



Mayor – Sandy Sanders

City Administrator – Ray Gosack

City Clerk – Sherri Gard

Board of Directors

Ward 1 – Keith D. Lau

Ward 2 – Andre' Good

Ward 3 – Mike Lorenz

Ward 4 – George Catsavis

At Large Position 5 – Pam Weber

At Large Position 6 – Kevin Settle

At Large Position 7 – Philip H. Merry Jr.

AGENDA
Fort Smith Board of Directors
Special Meeting
October 2, 2014 ~ 5:00 p.m.
City of Fort Smith Offices
623 Garrison Avenue, Room 326

ROLL CALL

PRESENTATION BY MEMBERS OF THE BOARD OF DIRECTORS OF ANY ITEMS OF BUSINESS NOT ALREADY ON THE AGENDA FOR THIS MEETING

(Section 2-37 of Ordinance No. 24-10)

ITEMS OF BUSINESS:

1. Discuss status of consent decree settlement negotiations and potential litigation regarding the sanitary sewer system

ADJOURN



OFFICE OF THE CITY CLERK
Sherri Gard, CMC, City Clerk
Heather James, Assistant City Clerk

MEDIA RELEASE

October 2, 2014

Pursuant to Section 2-27(4) of the Fort Smith Municipal Code, Directors Good, Lorenz, Catsavis and Settle have called a special meeting for 5:00 p.m., Thursday, October 2, 2014 at the City of Fort Smith Offices, 623 Garrison Avenue, Room 326 for the following purpose:

- Discuss status of consent decree settlement negotiations and potential litigation regarding the sanitary sewer system

For agenda information, please contact the City Clerk's Office at 784-2208. The agenda for the special meeting will be posted to the City's website, www.fortsmithar.gov momentarily.

A handwritten signature in blue ink that reads "Sherri Gard". The signature is written in a cursive style and is positioned above a horizontal line.

Sherri Gard, City Clerk



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AGENDA
Fort Smith Board of Directors
Special Meeting
October 2, 2014 ~ 5:00 p.m.
City of Fort Smith Offices
623 Garrison Avenue, Room 326

ROLL CALL

- All present, except Directors Good & Merry (*Good arrived at approximately 5:06 p.m.*)
- Mayor Sandy Sanders presiding

PRESENTATION BY MEMBERS OF THE BOARD OF DIRECTORS OF ANY ITEMS OF BUSINESS NOT ALREADY ON THE AGENDA FOR THIS MEETING

(Section 2-37 of Ordinance No. 24-10)

None presented

ITEMS OF BUSINESS:

1. Discuss status of consent decree settlement negotiations and potential litigation regarding the sanitary sewer system
Settle/Lau placed a resolution reaffirming the City's desire that negotiations with the Department of Justice continue and that the City will continue to move forward with sewer system improvements on the October 7, 2014 regular meeting.

ADJOURN

5:36 p.m.

MINUTES OF BOARD OF DIRECTORS SPECIAL MEETING

THURSDAY ~ OCTOBER 2, 2014 ~ 5:00 P.M.

CITY OF FORT SMITH OFFICES ~ PLANNING CONFERENCE ROOM

The special meeting was called by Directors Andre' Good, Mike Lorenz, George Catsavis and Kevin Settle for the following purpose:

- Discuss status of consent decree settlement negotiations and potential litigation regarding the sanitary sewer system

The special meeting was called to order by Mayor Sandy Sanders, presiding. On roll call the following members of the Board were present: Directors Keith Lau, Mike Lorenz, George Catsavis, Pam Weber and Kevin Settle. Director Philip H. Merry, Jr. was absent and Director Andre' Good arrived during presentation of Item No. 1. 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.

City Administrator Ray Gosack read a prepared statement regarding the above noted discussion item, which is attached as Exhibit A. In summary, below is an excerpt of the first two (2) paragraphs of the prepared statement:

"For the last 8-1/2 years, the City of Fort Smith has been in negotiations with the U.S. Department of Justice and the Environmental Protection Agency regarding sanitary sewer system wet weather overflows. During periods of heavier rainfalls, stormwater enters the sewer system through defects in manholes and underground pipes and overwhelms the capacity of the sanitary sewer system. This causes untreated sewage to overflow from the system. The purpose of the negotiations and contemplated consent decree with the federal government has been to bring Fort Smith into compliance with the federal Clean Water Act.

We were scheduled to meet with the federal negotiators in Dallas last

October 2, 2014 Special Meeting

week for 3 days for what we believed would be the final negotiations. One working day before the meeting was to begin, the Department of Justice abruptly cancelled the meeting. On Sept. 24, the department notified us that the federal government was ending negotiations and were considering the filing of litigation against Fort Smith in federal court. We continue to believe that negotiation of a consent decree could be successfully completed, and have communicated that to the Department of Justice. Nonetheless, we expect the federal government to file its litigation at any time."

