

**MINUTES OF THE REGULAR MEETING
BOARD OF MAYOR AND ALDERMEN
FRANKLIN, TENNESSEE
CITY HALL BOARDROOM
TUESDAY, MARCH 13, 2012 – 7:00 P.M.**

Board Members

Mayor Ken Moore	P		
Alderman Clyde Barnhill	P	Alderman Margaret Martin	P
Alderman Brandy Blanton	P	Alderman Dana McLendon	P
Alderman Pearl Bransford	A	Alderman Ann Petersen	P
Alderman Beverly Burger	P	Alderman Michael Skinner	P

Department Directors/Staff

Eric Stuckey, City Administrator	P	Lisa Clayton, Parks Director	
Vernon Gerth, ACA Community & Economic Development	P	Shirley Harmon, HR Director	
Russell Truell, ACA Finance & Administration	P	Mark Hilty, Water Management Director	
David Parker, City Engineer/CIP Executive	P	Paul Holzen, Interim Engineering Director	
Shauna Billingsley, City Attorney	P	Catherine Powers, Planning/Sustainability Director	P
Rocky Garzarek, Fire Chief		Joe York, Streets Director	P
David Rahinsky, Police Chief		Brad Wilson, Facilities Project Manager	
Fred Banner, MIT Director		Lanaii Benne, Assistant City Recorder	P
Chris Bridgewater, Interim BNS Director		Linda Fulwider, Board Recording Secretary	P
Becky Caldwell, Solid Waste Director	P		

1. Call to Order

Mayor Moore called the March 13, 2012, meeting to order at 7:10 p.m.

2. Invocation

The invocation was given by Alderman Clyde Barnhill.

3. Pledge of Allegiance

All present stood and pledged allegiance to the Flag of the United States of America

4. Grievances or Statements from Citizens: Citizen Comments (Open for Franklin citizens to be heard on items not included on this Agenda. As provided by law, the Board of Mayor and Aldermen shall make no decisions or consideration of action of citizen comments, except to refer the matter to the City Administrator for administrative consideration, or to schedule the matter for Board consideration at a later date. Those citizens addressing the Board of Mayor and Aldermen are requested to come to the microphone and identify themselves by name and address for the official record)
None

5. Communications from Williamson County Mayor and Williamson County Commission

County officials were not present.

6. Approval of Minutes

Alderman Petersen moved to approve the February 14, 2012 Executive Session, February 28, 2012 Work Session, and February 28, 2012 BOMA meeting minutes as presented. Seconded by Alderman McLendon. Motion carried unanimously (7-0).

7. Recognitions

- Grand Award in the 2012 Engineering Excellence Awards from the ACEC of Tennessee (American

Council of Engineering Companies) for the ITS (Intelligent Transportation System) Expansion Project. Mayor Moore presented the trophy and thanked staff. Eric Stuckey commented this was a great project in which staff and the consultant pulled out all the stops in a short time to take advantage of grant money.

8. Miscellaneous Reports

None

9. CONSENT AGENDA

All items under the Consent Agenda are deemed non-controversial and routine in nature by the governing body. They will be approved as recommended by Committee or staff by one motion of the governing body. The items on the Consent Agenda will not be discussed. Any member of the governing body desiring to discuss an item on the Consent Agenda may request that it be removed from the Consent Agenda and be placed on the Regular Agenda. It will then be considered at that time. Staff recommends that Item Numbers 21-30 be placed on the Consent Agenda.

Alderman Martin moved to approve the Consent Agenda Items 21-30. Seconded by Alderman Petersen. Motion carried unanimously.

NEW BUSINESS

10. Consideration of ORDINANCE 2012-10: An Ordinance to Reduce the Speed Limit on Mack Hatcher Parkway from SR96 to West of SR 6 (US 31) to Forty-Five (45 MPH) Miles Per Hour in Both Directions [First of Two Readings]

David Parker, City Engineer/CIP Executive

Alderman Martin moved to Approve Ordinance 2012-10 on First of Two Readings. Seconded by Alderman Skinner.

Discussion:

- ▲ Alderman Barnhill related CIC members took issue at reducing a 4-lane highway from 55 mph to 45 mph as a lower speed limit on a bypass is probably not appropriate. Alderman Barnhill said he wouldn't support this ordinance unless someone could justify the state regulations.
- ▲ Eric Stuckey explained TDOT's design standards for roads with curb and gutter requires the speed limit to be no more than 45 mph and the City is trying to comply.
- ▲ David Parker said special conditions need to be looked at since this is a cross section issue. Certain areas of Mack Hatcher already have 45 mph speed limits.
- ▲ Alderman Burger indicated she would have trouble supporting the lower speed limit and local jurisdiction should prevail; follow what is needed for the community.
- ▲ Mr. Stuckey urged the Board to consider the liability that comes with not following accepted standards.
- ▲ Alderman Petersen asked about the existing two lanes, some will have shoulders.
- ▲ Mr. Parker said most of the roadway will be curb and gutter. When rebuilt, all will be at 45 mph.
- ▲ Alderman McLendon commented that people drive as fast as what they think is safe. This is setting a tripwire for tickets. He was willing to set the speed limit at 45 mph and see what happens with policing. If an inordinate number of tickets issued, then look at changing the limit.
- ▲ Mr. Parker said if a higher speed limit is wanted then the City would take on the liability.
- ▲ The best reason to reduce the speed limit is because the design standard suggests it is.

