

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

**TUESDAY ~ MAY 17, 2022 ~ 6:00 P.M.**

**BLUE LION, 101 NORTH 2<sup>ND</sup> STREET**

The meeting was called to order by Vice-Mayor Jarred Rego, presiding. Invocation was given by Director Neal Martin, followed by the Pledge of Allegiance led by Director Robyn Dawson.

On roll call, the following members of the Board were physically present: Directors Jarred Rego, Andre’ Good, George Catsavis, Robyn Dawson, Kevin Settle, and Neal Martin. Director Lavon Morton was absent. The Vice-Mayor declared a quorum present.

The Vice-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 May 3, 2022 regular meeting was presented for approval. Catsavis, seconded by Dawson, moved adoption of the minutes as written. The members present all voting aye, the Vice-Mayor declared the motion carried.

Item No. 1 was presentation of a Proclamation for Public Works Week (*May 15-21, 2022 / “Ready & Resilient”*).

Deputy City Administrator Jeff Dingman announced a proclamation has been prepared in honor of Public Works Week, and recognized the below noted City of Fort Smith Public Works Department Directors:

<b>DEPARTMENT</b>	<b>DIRECTOR</b>	<b>REPRESENTING EMPLOYEES</b>
Utility	Lance McAvoy	322
Streets and Traffic Control	Matt Meeker	75
Parks and Recreation	Doug Reinert	39
Transit	Ken Savage	34
Engineering	Stan Snodgrass	19
Solid Waste Services	Nicole Riley	93

**May 17, 2022 Regular Meeting**

Director Martin noted the staff of each of the above named departments not only do their day-to-day service, and do it well; however, the personnel work tirelessly during times of natural disaster, specifically denoting various storms as well as the 2019 Flood. Due to such, he extended much appreciation for their dedication and service to the residents of the city of Fort Smith.

Item No. 1 was an ordinance amending Sections 25-93, 25-99, 25-100 and 25-101 of the Fort Smith Municipal Code (*Project Concern*) ~ *Settle/Catsavis placed on agenda at the April 12, 2022 study session ~ (Utility).*

Director of Utility Lance McAvoy briefed the Board on the item as discussed at the April 12, 2022 study session. Project Concern is a tool used by the City of Fort Smith to help low and fixed income residents with their water, sewer, and solid waste bill. In several discussions with the Board members and Administration, the Utility Department has investigated how to better aid customers who meet the criteria for inclusion in Project Concern. In order to participate, customers must qualify by meeting certain income requirements. The current eligibility requirement is 165% of the federal poverty guideline for the number of people living in the household. Many other utility assistance programs have an eligibility requirement of 125% to 150% of the federal poverty guideline. Upon approval of the proposed ordinance, the discounted rates will be amended as follows:

<b>Bill Line Item</b>	<b>Current Discount</b>	<b>Proposed Discount</b>
Water Residential Base	50%	50%
Water Residential Volume	0%	50%
Sewer Residential Base	0%	50%
Sewer Residential Volume	50%	50%
Solid Waste Residential	19%	25%

**May 17, 2022 Regular Meeting**

Catsavis, 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 Catsavis acknowledged that participation is based upon poverty level; therefore, he requested a brief explanation of such.

Mr. McAvoy confirmed the information is provided on the application for those desiring participation; however, he clarified that such is based on the number of individuals in the household.

Director Martin added the federal poverty level is \$27,750; however, for a family of four (4) such increases to \$45,787.

Director Dawson requested confirmation that the proposed amendments will increase the potential for more residents to qualify for the program whereby Mr. McAvoy responded affirmatively.

Director Good simply extended much appreciation for the proposed amendments that will benefit more residents.

The motion remaining on the floor and the members present all voting affirmatively, the Vice-Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 39-22.

Item No. 2 was a resolution authorizing an agreement between the City of Fort Smith and the Western Arkansas Planning and Development District for the Bike Share Pilot Project (*Administration*).

