water line as well as existing wastewater lines are of adequate size to accommodate future growth. With regard to utility lines being located within the city of Barling, he noted that all lines are located within the corporate boundaries of Fort Smith; however, staff will review and confirm.

The motion remaining on the floor to adopt the Consent Agenda and the members all voting affirmatively, the Mayor declared the motion carried and the resolutions were adopted and given Resolution No. R-56-21 through R-58-21 respectfully.

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

■ Mayor McGill

- Re:
1. Noted that COVID-19 is “*still here*”; therefore, he urged all to be mindful of such and continue to take necessary precautions.
 2. Advised that businesses are in economic recovery from the pandemic, specifically denoting restaurants, and announced the following community events are scheduled as follows:
 - ▶ Steel Horse Rally, May 7 - 8
 - ▶ Old Fort Days Rodeo, May 31 - June 5
 - ▶ Mayor’s 4th of July Celebration, July 4

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▶ Director Good

Re: Advised that a resident recently inquired if the City maintained any type of shredding event for residents. Unfortunately, such has never been an event provided by the City of Fort Smith; however, after conveying such to Director of Solid Waste Services Kyle Foreman, he initiated and scheduled said event. Such was well received and appreciated by residents. Due to such, much gratitude was extended to Mr. Foreman for understanding the need and taking action to schedule such to accommodate residents.

▶ Director Rego

Re: Extended much appreciation to Mr. Foreman for his service to the City of Fort Smith, announcing he has accepted a position in Billings, Montana. On a personal note, he further conveyed much gratitude to Mr. Foreman citing he coached his son in soccer when they first moved to Fort Smith.

▶ Deputy Administrator Dingman

Re: Reminded all about the forthcoming Board of Directors Strategic Workshop scheduled for 12:00 p.m., Friday, April 23, 2021 at The Blue Lion.

At approximately 7:05 p.m., the Board took a brief recess and convened into executive session at approximately 7:14 p.m. After reconvening, the Mayor announced the following appointment nominations:

CIVIL SERVICE COMMISSION

R. Cole Goodman

Alex Sanchez

Terms expire March 31, 2027

ELECTRIC CODE APPEALS BOARD

Frank Glidewell (reappointment)

Term expires March 31, 2026

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

Maria Miller, City of Fort Smith representative
~ to fill the unexpired term of Wendy Mathis, who resigned ~
Term expires June 30, 2022

HOUSING ASSISTANCE BOARD

Teresa Jones (reappointment)
Mike Jacimore (reappointment)
Jim Rose (reappointment)
Terms expire April 30, 2023

PLANNING COMMISSION

Ralph E. Taylor, IV (reappointment)
Griffin Hanna (reappointment)
Shaun McCaffrey (reappointment)
Terms expire April 30, 2024

SEBASTIAN COUNTY REGIONAL SOLID WASTE MANAGEMENT BOARD

Andrew Galbach (reappointment)
Term expires January 21, 2024

Martin, seconded by Morton, moved to accept all of the above named appointment nominations. The members all voting aye, the Mayor declared the motion carried.

There being no further business to come before the Board, Settle moved that the meeting adjourn. The motion was seconded by Martin, and the members all voting aye, the Mayor declared the motion carried and the meeting stood adjourned at 7:39 p.m.

APPROVED:


MAYOR

ATTEST:

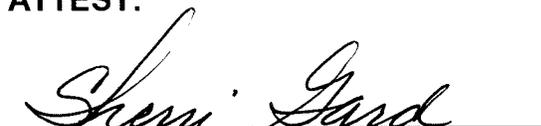

CITY CLERK

Exhibit A

*Presented to Board
at 4/20/2021 RM
Item 3*

**City of Fort Smith, Arkansas
Audit Advisory Committee Presentation of the
Comprehensive Annual Financial Report for the Year Ended December 31, 2019
April 20, 2021**

The Process:

- The annual report was prepared by the City's finance department.
- The report was submitted to the independent auditor, BKD, LLP.
- BKD performed the audit for the purpose of rendering opinions on the financial statements and the City's compliance with federal and state laws and regulations.
- The Audit Advisory Committee's responsibility is to assist the Board of Directors in fulfilling its oversight responsibility relating to the City's financial reporting process, its systems of internal accounting and financial controls, the external independent audit process and its process for monitoring compliance with laws and regulations.
- The Committee is comprised of 4 advisory members from the community (all are CPAs) and 3 members of the Board of Directors (1 CPA).
- The Committee has thoroughly reviewed the 2019 Comprehensive Annual Financial Report, has discussed the report with the City's management and independent auditor, and has conducted private meetings with both management and the independent auditor so that each can share any information they wish regarding the audit process.

Presentation Comments:

- The table of Contents
- Management's Discussion and Analysis
- The Independent Auditor's Report – page 19; Unqualified opinion on the financial statements and includes an emphasis of a matter (correction of an error that occurred in 2018 regarding water-sewer-sanitation accounts receivable improperly recorded during the ERP conversion).
- Statements of Net Position (balance sheets) and Statements of Activities (statements of operations): pages 32 – 49.
- Notes to Basic Financial Statements: pages 50 – 127.
- Budget financial statements: pages 142 – 144.

- Report on Internal Control over Financial Reporting and on Compliance and Other Matters:
 - A. No instances of noncompliance or questioned costs.
 - B. Material weaknesses noted:
 1. Bank and investment account reconciliations were not completed timely which resulted in material adjustments.
 2. Audit adjustments were necessary to correct a water-sewer-sanitation entry to accrue for unbilled accounts receivable at year end, accounts receivable balances improperly recorded during the ERP conversion which resulted in a 2019 restatement and the allowance for uncollectible accounts at 12/31/2019. Various other adjustments were necessary to various funds to correct account receivable entries recorded.
 3. Lack of segregation of duties regarding the water-sewer-sanitation Collections Supervisor responsibilities.
 4. The Enterprise Resource Planning (ERP) system was unable to produce accurate and timely financial reports during 2019.
- The BKD management letter mentions 4 deficiencies and 5 other matters in addition to the material weaknesses listed above.
- In 2018 there were: 9 material weaknesses; 12 deficiencies; 4 other matters; no instances of noncompliance; no questioned costs.
- Questions / Comments?

The audit advisory committee recommends that the Board of Directors approve the 2019 Comprehensive Annual Financial Report and the Single Audit Reports.