Motion to approve Ordinance 2012-10 on First Reading carried unanimously (7-0).

11. Consideration of RESOLUTION 2012-17, A Resolution Opposing Legislation that Limits the City's Authority Over Local Issues

Eric Stuckey, City Administrator

Alderman Skinner moved to approve Resolution 2012-17. Seconded by Alderman Martin.

Alderman McLendon objected to the handgun legislation being included on the list.

Alderman McLendon moved to remove SB 2941, HB 3479 from Exhibit A. Seconded by Alderman Burger.

Alderman McLendon gave two reasons why he wants this pending legislation removed. 1) He believes there are certain things about which preemption at the state level is appropriate and he personally feels like the regulation of handgun carry permits is one of those things; therefore, he is okay with the state deciding what the rules and laws are on handgun carry permits. 2) Every other item on the list is related to the regulation of property, zoning, and land use by local governments. It appeared to him, staff objects to the gun legislation because it treats the City as an employer. The other items on the list are objectionable because of the status as a policy-making, law-making local body.

Motion to amend by removing SB2941, HB3479 from Exhibit A carried 6-1 with Alderman Skinner voting against the amendment.

*Alderman Burger moved to amend the fifth Whereas: "the City believes that many of the bills listed below **are vague, undefined and broad reaching** will have detrimental....." Seconded by Alderman McLendon. Motion to amend carried unanimously (7-0).*

Alderman Petersen commented one other bill was not on planning and zoning but required all municipal officials and employees that handle funds be bonded. Mr. Stuckey explained the process to bond multiple officials and employees would be very expensive and unnecessary. The City does extensive background checks, additional drug testing and a number of other things for people in those positions. This is reviewed in the Audit every year and is regulated by the City's business practices. It doesn't fit the land use model but does fit the preemption of City control.

Main Motion to approve Resolution 2012-17 as amended carried unanimously (7-0).

- 12. Consideration of Bid Award to Office of Joel Tomlin, III, LLC of Franklin, TN, in the Total Amount of \$11,734.00 for Tree Supply, Planting and Related Contract Services at the Interstate 65 Interchange at McEwen Drive for the Parks Department (Purchasing Office Procurement Solicitation No. 2012-019; Funds Not to Exceed \$25,000.00 to be Transferred from Tree Bank to 110-84620-44700 for Fiscal Year 2012; Contract No. 2012-0029)**

Todd Snackenber, City Arborist

Alderman Petersen moved to approve the Bid Award to the Office of Joel Tomlin, III, LLC. Seconded by Alderman Blanton. Motion carried unanimously (7-0).

- 13. Consideration of Event Permit Application from Friends of Franklin Parks/Franklin Tomorrow for Raise the Roofs at Harlinsdale to be Held on June 16, 2012**

Kevin Lindsey, Parks Facility Superintendent

Alderman Blanton moved to approve Event Permit. Seconded by Alderman Petersen. Motion carried unanimously (7-0).

- 14. Consideration of Sole-Source Purchase & Trade-In for a 2012 5900 Groundmaster Mower in the Total Amount of \$12,700 for the Parks Department**

Kevin Lindsey, Parks Facility Superintendent

Alderman Barnhill moved to approve the sole-source purchase and trade-in. Seconded by Alderman Skinner. Motion carried unanimously (7-0).

- 15. Consider Rejecting All Bids for Three (3) Rescue Chassis Replacements and Associated Work for The Fire Department (Purchasing Office Procurement Solicitation No. 2012-020)**

Rocky Garzarek, Fire Chief

Alderman Barnhill moved to approve the rejection of all bids. Seconded by Alderman Petersen. Motion carried unanimously (7-0).

16. Consideration and Review of Cooperation Agreement with Franklin Housing Authority for the 49 Unit Reddick Property Senior Housing Development (COF Contract Number 2012-0028)

Vernon Gerth, ACA Community & Economic Development

Alderman Skinner moved to approve the Cooperation Agreement with Franklin Housing Authority. Seconded by Alderman Barnhill. Motion carried unanimously (7-0).