***May 17, 2022 Regular Meeting***

Deputy City Administrator Jeff Dingman briefed the Board on the item advising Dr. Suman Mitra, Ph.D., Assistant Professor with the Department of Civil Engineering at the University of Arkansas, and Reese Brewer, Director of the Frontier Metropolitan Planning Organization approached the City of Fort Smith to be part of the subject grant with the goal of developing a community oriented sustainable shared micromobility system. Shared micromobility encompasses all shared-use fleets of small, fully or partially human-powered vehicles such as bikes, e-bikes, and e-scooters. The expected outcomes are improved access to jobs, active and healthy communities, and time and cost savings for participants. The proposed resolution authorizes an agreement with Western Arkansas Planning and Development District (WAPDD) regarding the Shared Micromobility for Affordable Accessible Housing (SMILIES) Bike Share Pilot Project and formalizes the relationship, funding, and reporting of the subject grant. City Administration believes the project will benefit city residents and provide proof of concept to the National Science Foundation. A contract was recently approved with Tandem Mobility to secure the fleet of bikes and e-bikes for the subject project whereby the official start of such occurred on May 12, 2022.

Dawson, seconded by Catsavis, moved adoption of the resolution. Prior to the vote, Director Dawson inquired if such was associated with the presentation given at some of the recently held Sales Tax Information and Feedback Meetings whereby Mr. Dingman responded affirmatively.

Director Martin requested confirmation that the proposed does not commit the City to any financial obligation.

Mr. Dingman clarified such is a pilot program citing associated costs will be covered

**May 17, 2022 Regular Meeting**

by grants; therefore, he confirmed the proposed does not contain or commit any financial obligation by the City of Fort Smith. If the program is sustained in the future, such could potentially require financial assistance by the City at that time; however, the proposed contains no such obligation.

The motion remaining on the floor and the members present all voting affirmatively, the Vice-Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-74-22.

Item No. 3 was a resolution authorizing final payment and declaring the Solid Waste CNG Fueling Station Project complete (\$437,779.20 / Solid Waste Services / Budgeted - Solid Waste Sinking Fund) ~ *Withdrawn from consideration at the May 3, 2022 regular meeting* ~ ♦ *Future Fort Smith Item*

Mr. Dingman briefed the Board on the item advising that on April 20, 2021, the Board of Directors approved agreements with Clean Energy of California, Inc. for the installation of a CNG Fueling Station at the Solid Waste Facility, as well as CNG upgrades to the Solid Waste Maintenance Shop. The maintenance shop project was accepted as complete in April 2022, and the Board authorized three (3) change orders for the CNG Fueling Station Project on May 3, 2022. The total authorized cost for the subject Fueling Station, including the aforementioned change orders, is \$1,894,434.47. The city has been invoiced for Milestones 4 and 5 per the terms of the original agreement, as well as the aforementioned change orders; therefore, the total of remaining payments due on the project is \$437,779.20. The proposed resolution declares the project as complete and authorizes final payment as aforementioned.

### ***May 17, 2022 Regular Meeting***

Dawson, seconded by Martin, moved adoption of the resolution. There being no director commenting and the members present all voting affirmatively, the Vice-Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-75-22.

Item No. 4 was an ordinance declaring an exceptional situation and waiving the requirements of competitive bidding; declaring the project as complete and authorizing final payment to Crawford Construction Company for the North 52<sup>nd</sup> Street Emergency Sewer Line Replacement (\$318,010.00 / Utility Department / Budgeted - CIP Funds) ♦ Future Fort Smith Item • Consent Decree Item

Mr. McAvoy briefed the Board on the item advising the eight (8) inch PVC sewer pipe on North 52<sup>nd</sup> Street failed and required emergency replacement to eliminate the possibility of health hazards to the residents of the city of Fort Smith. The project also required the replacement of five-hundred (500) feet of sewer line, removal and replacement of two (2) brick manholes, driveways, and repairs to the road. Staff contacted local contractors to determine who was available to make the repairs in the shortest amount of time. City Administration was notified of the need to make the repairs and the need to declare an emergency and request waiving the competitive bid requirements so as to expedite the replacement. Crawford Construction was available to facilitate the needs of the City and was hired to replace the sewer line. The proposed ordinance declares an exceptional situation, waives the requirements for competitive bidding, affirms the contract with Crawford Construction, declares the project complete, and authorizes the final payment for the contract of \$318,010.00.

**May 17, 2022 Regular Meeting**

Martin, seconded by Good, moved adoption of the ordinance. Prior to the vote, Director Settle denoted that City previously maintained an agreement with Forsgren, Inc. for emergency repairs; therefore, he requested a brief explanation.

Mr. McAvoy confirmed the City of Fort Smith did, in fact, maintain the noted agreement; however, such was for repair of water leaks, not sewer repair. Regardless, said agreement actually expired in 2019.

