

**MINUTES OF THE REGULAR MEETING  
 BOARD OF MAYOR AND ALDERMEN  
 FRANKLIN, TENNESSEE  
 CITY HALL BOARDROOM  
 TUESDAY, DECEMBER 11, 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	P	Alderman Ann Petersen	P
Alderman Beverly Burger	P	Alderman Michael Skinner, Vice Mayor	P

**Department Directors/Staff**

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

1. **Call to Order**  
Mayor Ken Moore called the December 11, 2012, meeting to order at 7:14 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 November 27, 2012 BOMA minutes as presented and the November 27, 2012 Work Session minutes with the following amendment: Item 3, page 5, Alderman Petersen wondered if, at some point, they would highlight neighborhoods ~~and~~ separate from restoring historical buildings.*

Seconded by Alderman Barnhill. Motion carried unanimously.

7. **Recognitions**

Mrs. Virginia Bowman Day

Mayor Moore read the following Proclamation:

**WHEREAS**, Mrs. Virginia Bowman authored *Historic Williamson County: Old Homes and Sites* in 1971, which remains the definite book on historic properties in Franklin and Williamson County; and

**WHEREAS**, Mrs. Bowman serves as an effective and consistent advocate for historic preservation within Franklin and Williamson County, notably as a life member of the Carnton Plantation Board, a trustee of the McGavock Confederate Cemetery, and a charter member and executive board member of the Williamson County Historical Society; and

**WHEREAS**, Mrs. Bowman has served as a long-time member and honorary member of the Franklin Historic Zoning Commission, contributing to its mission through her profound understanding of how the preservation of Franklin's historic and architectural resources contributes to the community's legacy; and

**WHEREAS**, her dedication as a volunteer to Williamson County and the City of Franklin has served as an example for hundreds of others,

**NOW, THEREFORE, I**, Dr. Ken Moore, Mayor of the City of Franklin, do hereby proclaim Tuesday, December 11, 2012 to be:

**"Mrs. Virginia Bowman Day"**

In the City of Franklin, and urge all citizens to pay tribute to this dedicated volunteer.

Mrs. Bowman accepted the Proclamation accompanied by her children, grandchildren, and great-grandchildren. She said it was always such a pleasure to study the history of Williamson County going back to the Indian days. It is still a joy, she said, and she works every day on it.

Mr. Charles Dibrell, WAKM Radio

Mayor Moore read the following Proclamation:

**WHEREAS**, Mr. Charles Dibrell will be retiring after 50 years in radio on November 30, 2012; and

**WHEREAS**, He came to Franklin radio in 1964 at WFLT-FM 100 and later became the News Director at WIZO AM/FM and in 1982, the Principal Partner/News Director of Franklin Radio Associates, Inc. at WAKM Radio; and

**WHEREAS**, He is a member of the Franklin Rotary Club at Noon; has served as President, Vice-President, Secretary, and Treasurer of the club; and, has been named a Paul Harris Fellow; and

**WHEREAS**, Charles has given five decades of service to the Franklin Community by informing the residents on all the local news including City Government services and programs and;

**WHEREAS**, Charles has the dedication and diligence to always get the story first and accurate!

**NOW, THEREFORE, I**, Dr. Ken Moore, Mayor of the City of Franklin, do hereby proclaim Tuesday, December 11, 2012 to be:

**"Mr. Charles Dibrell Day"**

in the City of Franklin, and urge all citizens to pay tribute to this dedicated citizen, with best wishes for a long, happy and productive retirement.

Mr. Dibrell accepted the Proclamation with his wife Cathy by his side. He thanked everyone for their cooperation and those that preceded them as well, and said working with BOMA and City Hall had been a wonderful experience. He gave special thanks to his wife.

City of Franklin Firefighters Annual Holiday Toy Drive

Mayor Moore asked Chief Rocky Garzarek to present the information regarding the Toy Drive. Chief Garzarek said this is the Fifth Annual Toy and Clothing Drive. People are encouraged to drop unwrapped new toys or clothing at a fire station, pick up a tag from any Fire Station or make a donation at Avenue Bank.

Those benefiting from the drive are the Boys and Girls Club of Williamson County and all children in need. Over 300 families have been helped so far this year and they expect to do more every year. The drive is also sponsored by Avenue Bank. Chief Garzarek related they are appreciative of the support and humbled to do this.

