
**MINUTES OF THE WORK SESSION
BOARD OF MAYOR AND ALDERMEN
FRANKLIN, TENNESSEE
CITY HALL BOARDROOM
TUESDAY, FEBRUARY 8, 2011 – 5:00 P.M.**

Board Members

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

Department Directors/Staff

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

1. Call to Order

Mayor Moore called the February 8, 2011 Work Session to order at 5:00 p.m. in the City Hall Boardroom.

2. Citizen Comments

Alderman Barnhill read the following grievance letter into the record as requested by the writer:

I was visited by Mr. Ben Worley and Mr. Gary R. Standifer February 4, 1011 for the offer to acquire road property on 918 Hillsboro Road.

Mr. Ben Worley advised me there will be 7 lanes on Hillsboro Road from Mack Hatcher down to Yates then, it will start 3 lanes with a turning lane into Franklin High School.

I have been lead to believe there would be 3 lanes with a turning lane into Franklin High School.

Peggy J. Hughey
918 Hillsboro Road
Franklin , TN 37014

Alderman McLendon said he would follow-up on this at the Capital Investment Committee meeting Thursday. Ms. Hughy should plan to attend the meeting that begins at 4:00 p.m.

WORK SESSION DISCUSSION ITEMS

3. **Presentation by Franklin Tomorrow – Community Vision and Strategic Plan Re-visioning Process**

Dan Ryan, Franklin Tomorrow

Mindy Tate, past president of Franklin Tomorrow and Dan Ryan, current president, gave an update on the re-visioning process. The Vision Strategy Refocus started in 2010 and continues through 2011. Nine strategy groups formed; Business, Community Character, Education, Environment, Government, Growth and Development, Housing, Recreation, and Transportation. Franklin Tomorrow is 10 years old and they plan to present a decade report to BOMA in March or April. The goal of Franklin Tomorrow is to bring forth the voice of the citizens. They are searching for a new executive director due to the resignation of Natalie Dodd Whitten.

Dates for the successful program, Breakfast with the Mayors, are March 17, June 7, and September 20, 2011. Mr. Ryan mentioned those have been a tremendous opportunity for members of the community to come together and get a glimpse of what is going on. They appreciate the support the City has given in that enterprise. The annual Shrimp Boil will be July 12, 2011.

4. **Consideration of Event Permit Application for Battle of Franklin Anniversary at Harlinsdale Farm on October 15 & 16, 2011**

Lisa Clayton, Parks Director

Anna Shuford spoke about the 147th Anniversary of the Battle of Franklin re-enactment planned for October 2011. The applicant is the Battle of Franklin Trust, and two of the members were present. Alderman Skinner related the event was extremely successful last year despite parking access and egress problems. They anticipate solving the problem before the October event.

5.* **Consideration of ORDINANCE 2010-80, An Ordinance to Establish the Special Assessments for the Sanitary Sewer Improvements in the Monticello Subdivision Area; Establishing a Public Hearing Date of March 8, 2011**

David Parker, City Engineer/CIP Executive

Eric Stuckey provided answers to questions posed at the last meeting. The following options show the result of eliminating certain costs from the assessment:

1. Leave the total cost (\$1,195,392.07) as previously calculated and as presented in draft Ordinance 2010-80; or
2. Eliminate the cost of engineering (\$143,132.32) from the total cost which means that total cost to be paid by the assessments will be \$1,052,259.65; or

3. Eliminate the trench repair paving cost (\$325,793.73) from the total cost which means the total cost to be paid by the assessments will be \$869,598.34; or
4. Eliminate the engineering and the trench repair paving cost (\$468,926.05) from the total cost, which means the total cost to be paid by the assessments, will be \$726,466.02.

The possibility of waiving system development fees mentioned; Access Fee \$2,100, Installation Charge (Fee) \$263 for a total of \$2,363 established in draft Ordinance 2010-80 as being fees to be waived when the individual properties are connected to the sewer. Should all fees be waived, Application fee \$25, System Development fee \$1,444, and Effluent fee \$450 for a total of \$1,919, the ordinance would have to be revised.