Director Martin inquired if the emergency repair was required due to the age of the pipe and if such occurred in January 2022. He further requested confirmation that such is a Consent Decree item whereby Mr. McAvoy responded affirmatively to all of the aforementioned.

Director Good noted the street is provided, but not the actual location. Due to such, he inquired what 100 block the emergency repair was required whereby Mr. McAvoy advised he will obtain and provide.

The motion remaining on the floor and the members present all voting affirmatively, the Vice-Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 40-22.

Item No. 5 was a resolution authorizing the acquisition of permanent sewer utility easements for construction and maintenance of the Basin 10 and 14 Capacity Improvements, Phase 1 (*\$2,600.00 / Utility Department / Budgeted - 2018 Revenue Bonds*) ♦ *Future Fort Smith Item* • *Consent Decree Item*

Mr. McAvoy briefed the Board on the item advising the subject project, i.e. Project No. 18-16, known as Basin 10 & 14 Capacity Improvements, Phase I is necessary to bring

**May 17, 2022 Regular Meeting**

the City's sanitary sewer system into compliance with the Consent Decree. The project is intended to increase the capacity of the sewer mains during wet weather events. Currently the pipe size is smaller than needed, which creates overflow situations in the sanitary sewer system. At the onset of the project, staff negotiated two (2) easements with Carol Smith affecting properties owned by her late husband, Clarence Smith, with the understanding that the properties were subject to a probate case to resolve Mr. Smith's estate. As such the easements were not recorded and no compensation has been paid to Mrs. Smith with the understanding that staff would wait until the probate case was resolved. In the year that the probate case has been active, the estate lost the properties due to unpaid real estate taxes and was subsequently purchased at a tax sale by Parcel Strategies LLC. Such has created a "cloud" in title to the property and to ensure the City has good title to the necessary easements, the best course of action, as discussed with Daily and Woods, is to file an eminent domain action against the Estate of Clarence Smith and Parcel Strategies, LLC. Due to project scheduling, staff recommends approval of the proposed resolution, which authorizes the city administrator and city attorney to proceed with eminent domain actions to acquire the needed sewer utility easement.

Catsavis, seconded by Dawson, moved adoption of the resolution. Prior to the vote, Director Martin inquired if the Basin locations are available via an online map. He further noted that the City is "*running out of money*" for Consent Decree projects; therefore, he questioned if adequate Consent Decree funds are available for the subject project.

Mr. McAvoy confirmed that basin locations are provided on the City's website. With regard to funding, American Rescue Plan Act (ARPA) funds, which maintain a fast

**May 17, 2022 Regular Meeting**

approaching deadline for use, will be utilized to cover the cost of the subject project. Passage of the upcoming ballot measure to continue the 0.75% sales and use tax, which includes a portion for the Consent Decree projects as well as for the Police Department, is imperative to provide funding for Consent Decree items. (Such is set for voter consideration at the May 24, 2022 special election.)

The motion remaining on the floor and the members present all voting affirmatively, the Vice-Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-76-22.

The consent agenda (Item No. 6) was presented for consideration, the items being as follows:

- A. Resolution authorizing the Mayor to execute an agreement with Mickle Wagner Coleman, Inc. for professional engineering services for an access road from South 28<sup>th</sup> Street to Transit property located at 6821 Jenny Lind Road (\$150,000.00 / *Transit Department / Budgeted - Capital Outlay-Improvements Other*)
- B. Resolution authorizing Change Order No. 4 to the contract with Steve Beam Construction, Inc. for awning and other improvements at the Fort Smith Public Transit transfer station located at 200 Wheeler Avenue, Project Number 20-042 (\$2,015.00 decrease & add 20 days / *Transit Department / Budgeted - Capital Outlay-Improvements Other*)
- C. Resolution accepting completion of and authorizing final payment to Steve Beam Construction, Inc. for awning and other improvements at the Fort Smith Public Transit transfer station located at 200 Wheeler Avenue, Project Number 20-042 (\$22,270.28 / *Transit Department / Budgeted - Capital Outlay-Improvements Other*)
- D. Resolution authorizing a change order to the contract with Pickett Industries, LLC for the Cell A-6 Construction Project at the Fort Smith Sanitary Landfill (\$131,979.43 / *Solid Waste Services Department / Budgeted - Solid Waste Sinking Fund*)

**May 17, 2022 Regular Meeting**

Settle, seconded by Catsavis, moved adoption of all consent agenda items. Prior to the vote and regarding Item No. 6A, Director Martin requested a brief explanation of the project; and, requested confirmation that the proposed is \$150,000 of a \$1.8 million project and if a percentage will be covered by grant funds.