### Shop With A Cop

Eric Stuckey recognized the Police Department for their annual Shop With a Cop program that will take place on the weekend. More than 75 families are impacted by this program.

### Retirement

Mr. Stuckey announced nine employees from five different departments will retire in December. Together they represent just short of 250 years of service:

• Stevie Baker	26 years, 5 months	Solid Waste Department
• Harry Osborne	26 years, 3 months	Solid Waste Department
• Herman Osborne	33 years, 5 months	Solid Waste Department
• Hershel Osborne	27 years, 9 months	Solid Waste Department
• Tommy Heithcock	26 years	Police Department
• Gentry Fox	28 years	Fire Department
• Steve Gibson	25 years	Fire Department
• Billy Hood	43 years	Water Department
• Tommy Duncan	13 years, 6 months	Building & Neighborhood Services

### 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 23-27 be placed on the Consent Agenda.

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*Alderman Barnhill moved to approve the Consent Agenda Items 23-27. Seconded by Alderman Blanton. Motion carried unanimously.*

### **OLD BUSINESS**

### 10. **PUBLIC HEARING: Consideration of RESOLUTION 2012-52, Resolution Approving a Revision to the Development Plan for Simmons Ridge PUD Subdivision, Located at 4408 South Carothers Road, by the City of Franklin, Tennessee**

**Alderman Ann Petersen, FMPC Board Representative**

Mayor Moore read a letter from the applicant requesting the public hearing be deferred to January 8, 2013.

*Alderman Skinner move to approve applicant's request to move the public hearing for Simmons Ridge to January 8, 2013. Seconded by Alderman Bransford. Motion carried unanimously.*

11. **PUBLIC HEARING: Consideration of ORDINANCE 2012-55, An Ordinance to Annex the Clovercroft Road Right-of-Way Along the Breezeway Subdivision Frontage, Consisting of ±5.28 Acres**  
**[Second of Three Readings] Alderman Ann Petersen, FMPC Board Representative**  
With no one coming forth to speak, Mayor Moore declared the Public Hearing Closed
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*Alderman Petersen moved to approve Ordinance 2012-55 on Second of Three Readings with the correction of a typographical error at the bottom of page one; under map parcel should read "Clovercroft". Seconded by Alderman Bransford. Motion carried unanimously.*

12. **PUBLIC HEARING: Consideration of RESOLUTION 2012-55, A Resolution Approving a Plan of Services for the Annexation of the Clovercroft Road Right-of-Way Along the Breezeway Subdivision Frontage**  
**Alderman Ann Petersen, FMPC Board Representative**  
With no one coming forth to speak, Mayor Moore declared the Public Hearing Closed
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*Alderman Barnhill moved to approve Resolution 2012-55. Seconded by Alderman Petersen. Motion carried unanimously.*

### **NEW BUSINESS**

13. **Consideration of ORDINANCE 2012-60, An Ordinance to Amend the City of Franklin Municipal Code Title 16, Chapter 1 Relative to Sales of Goods and Wares in the Public Right-of-Way**  
**[First of Two Readings] Shauna Billingsley, City Attorney**  
*Alderman Burger moved to approved Ordinance 2012-60 on First of Two Readings. Seconded by Alderman Martin.*

#### **Discussion:**

Alderman Burger indicated the toughest part of making the right decision is in the face of heartstrings circumstances and reality, but the responsibility of elected officials is what is best for the entire City. Safety is in the best interests of the City. Five or six times a week she has seen paper sellers in the streets on Cool Springs Boulevard, Galleria Drive, Mallory Lane, and at the intersection of Royal Oaks and Highway 96. She snaps pictures when she sees this. Someday someone will be hit and that involves the driver as well. She herself clipped the jacket of one of the sellers who stepped in front of her a year ago. It was frightening. The sales people not only step into the street, but walk between the cars. Just today on Mallory Lane at Cool Springs Boulevard a seller walked into the street, the light changed and the person had to maneuver through the traffic to get to the median. People were blowing their horns. Safety is a huge issue. The ordinance doesn't take away anyone's right to commerce, it just changes the dynamics. If the ordinance does not pass, it will open the door to more commerce in the streets. The Board needs to make a hard decision and vote for the ordinance.