Other issues/questions:

1. **Simons Ridge Interceptor Sewer.** Monticello HOA asked for 60% of their sewer project be funded as the Simmons Ridge Interceptor Sewer Project. Since Simmons Ridge is an interceptor sewer and serves multiple neighborhoods the 60% funding forgiveness will be paid by the various tap fees from developments within the area. Each homeowner will ultimately pay his share of the sewer infrastructure cost.
 2. **Additional pumps and surveys.** Regarding low pressure grinder pumps, staff met individually with approximately 12 residents considered most likely to need the external pumps and it was determined they will not be necessary. Based on staff field reviews and prior surveys, it is believed all residents should have gravity service from their first floor elevation.
 3. **Lien status.** The City Attorney contacted real estate counsel regarding the possibility of temporarily waiving liens and then re-filing the lien with the new owner. The City was cautioned that this could be seen as fraudulent and therefore advised against such an action. However, lien notices can be written as being assignable. That takes the City out of the middle.
 4. **Assessment/Reassessment process and related issues.** Detailed description of the reassessment process and how it would relate to the sewer assessment were provided. Also addressed in the document, initial payment, repayment, billing, and delinquency.
- Jay Wade, Monticello, said he was speaking only for himself and referred to the four options in the memorandum. Monticello has not been required to provide the sanitary sewer service to the subdivision. That is true, the line was put in many years ago at the front of the subdivision not 200 ft. from his property, but they weren't allowed to hook on until they agreed to be annexed. The only way they could hook on was with expensive gravity sewer system. He knows the Board wants to have a uniform policy in dealing with all of these assessment districts and he thinks that is a good thing. He wishes they had one when they started, as it would have alleviated a lot of trouble. What he sees now is that the policy may be in conflict with some of the things that Monticello was always told, particularly with engineering fees and the connection fees. Everybody talks about being fair. Fair to the ratepayers, fair to the taxpayers, fair to the other assessment districts and fair to Monticello.

Mr. Wade continued by telling the Board what he thinks is fair. Take the current assessment (Option 1) \$1,195,392.07 and add back in the asphalt resurfacing that went through the entire subdivision, \$1.4 million. They had always been told, and he knows some of the other

assessment districts do not have the engineering included, and take that out, and then the City had already agreed to spend up to \$450,560 to help defray the cost of our expensive sewer system, take that off and that leaves \$814,200. Mr. Wade said, to him that would be fair for the assessment district.

The \$450,000 for paving: Mr. Wade said SSR didn't know what was included in that. Paving was at \$45 linear foot. The current cost is \$17. They didn't mill off the old pavement and there are drop-offs at the edge of the pavement. He can live with that if they get the \$450,000.

Alderman Barnhill asked for an explanation of the \$450,560. Eric Gardner said he thought one of the cost estimates had paving at \$450,560. It came in at \$212,000. Mr. Wade said the \$450,560 was from SSR's estimate for paving. He asked Engineering and they didn't know what was included in that figure. It is a much larger figure, that is \$45 per linear foot and the current figure is \$17 per linear foot. Mr. Wade thought it was a bid to mill and re-pave the entire street. They did not do that they put the narrow swath in the middle of the pavement and just put a thin layer over the top. This resulted in drop-offs on the sides of the roads, some as much as 12 inches. He can live with that if they get the \$450,560.

- Donna Rand, Monticello HOA president, had questions she sent in an e-mail to the aldermen late today. She asked when the additional items would be discussed. She referred to the four options addressing additional fee waivers, saying they were told that everything that could be waived by state law would be waived. Alderman McLendon interjected that he thought he had said he would support that. The engineering fees are the easiest to resolve because those were taken out of all assessments except Hooper Lane (much smaller project). She asked about the connection fees and the system development fees.

Alderman McLendon said connection fees were waived for all assessments. The \$1,195,392.07 reflects the waiver of connection fees but not system development fees. There are policy reasons why staff made the recommendations they did. He said he wanted the paving cost of \$325,793.73 out of the assessment and would make that motion; however, he didn't know if the other aldermen would support that motion. Retrofit neighborhoods are different from the neighborhoods built now. By-and-large the retrofit neighborhoods have no choice. Some homes were built on lots that were too small. With today's Codes that would not happen. It is a health and safety issue. He wants to make the Monticello assessment close to what was promised seven years ago. If the system development fees are waived it would be his intent to retroactively waive those fees for anyone similarly situated.

Alderman Skinner said the Board needs to look at what kind of debt we want to have for things already approved. What about future annexations where there is no sewer in extremely large communities to the south. Is the Board prepared to make the same deals with those communities? The recent increase for sewer and water rate was so much it had to be spread over four years. Will this add more to spread it over additional years? The people who buy

homes with septic systems should know that eventually they would have to hook up to sewer. It isn't fair for everybody already on sewer who paid these fees in the price of their homes, to subsidize these that are coming later.

Alderman Burger expressed concern about the debt of refunding these fees Highgate and the other assessments. Mr. Stuckey responded it would be \$2,000 per resident for a total of \$779,324 for all districts.

Alderman Petersen supported waiving engineering costs because those were waived for the other assessments.