Director of Public Transit Ken Savage confirmed the immediately aforementioned citing approximately eighty-percent (80%) will be covered by grants. He also provided the requested explanation citing the project is to address a growing safety concern. Currently, access to the subject location is via Spartan Logistics property, whose business is growing and has resulted in increased big truck traffic. The proposed access will benefit both the City of Fort Smith, as well as Spartan Logistics. The project will ultimately require an easement from the adjoining property owner on South 28<sup>th</sup> Street.

Director Settle requested confirmation that the proposed provides an alternate access to the Public Transit property.

Mr. Savage confirmed such will provide an alternate access, but clarified that such will also allow the City to close the gates, which will increase security at the facility.

Director Dawson extended much appreciation for the use of grants to fund at large portion of the project. Regardless, she inquired if the proposed will impact the Tony White property and if so, she urged the City to do anything necessary to ensure said impact is non-existent or minimal.

Mr. Savage advised of an existing easement from 1974; however, Mr. White has requested the roadway to be moved to the north. Such requires relocation of a railroad easement whereby contact has been extended, and the railroad has conveyed no immediate opposition.

## **May 17, 2022 Regular Meeting**

The motion remaining on the floor and the members present all voting affirmatively, the Vice-Mayor declared the motion carried and the resolutions were adopted and given Resolution No. R-77-22 through R-80-22 respectively.

Vice-Mayor Rego opened the Officials Forum with the following comments offered:

▶ Vice-Mayor Rego

Re: Reminded all of the forthcoming special election on May 24, 2022 and encouraged all to go vote and support the city of Fort Smith measures.

▶ Director Dawson

Re: Simply urged all to vote in favor of the proposed sales and use tax measures.

▶ Director Settle

- Re:
1. Extended appreciation and understanding for his absence at the May 3, 2022 regular meeting citing such was due to a trip to Florida to visit his daughter on her 21<sup>st</sup> birthday.
  2. Regarding the recent passing of David Harris, he noted that Mr. Harris attended very meeting of the Board of Directors until COVID-19 detained his attendance. Regardless, he stated, *"he will be missed"*, *"he was truly a good citizen"*, and *"a champion for citizens of Fort Smith."* Due to such, he conveyed his desire to *"do something"* to honor Mr. Harris citing, because he always sat in the back of the room, possibly designating a chair in his honor.

Director Martin added that Mr. Harris timed the speaking time of each director at every meeting, citing he would love to see his notes.

**May 17, 2022 Regular Meeting**

▶ Director Martin

- Re: 1. Advised he's received a lot of feedback from residents regarding the forthcoming digital utility billing service provided by Paylt, LLC, specifically the associated fees. Due to such, he requested an item to discuss the matter be placed on a future study session. Director Settle concurred with the request. Such requires the concurrence of at least two (2) directors; therefore, Vice-Mayor Rego announced that said item will be placed on a future study session agenda as requested.
2. Regarding the new City of Fort Smith website, which is currently being designed by Granicus, he participated in a conference call yesterday and simply citing such was a "good discussion."

▶ Deputy City Administrator Dingman

- Re: Reminded all that next week's study session originally scheduled for Tuesday, May 24, 2022 has been rescheduled for Monday, May 23, 2022.

The Board convened into executive session at approximately 6:37 p.m., and after reconvening, the Vice-Mayor announced the following appointment nomination:

**SEBASTIAN COUNTY REGIONAL SOLID WASTE MANAGEMENT BOARD**

Nicole Riley

~ to fill the unexpired term of Kyle Foreman, former Director of Solid Waste Services ~  
Term expires January 21, 2024

*Note: Director Catsavis left the meeting immediate after reconvening from the executive session, approximately 6:38 p.m.; therefore, he was not present for the vote to accept the appointment nomination or adjournment.*

Martin, seconded by Settle, moved acceptance of the above named appointment nomination. The members present all voting aye, the <sup>vice</sup> Mayor declared the motion carried.

**May 17, 2022 Regular Meeting**

There being no further business to come before the Board, Good moved that the meeting adjourn. The motion was seconded by Martin, and the members present all voting aye, the Mayor declared the motion carried and the meeting stood adjourned at 6:38 p.m.

**APPROVED:**

  
MAYOR

**ATTEST:**

  
CITY CLERK