Alderman Martin said she received a call from a Nashville resident with personal knowledge of the Contributor and the men and women who sell the paper as a business to improve their living conditions. The caller stated one-third of these citizens have been able to find living quarters and jobs. Alderman Martin said she tried to explain the City is not objecting to the Contributor, only the process of selling in the street for safety reasons. The caller related that Nashville Mayor Dean and Metro Police have no problems with street vendors, and she urged Franklin to allow these sales. Alderman Martin said that many years ago in Franklin a church had to stop selling papers in the street for charity on Palm Sunday because of safety concerns. She has no objection to the Contributor and wants the best for the sales people. This is a matter of safety and if one group can do it all groups can do it and that is what the Board has to decide.

Alderman Blanton said she understands the safety issue and has no problem with trying to enforce not being in the street. But if taken a step further to the sidewalk it starts hurting things like children's lemonade stands and the process on which the Contributor is based. She has spent time with the people at the Contributor on distribution day. The majority of those selling the paper do it for the right reason and it has provided an opportunity for so many people that didn't have any other alternative. She said she would not support this. Her concern was the lack of a public hearing and she wanted to add that step for input. This if the first attempt at telling people about it. Vice Mayor McLendon interjected that it made it into *USA Today*.

*Alderman Blanton made a motion to schedule a non-voting Public Hearing for Ordinance 2012-60 on January 8, 2013 with the Second Reading and vote on January 22, 2013. Seconded by Vice Mayor McLendon.*

Alderman Skinner said he was going to ask for deferral to February because he wanted to talk about some things that could perhaps lead to another Work Session. His proposed changes would make it more complicated if this passes.

*Alderman Skinner moved to defer Ordinance 2012-60 to February 12, 2013. Seconded by Alderman Bransford.*

Alderman Skinner went on to say the responses he received were about even; however, one in particular was compelling with safety as an issue:

- 1) Insert a clause allowing sidewalk vendors would not be permitted to enter the street but still allowing short transactions from passenger side windows. So as not to startle the driver when the sellers get so close.
- 2) Restrict the vendor operation during rush hour, during holidays to lessen the possibility of accidents during high traffic hours. The Board could specify what hours of operation allowed.
- 3) The street vendor could be allowed only to the times when the lights are red and if the interaction with the customer is only when the next vehicle behind them has come to a complete stop. Alderman Skinner thought that would address some of the concerns and offer a compromise and not an outright ban. Tickets could be issued to those who don't comply. The Board could always go back and ban street sales. He wondered if Nashville had any vendor related accident reports or if there were any reports in Franklin.

Vice Mayor McLendon said he would rather have a public hearing in January while the issue is ripe. People are paying attention now. Possibly comments coming out of a public hearing would be helpful. Then defer to a Work Session. If taken to a Work Session now there may or may not be comments from the public that would provide additional advice or instruction. If the point is to get more input for a better ordinance, now is the time to do that.

Alderman Skinner said the reason he specified February was to give staff more time to work on it if the Board wanted to make the changes.

*Motion to defer Ordinance 2012-60 to February carried 5-3 with Vice Mayor McLendon, and Aldermen Blanton and Barnhill voting against deferral.*

*Alderman Burger moved to reconsider motion to defer. Seconded by Alderman Bransford. Motion carried unanimously.*

Vice Mayor McLendon recommended all Board members vote against the motion to defer because it appears they all want a Public Hearing in January.

*Motion to defer Ordinance 2012-60 to February 12, 2013 FAILED 1-6 with Alderman Skinner voting in favor of deferral, Alderman Martin abstaining, and Vice Mayor McLendon and Aldermen Burger, Barnhill, Blanton, Bransford and Petersen voting against deferral.*

*Consider Main Motion as Amended to schedule a non-voting Public Hearing for Ordinance 2012-60 on January 8, 2013 with the Second Reading and vote on January 22, 2013.*

Vice Mayor McLendon said he would vote for the motion as amended to get to the public hearing. He is undecided but concerned about the safety. Comments he made about the order and what the previous motions meant were statements of the law, not a position.