Alderman Barnhill said the Board made promises and commitments and the Board should do what it said it would do. He had no problem with the engineering waiver. Monticello was told the City would waive the paving or repaving costs. The trench repair paving cost is \$325,793.73. Per Eric Stuckey, the \$212,000 is paving similar to what is done in neighborhoods. The \$325,793.73 is the trench repair.

- Ms. Rand reiterated they were told all along that all connection fees would be waived and that all fees that state law would allow would be waived. Alderman McLendon responded that he said that and he intends to make a motion. Ms. Rand referred to the June 9, 2009 minutes and said she thought he wasn't the only one to say that.

Regarding additional pumps and the surveys, there is a document dated November 19 from Building and Neighborhood Services that indicated gravity connection would be very tight on some properties. Also, at the end of the document it states the City of Franklin would come and resurvey these homes to see what they may need. Now the City is saying it doesn't need to be done. Mr. Stuckey responded that it doesn't need to be done. Everything has shown that gravity can be accomplished at first floor level. That issue can be addressed when those properties are ready to hook on. Ms. Rand countered that Mr. Bridgewater told a Monticello resident that the only way they can find out is when they start digging. Mr. Stuckey advised staff reviewed each case and doesn't know what the survey would give except a confirmation of that review. She is going by what Mr. Bridgewater said and wanted to know why that had not happened. Mr. Stuckey said he would review these issues with Mr. Bridgewater.

Ms. Rand asked for clarification on the lien status. Alderman McLendon responded the lien would be recorded at registered deeds and run with the property. On its face, the lien will recite that it is assignable and is binding upon the heirs, successors, and assigns of the property. It will not require payment in full when the property is sold.

Regarding the assessment in relation to property tax, does it mean there is no interest the first year? The assessment is set after the first year and then the interest starts? So, there is no interest if you pay it off in full the first year?

At what point will penalties be charged and at what rate? At what point will the water be turned off if it isn't paid? Is the assessment the same as when a water bill isn't paid and the water is turned off? It says it will be subject to the same penalty as the water bill.

Steve Sims said the way the ordinance is written if the assessment loan is not repaid in a timely manner, it is due in full at that time, then foreclosure. Shauna Billingsley added that is state law. Technically, the payer would get 60 to 90 days as with water. Alderman McLendon asked if it would be possible to unwind the acceleration of the entire lien being due so as not to compound the problem for the new purchaser, the short sale buyer, or the existing homeowner. Can they get back to where they were before they became delinquent? Ms. Billingsley said that would be within the Board's discretion and would be on a case-by-case basis. The law is written this way solely because it is an assessment district. Alderman Petersen asked that Ms. Billingsley provide copies of that information to the Board.

6. Discussion Regarding Leak Adjustment Issues

Eric Stuckey, City Administrator

◆ Royal Oaks Apartments

Mr. Stuckey explained the calculated leak adjustment combined the December 2010 and January 2011 billing periods. Based on current policy, Royal Oaks is eligible for an adjustment of \$4,896.95 (to be absorbed by the City.) The customer requested a larger adjustment by waiving sewer charges related to the leak. The financial impact of this request would require the City to absorb \$7,073.17. Mr. Stuckey feels the adjustment offered by the City is very fair. Mark Hilty and Clay Matthews worked on this issue and came forward for the discussion, as did Jackson Downey and Connie Proctor of Royal Oaks Apartments.

The customer had a number of questions at the last meeting and Mr. Stuckey provided the answers via memo. The question of thresholds or limits used that would trigger the City to call the customer about high usage discussed.

- The high usage limit is set at 250% above the average usage. A study done in October 2008 was to determine the normal variability in customer usage. Based on results of the study, this limit was established.
- With the "High Usage" notification limit set at >200%, 9.2% or 1,577 customers would be notified that month.
- High usage notifications are written notices because of the volume of work required. Representatives regularly discuss usage with the customers; however, written notices are our protocol.

The representatives make a significant number of calls each month, approximately 1,800-1,900. It is very time consuming. In the next two years or so there will be new customer service software with the capability to include self-notification, and advanced metering technology. Robo-calls and e-mail notifications would alleviate the extreme demands on staff.

Alderman Burger commented that someone has to pay for the water. In future, she would like

to talk about policy and a lower threshold for commercial customers. She stated it is important to adhere to the policy in place.

Ms. Proctor indicated she wanted compensation for the 800,000 gallons of water that didn't go through the system. If the adjustment were just for sewer, it would be \$4,100.