Mayor Sanders expressed concern with the matter announcing City representatives thought negotiations were going well and that a settlement was forthcoming. Regardless of the impending lawsuit, he conveyed much assurance that the City of Fort Smith is ready and willing to continue negotiations.

Each member of the Board either commented or submitted an inquiry regarding the matter.

Administrator Gosack and City Attorney Jerry Canfield addressed each inquiry citing the impending lawsuit was anticipated to be filed against the City of Fort Smith today; however as of 4:00 p.m., nothing had yet been filed.

After the aforementioned discussion, the Board members present conveyed unanimous concurrence that the City of Fort Smith should do everything within its power to ensure that negotiations resume and that the City's commitment to continue improvements be reaffirmed.

Settle, seconded by Lau, moved to place a resolution on the October 7, 2014 regular meeting to convey the City's desire that negotiations continue and to reaffirm that the City of Fort Smith is committed to continue sanitary sewer system improvements. Per the Fort Smith Municipal Code, placement of an item on an upcoming agenda requires the

October 2, 2014 Special Meeting

concurrence of two (2) directors; therefore, Mayor Sanders announced that the aforementioned resolution will be placed on the October 7, 2014 regular meeting agenda for consideration.

Mayor Sanders encouraged continuation of a public awareness campaign to educate residents on the hazards of allowing grease and oil to go down drains, etc.

There being no further business to come before the Board, Settle moved that the meeting adjourn. The motion was seconded by Lorenz and the members present all voting aye, the Mayor declared the motion carried, and the special meeting stood adjourned at 5:36 p.m.

APPROVED:



VICE- MAYOR

ATTEST:



CITY CLERK

*Prepared statement read
by Administrator Gosaek
at the Oct. 2, 2014 special
meeting*

For the last 8-1/2 years, the City of Fort Smith has been in negotiations with the U.S. Department of Justice and the Environmental Protection Agency regarding sanitary sewer system wet weather overflows. During periods of heavier rainfalls, stormwater enters the sewer system through defects in manholes and underground pipes and overwhelms the capacity of the sanitary sewer system. This causes untreated sewage to overflow from the system. The purpose of the negotiations and contemplated consent decree with the federal government has been to bring Fort Smith into compliance with the federal Clean Water Act.

We were scheduled to meet with the federal negotiators in Dallas last week for 3 days for what we believed would be the final negotiations. One working day before the meeting was to begin, the Department of Justice abruptly cancelled the meeting. On Sept. 24, the department notified us that the federal government was ending negotiations and were considering the filing of litigation against Fort Smith in federal court. We continue to believe that negotiation of a consent decree could be successfully completed, and have communicated that to the Department of Justice. Nonetheless, we expect the federal government to file its litigation at any time.

Exhibit A

Our purpose this evening is to brief the board and community on the progress we've made over the last several years and our commitment to continue solving the problems. We've remediated more than 70% of the chronic sanitary sewer wet weather overflows, have had only 9 wet weather overflows in the last year, and have additional work under construction or in design to address most of the remaining chronic overflow locations. As shown on the maps, we have reduced the number of wet weather overflows by 79%. The City of Fort Smith has spent and is committed to spend over \$200 million to achieve this progress toward complying with the Clean Water Act. The locations where much of this work has occurred are shown on the map. Not coincidentally, the areas where overflows have been reduced are the same areas where significant work has occurred.

Regardless of any federal litigation, we are committed to continuing improvements to the operation of Fort Smith's sanitary sewer system. Gathering wet weather flow data in the system to identify needed improvements and evaluate system performance, constructing capacity improvements to handle increased flows during wet weather conditions, eliminating sources of wet weather inflow and infiltration into the sewer system, and enhanced maintenance of the sewer system have been and will continue to be our priorities. We have over \$30 million in construction work underway or upcoming. We are also planning to enhance

maintenance of the sanitary sewer system to reduce the occurrence of overflows during dry weather normal operating conditions. While we've experienced only 9 overflows due to wet weather conditions during the last year, we've experienced approximately 180 overflows due to blockages in sewer lines during dry weather periods of normal operation. Many times, these blockages are caused by tree roots invading the sewer lines or by the build up of fats, oils and grease deposited by consumers into the sewer system.

The city must enhance its maintenance and public education efforts to alleviate overflows caused by blockages in the sanitary sewer system. Planning for these programs is underway and will continue. We will be discussing the specifics of this, including the impact on sewer rates, in the coming weeks.

All of the current and future efforts are affected by affordability. Affordability takes into account the community's ability to pay, and is a factor which must be considered in determining the amount of work to be undertaken and how fast it will be accomplished. Affordability affects the city's work programs, and is a consideration of which the city has been and will continue to be mindful.

Regardless of any pending litigation, the City of Fort Smith remains steadfast in its work to address the decades-old problems with its sanitary sewer system. We've made substantial progress and will continue our efforts. Our goal is to be in compliance with the federal Clean Water Act and to provide safe and environmentally responsible sanitary sewer services to our 87,000 residents and thousands of businesses.