Alderman Petersen reminded the Board that the Simmons Ridge public hearing was twice deferred and is scheduled on January 8, 2013 and is expected it to be a lengthy public hearing. She asked if the public hearing for Ordinance 2012-60 could be scheduled to another date because it likely to be lengthy as well.

*Alderman Burger moved to Amend the motion to schedule the Public Hearing on January 22, 2012 and the second reading and vote on February 12, 2013. Seconded by Alderman Petersen. Motion carried unanimously.*

*Main Motion to approve Ordinance 2012-60 as twice amended; Schedule a non-voting Public Hearing on January 22, 2013 with Second and Final Reading and vote on February 12, 2013 carried unanimously on First of Two Readings.*

**14. Consideration of Letter of Intent from First Bank for the Renovation and Lease of the Five Points Building (COF Contract No. 2012-0175)**

**Eric Stuckey, City Administrator**

**Russ Truell, ACA Finance and Administration**

**Shauna Billingsley, City Attorney**

*Alderman Martin said in light of the information received at the Work Session regarding comparable rental dollars per square foot in the Downtown area she moved to defer this item to January 8, 2013. Seconded by Alderman Bransford.*

Vice Mayor McLendon stated with all due respect to the motion, all that is, is the fictitious tenant he has been talking about. There is no one willing to pay this. He has said all along this is a hypothetical already disproven. One offer came out of the process to renovate and maintain the building.

*Motion to defer item to January 8, 2013 FAILED 3-5 with Aldermen Martin, Bransford and Skinner voting to defer.*

*Alderman Blanton moved to approve Letter of Intent from FirstBank to renovate and lease the Five Points Building. Seconded by Alderman Barnhill.*

Vice Mayor McLendon said this step authorizes drafting and negotiation of a lease to be brought back. That will get to the nitty-gritty and the details to include in the lease to be signed. If the lease doesn't come through as the Letter of Intent indicated, he will not support it. He also will not support pursuing a hypothetical tenant.

*Motion to approve Letter of Intent from First Bank carried 6-2 with Aldermen Martin and Skinner voting no.*

**15. Acknowledge Report of Emergency Purchase of One (1) Front-End-Loading Refuse Collection Truck from Stringfellow, Inc. of Nashville, TN, in the Total Amount of \$216,945.00 for the Collection Division of the Solid Waste Department**

**Becky Caldwell, Solid Waste Director**

*Alderman Petersen moved to approve emergency purchase of a front-end-loading refuse collection truck from Stringfellow, Inc. for total amount of \$216,945.00. Seconded by Alderman Blanton. Motion carried unanimously.*

**16. Consideration of Purchase of Used Equipment; One (1) Vermeer Chipper Model 1500 from Vermeer in the Total Amount of \$28,000 for the Parks Department**

**Lisa Clayton, Parks Director**

*Alderman Skinner moved to defer this item to January 8, 2013. Seconded by Alderman Bransford. Motion carried unanimously.*

**17. Consideration of Subscription Agreement with Aberdeen Asset Management, Inc.**

**Russ Truell, ACA Finance & Administration**

*Alderman Martin moved to approve subscription agreement with Aberdeen Asset Management, Inc. contingent on approval by Pension Counsel, City Attorney and City Administrator. Seconded by Alderman Burger. Motion carried unanimously.*

**18. Consideration of Change Order Number One (1) with Modern Day Wrecking in the Amount of \$16,200.00 for the City of Franklin Properties Demolition and Debris Removal (COF Contract Number 2012-0088)**

**David Parker, City Engineer/CIP Executive**  
**Paul Holzen, Engineering Director**

*Alderman Bransford moved to approve Change Order One with Modern Day Wrecking in the amount of \$16,200 for COF properties demolition and debris removal. Seconded by Alderman Blanton. Motion carried unanimously.*

19. **Consideration of RESOLUTION 2012-67, A Resolution Awarding the Construction Contract (COF Contract No. 2012-0110) to Civil Constructors, Inc. in the Amount of \$12,124,758.73 for the Hillsboro Road Improvements Projects, SR 96W to Independence Square**

**David Parker, City Engineer/CIP Executive**

*Vice Mayor Dana McLendon moved to approve Resolution 2012-67 awarding construction contract to Civil Constructors in the amount of \$12,124,758.73 for the Hillsboro Road Improvements Projects, SR 96W to Independence Square. Seconded by Alderman Martin. Motion carried unanimously.*

20. **Consideration of the Professional Services Agreement with Smith Seckman Reid, Inc. (SSR) for the Mayes Creek, Watson Branch and West Sanitary Sewer Basins Update Studies in an Amount Not to Exceed \$32,300.00**

**David Parker, City Engineer/CIP Executive**

Alderman Martin was recused and left the room.