17. Consideration of Inter-Local Agreement with Bi-County Solid Waste Management

Eric Stuckey, City Administrator

Becky Caldwell, Solid Waste Director

Alderman Martin moved to approve the Inter-Local Agreement with Bi-County Solid Waste Management. Seconded by Alderman Barnhill.

Alderman McLendon said the Board is taking a giant leap of faith in relying on the gentlemen that were here earlier from private enterprise.

Alderman McLendon moved to defer the Inter-Local Agreement with Bi-County Solid Waste Management and respectfully request that Bi-County hold the Agreement open. Further request Staff prepare a bid process to solicit bids that exactly mirror the terms the City has been able to negotiate with Bi-County.

Alderman McLendon went on to say if the bids come in without exceptions and lower, great, but if they come in with a bunch of exceptions, he would be greatly disappointed because he would feel that he had been lied to. To clarify, he had asked both private enterprise representatives if they could offer a bid that extends 2 years plus 4 3-year options. He understood both to say yes; however, this was disputed by other aldermen. Alderman McLendon added that if their bids come in with exceptions, then he doesn't want to do any business with them ever.

Alderman Barnhill seconded the motion to defer with the hope that Bi-County would keep their offer open while the City goes through the bid process.

There was a short discussion on providing a timeframe for the deferral and the minimum time needed to complete the bid process. Mr. Stuckey stated if the bids go out on or before April 1, the process should take six weeks. The bids could be addressed at the first Board meeting in May.

Alderman McLendon moved to amend his motion to defer to: Defer the Inter-Local Agreement with Bi-County Solid Waste Management to the May 8, 2012 Board meeting, and respectfully request that Bi-County hold the Agreement open. Further request Staff prepare a bid process to solicit bids that exactly mirror the terms the City has been able to negotiate with Bi-County. Seconded by Alderman Barnhill.

Discussion:

- ▲ Alderman McLendon understood Bi-County did not intend to bid. Can the City legally compare an inter-local agreement against bid offers? He is trying to do what is best for the citizens of the community first, the taxpayers, and also doing what is right for the employees, but the City has an opportunity to lock down a long-term solution. He reiterated what he previously said in regard to the private enterprise representatives.
- ▲ Alderman Blanton asked if the bid request could be written for two options.
- ▲ Eric Stuckey related two options could be bid: 1) transportation, tip fee and landfill services, and 2) tip fee only. Staff will still look at whether the City does the transportation or not, regardless of the bid process. Bi-County will be contacted immediately to attempt to secure their offer through May 8.
- ▲ Alderman Martin said she made the motion to approve the inter-local agreement because it is sure and provides placement of some City employees. The 14-year commitment is wonderful. With the private enterprises she heard a lot of words, but no promises. They were very vague.

Motion to defer the Inter-Local Agreement with Bi-County Solid Waste Management to the May 8, 2012 Board meeting, and respectfully request that Bi-County hold the Agreement open. Further request Staff prepare a bid process to solicit bids that exactly mirror the terms the City has been able to negotiate with Bi-County carried unanimously (7-0).

18. Consideration of Mayor's Appointment to The Tree Commission

Dr. Ken Moore, Mayor

Mayor Moore proposed the appointment of Justin Stelter, Green Industry Professional representative, for a 3-year term on the Tree Commission.

Alderman Blanton moved to approve the appointment of Justin Stelter to the Tree Commission. Seconded by Alderman Petersen. Motion carried unanimously.

19. Consideration of Mayor's Reappointment to The Franklin Transit Authority

Dr. Ken Moore, Mayor

Mayor Moore proposed the reappointment of Bob Horner to the Franklin Transit Authority for a 4-year term.

Alderman Burger moved to approve the reappointment of Bob Horner to the Franklin Transit Authority. Seconded by Alderman Barnhill. Motion carried unanimously.

20. Consideration of Mayor's Reappointment to The Franklin Housing Authority

Dr. Ken Moore, Mayor

Mayor Moore reappointed Ethel Scruggs to The Franklin Housing Authority for a 5-year term. BOMA action not required.

CONSENT AGENDA

21. Consideration of ORDINANCE 2012-11, To Be Entitled: An Ordinance to Amend Chapter 4, Section 4.2.2, Section 4.2.4, and Chapter 2, Section 2.4.3. of The City of Franklin Zoning Ordinance Regulating Temporary Uses and Structure; Establishing a Public Hearing for April 10, 2012

[First of Three Readings]

Alderman Ann Petersen, FMPC Representative

Ordinance 2012-11 approved on First of Three Readings

22. Consideration of ORDINANCE 2012-13, An Ordinance to Amend Section 14-202 of The Franklin Municipal Code Relative to Fees for The Planning Review Process

[Second and Final Reading]