Alderman Barnhill stated that someone has to pay for the 800,000 gallons. Alderman McLendon stated it went through the meter and was lost. There was no way to prevent this from happening. He said he could not support the man-hours for all the courtesy phone calls. Ms. Proctor asked for additional information based on the policy.

There was further discussion on the requested adjustment, the policy, cost of water to the City, and the average bill. Alderman McLendon stated he would not vote for anything that is below the cost of water.

There was a brief exchange on whether to send the policy back to Budget & Finance for review and possible change. Alderman Barnhill stated he did not want to send the policy back to committee. The Board cannot change the policy every time someone comes in wanting an exception. The consensus was to abide by the approved policy.

◆ Request from Mr. Dryer

Alderman McLendon requested this issue be moved to the March 8 agenda.

7. Consideration of Proposed Ordinance 2011-07, An Ordinance to Update the City of Franklin Road Impact Fees as Presented in the 2010 Duncan Associates Road Impact Fee Study Dated November 2010

David Parker, City Engineer/CIP Executive

Eric Stuckey noted this draft ordinance is follow-up from previous conversations to include rights-of-way with arterials, phasing it in over a three-year period. The first year of the phase is essentially arterial only. From here, the ordinance will go to the stakeholder's group for feedback.

Alderman Petersen said several projects have been considerably under the projected budget. Is it possible to factor in these new amounts? She cannot support arterials with right-of-way because it would double the cost for a single-family dwelling and others would more than double. Considering the development community and the economy, keep it simple and put the arterial on without the right-of-way. Road Impact Fees are reviewed every three years.

Mr. Stuckey advised the ordinance will ultimately come back to the Board for a decision. Vernon Gerth said one item wasn't included in the ordinance. Charles Carlisle of the Bristol Group had talked about adding apartment buildings, townhouse and condominium developments in the site plan and the provision to pay fees that were applicable when that

plan was approved. Detached single-family dwellings pay as they go. Commercial developments and developments that include apartments and condominiums are somewhat similar and should be applicable when the Site Plan is approved.

- Charles Carlisle, Bristol Development Group, said he understood by the way it is worded it allows developments with approved plans to pay the existing fees. He thought there was a provision for properties and projects that are in the pipeline as well. It gives them until July 1, 2011 to submit for site plan approval and still pay the existing fees. It is defined as non-residential property, which is all commercial property. It does not include condominium or apartment properties which, for all practical purposes, are like commercial as they go through the City process. If the City decides to go forward with this, he would like the definition of non-residential to expand to include multi-family as opposed to single-family. Vernon Gerth referred to paragraph 9 that states, "Nonresidential Development projects whose site plans have been submitted prior to July 1, 2011 shall be entitled to pay the fee in effect at the time of submission of the site plan so long as all application and plan review fees have been paid to the City."

8.* Discussion and Consideration of ORDINANCE 2011-08, An Ordinance Amending the City of Franklin Municipal Code Section 12-1202, Relative to Composition of the Building and Streets Standards Board of Appeals

Vernon Gerth, ACA Community & Economic Development

The Board will vote on appointments to the newly formed Board of Appeals during the 7:00 p.m. meeting. One minor revision is the option to allow one of the two positions reserved for State Licensed Architect as a State licensed Landscape Architect.

9.* Discussion and Consideration of RESOLUTION 2010-82, A Resolution to Establish a Preferred Parking Program for Green Vehicles

Andrew Orr, Sustainability/Grant Coordinator

This is a revisit to review changes in the proposed program. As one of its goals, the Sustainability Commission proposes 23 spaces of the 900 public spots downtown be declared preferred parking for fuel-efficient vehicles. The 23 spaces include 6 spaces in each of the two parking garages, 6 spaces in various surface parking lots and 5 on-street spaces. This represents 3% of public parking available for the estimated 7% green vehicles in Franklin. For the purpose of this program a green vehicle is defined as one having combined EPA miles per gallon of 34 mpg or greater. The proposal is to create green awareness, reward those who drive green vehicles, and for Franklin to take the lead in sustainability. Greenway Corporation in Cool Springs and Franklin Police Headquarters designate green parking spaces. There would be no citations written for non-green parkers; parking would be by honor code.

Alderman Skinner suggested monitoring the program for six months or a year to determine usage. There are already quite a few reserved spaces in the Second Avenue Garage. Following discussion on how raising awareness would benefit the City, the City's commitment to

sustainability, and why the City should do this since corporations are reserving spaces, Alderman McLendon commented he thought it to be outside of the range of what the City should do.