*Alderman Skinner moved to approve PSA with Smith Seckman Reid in an amount not to exceed \$3,300 for Mayes Creek, Watson Branch and West Sanitary Sewer Basins Update Studies. Seconded by Alderman Burger. Motion carried unanimously 7-0 with Alderman Martin recused.*

Alderman Martin rejoined the meeting.

- ∩ The Board was reminded of the Special Work Session scheduled Monday, December 17, 2012 @ 3:00 p.m.

21. **Consideration of Mayor's Appointment(s) to Public Building Authority**

**Dr. Ken Moore, Mayor**

*Vice Mayor McLendon moved to approve the Mayor's reappointments to the Public Building Authority: John Chiramonte, Joe Walker, and Ron Petty, each for a six-year term. Seconded by Alderman Barnhill. Motion carried unanimously.*

22. **Consideration of Mayor's Reappointment of Alderman Michael Skinner to the Williamson County Solid Waste Authority**

**David Parker, City Engineer/CIP Executive**

*Alderman Bransford moved to approve Mayor Moore's reappointment of Alderman Michael Skinner to the Williamson County Solid Waste Authority for a two-year term. Seconded by Alderman Blanton. Motion carried unanimously.*

### CONSENT AGENDA

23. **Consideration of ORDINANCE 2012-57, An Ordinance to Amend Water and Sewer rates for 2013 and 2014**

**[Third and Final Reading]**

**Mark Hilty, Water Management Director**



*Ordinance 2012-57 approved unanimously on Third and Final Reading*

24. **Consideration of ORDINANCE 2012-56, An Ordinance to Amend the FY 2013 Budget for First Quarter Adjustments; Establishing a Public Hearing for January 8, 2013**  
[First of Two Readings] Russ Truell, ACA Finance & Administration  
*Ordinance 2012-56 approved unanimously on First of Two Readings*
25. **Consideration of ORDINANCE 2012-62, An Ordinance to Amend the FY 2013 Budget for Tuition Reimbursement Program and Server Software Maintenance; Establishing a Public Hearing for January 8, 2013**  
[First of Two Readings] Russ Truell, ACA Finance & Administration  
*Ordinance 2012-62 approved unanimously on First of Two Readings*
26. **Acknowledge Receipt of the Fiscal Year 2011-2012 Audit Report**  
*Approved unanimously* Russ Truell, ACA Finance & Administration
27. **Acknowledge Receipt of the Fiscal Year 2011-2012 Conference Center Audit Report**  
*Approved unanimously* Russ Truell, ACA Finance & Administration

#### EXECUTIVE SESSION

28. **Consideration of Motion to Enter Executive Session for Purpose of Reviewing Various Matters of Pending Litigation**  
Shauna Billingsley, City Attorney  
*Alderman Barnhill moved to enter Executive Session. Seconded by Alderman Skinner. Motion carried unanimously. (8:13 p.m.)*

#### RETURN FROM EXECUTIVE SESSION

29. **Consideration of Matters from Executive Session**  
Dr. Ken Moore, Mayor  
Returned from Executive Session @ 8:22 p.m.

*Vice Mayor McLendon made a motion that the City deposit an additional \$27,000 with the court and enter a settlement in the amount of \$85,000, in the City of Franklin vs. Pardue land condemnation (water/sewer system) matter. Seconded by Alderman Barnhill. Motion carried unanimously.*

#### **ADJOURN**

*Alderman Barnhill moved to adjourn. Seconded by Alderman Burger. Motion carried unanimously.*

Meeting adjourned @ 8:24 p.m.

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Dr. Ken Moore, Mayor

Minutes prepared by: Linda Fulwider, Board Recording Secretary, City Administrator's Office - 1/9/2013 9:37 AM