Catherine Powers, Planning/Sustainability Director

Ordinance 2012-13 approved on Second and Final Reading

23. Consideration of ORDINANCE 2012-14, An Ordinance to Amend The City of Franklin Municipal Code, Title 22 – Comprehensive Fees and Penalties, Chapter 14 Relative to Fees for The Planning Review Process

[Second and Final Reading]

Catherine Powers, Planning/Sustainability Director

Ordinance 2012-14 approved on Second and Final Reading

24. Consideration of RESOLUTION 2012-14, A Resolution Allowing The City to Submit a TDOT Safe Routes To School Grant Application for the Fieldstone Tunnel Improvements and School Sponsored, Volunteer Based Walking/Biking Programs

Resolution 2012-14 approved unanimously

**Andrew Orr, Sustainability/Grant Coordinator
Kevin Lindsey, Parks Facilities Superintendent**

25. **Consideration of RESOLUTION 2012-15, A Resolution Adopting the Values and Guiding Principles of Public Procurement**
Resolution 2012-15 approved unanimously **Brian Wilcox, Purchasing Manager**
26. **Consideration of Final Change Order with W.L. Hailey & Company, Inc. for the Downs Boulevard 12 Inch Reclaimed Water Line and West Reclaimed Water Line (ARRA Project – COF Contract No. 2009-0099, Division A) for a Decrease in the Contract Amount of \$372.60**
Approved unanimously **David Parker, City Engineer/CIP Executive**
27. **Consideration of Final Change Order with W.L. Hailey & Company, Inc. for the Downs Boulevard 24 Inch Water Line (COF Contract No. 2009-0099, Division B) for a Decrease in the Contract Amount of \$69,641.54**
Approved unanimously **David Parker, City Engineer/CIP Executive**
28. **Consideration of Change Order No. 2 (Final) with BVC & Company for the Harpeth River Greenway Project (COF Contract 2011-0043; RTP Grant Number GG-09-27455-00) for a Decrease in the Contract Amount of \$64,144.60**
Approved unanimously **David Parker, City Engineer/CIP Executive**
29. **Consideration of Amendment No. 2 to the Professional Services Agreement for SR 252 (Wilson Pike) & McEwen Drive Intersection Improvements (COF Contract No. 2010-0152)**
Approved unanimously **David Parker, City Engineer/CIP Executive**
30. **Consideration of Event Permit Application from Heritage Foundation for The Heritage Ball to be Held at Eastern Flank Battlefield Park on September 22, 2012**
Approved unanimously **Lisa Clayton, Parks Director**

EXECUTIVE SESSION

31. **Consideration of Motion to Enter Executive Session for Purpose of Reviewing Various Matters of Pending Litigation**
Shauna Billingsley, City Attorney
Alderman Burger moved to enter Executive Session. Seconded by Alderman Barnhill. Motion carried unanimously. (7:45 p.m.)

RETURN FROM EXECUTIVE SESSION

Alderman Burger moved to adjourn Executive Session. Seconded by Alderman Blanton. Motion carried unanimously. (7:47 p.m.)

32. **Consideration of Matters from Executive Session**
Dr. Ken Moore, Mayor
Alderman McLendon made a statement: Almost 15 years ago he left the law firm Waller Lansden Dortch & Davis LLP in Nashville. He could not conceive that having anything to do with the Waller Lansden conflicts at hand, but he felt he should make the statement.

Alderman McLendon indicated he would make a motion to waive a potential conflict of interest so the City could retain Waller Lansden on some contract issues, three matters they are involved in litigation unrelated to what the City is hiring them to do now.

Alderman McLendon moved to officially waive the potential conflicts of interest in the State of Tennessee v. Ida Ruth Galehouse, City of Franklin v. NAPE Acquisition, Inc., and the City of Franklin v. Middle Tennessee Electric Membership Corporation, N.R. Pick Properties LP and Williamson County. All three are condemnation cases, one is about to be resolved, leaving the other two with the same lawyer that works for Waller Lansden represents the parties that are at issue in those lawsuits; however, said attorney will not be involved on behalf of the City. Seconded by Alderman Petersen. Motion carried unanimously.

To render one of the above conflict waivers moot, Alderman McLendon moved to settle The City of Franklin v. NAPE Acquisition, Inc. lawsuit by agreeing to the amount previously deposited for the condemnation \$621,401, the amount the City suggested the property was worth when it was taken for the purpose of building a road. Seconded by Alderman Barnhill. Motion carried unanimously.

Other Business

- ◆ The March 20 Stormwater Appeals Board has been canceled

ADJOURN

Alderman Burger moved to adjourn. Seconded by Alderman Blanton. Motion carried unanimously.

Meeting adjourned 7:50 p.m.

Mayor Ken Moore

Minutes prepared by: Linda Fulwider, Board Recording Secretary, City Administrator's Office - 4/23/2012 1:17 PM