Mayor Moore stated the Sustainability Commission wants this, and BOMA passed the Community Action Plan that includes it. Alderman McLendon reiterated it is not the purview of government. Alderman Petersen commented the program is somewhat elitist given the high cost of energy-saving vehicles. Alderman Burger asked the purpose and was told it was a safety and health issue.

10. Consideration of City of Franklin Application for Phase 1 of the Hazard Mitigation Grant Program (HMGP) in response to the May 2010 Presidential Disaster Declaration (FEMA-1909-DR-TN)

Tom Marsh, Zoning & Development Coordinator

Eric Stuckey explained the dollars available would be used on five properties that fit the criteria for most damaged in the flood plain.

Tom Marsh said the properties are located in close proximity to each other on opposite sides of the Harpeth River. Two properties are along Thompson Alley and three are at the south end of the Ewingville neighborhood.

It was emphasized the grant program is voluntary and a property owner may withdraw at any time up until closing. To prepare for this possibility, staff identified additional properties from the pool of interested owners that could be substituted. Staff will also prepare an additional application package in case funds become available for Phase 2 of the HMGP.

11.* Consideration of the Filling of the At-Large Alderman Vacancy

Eric Stuckey, City Administrator

Shauna Billingsley, City Attorney

Shauna Billingsley explained that this is a matter of the Board making a decision. The process to fill the seat right away would be lengthy. Mayor Moore related the process could be to fill it by ballot in the October election. Alderman Skinner stated he wanted to go through the interview process to fill the vacancy now. As to giving that person an unfair advantage, it would not as it would depend on the person's performance. Alderman Burger was in favor of filling the slot in October.

12.* Consideration of RESOLUTION 2011-11, A Resolution to Rescind Resolution 2011-06 and to Propose Charter Amendment Adopting Election of At-Large Aldermen by Position

Eric Stuckey, City Administrator

Shauna Billingsley, City Attorney

Mr. Stuckey related staff has no recommendation. Per State Legislators, the only way to do a referendum is as the last step after approval of the Charter change by the legislature. A 2/3

vote required on the front end; however, that is not the law. It is just their opinion. A 4 to 3 vote for approval is not sufficient although a 5 to 2 might with a referendum.

Alderman Burger asked the cost of a referendum outside a regular election and was told \$25,000-30,000. Shauna Billingsley said the Resolution passed; therefore, BOMA must take action of some kind. Alderman Petersen thought it premature to send to the legislature as there has not been enough research and study.

13. **Consideration of ORDINANCE 2010-20, An Ordinance to Rezone 20.001 Acres to be Included Within the Scientific Research Overlay (SRO) Zoning District for Property Located at the Northeast Corner of Mack Hatcher Parkway and Franklin Road**

Alderman Ann Petersen, FMPC Representative

No questions or comments

- 14.* **Consideration of ORDINANCE 2011-06, An Ordinance to Amend Ordinance 2006-18 by Deleting Condition of Approval 14 Relating to Contributions for Franklin Road Improvements for Dwelling Units Within the Jamison Station PUD Subdivision, Located East of The Factory and Bisected by Liberty Pike (FMPC gave an Unfavorable Recommendation (0-7))**

Alderman Ann Petersen, FMPC Representative

Catherine Powers said this issue is from a new developer that would like to take over the Jamison Station PUD project.

The following condition was approved by BOMA on May 9, 2006;

The applicant shall be required to contribute the sum of \$1,800.00 per residential unit to the city for construction of road improvements to Franklin Road, including but not limited to sidewalks as part of the Franklin Corridor and Connector Streets and Economic Development project. Each such payment to be due prior to issuance of certificate of occupancy for each unit and a separate document memorializing this understanding be drafted by the City and returned to this Board for approval.

Pinnacle National Bank gained title to the Jamison Station development property on October 1, 2010, pursuant to a foreclosure. The condition for approval is that the applicant pay \$1,800.00 per unit for 219 additional units.

Bryan Echols, representing Pinnacle Bank, said the problem for the City is it is speculative and depends on the sale going through and getting Certificates of Occupancy. The bank might be willing to take lesser payment. If passed on first reading he would discuss this with the bank.

15. **Discussion of Proposed Grant Program for Special Events**

Monique McCullough, Public Outreach Specialist

Deferred to March 8 Work Session

16. **Inter-Planning Commission Review of Sketch Plan for Estates of Gallant Ridge Subdivision, on 45.69 Acres Located Off South Carothers Road in the 4th Voting District**
Eric Stuckey, City Administrator

FYI

ADJOURN

Work Session adjourned 7:01 p.m.

Mayor Ken Moore

Minutes prepared by: Linda Fulwider, Board Recording Secretary, City Administrator's Office – 3/4/2011