

**MINUTES OF THE REGULAR MEETING
BOARD OF MAYOR AND ALDERMEN
FRANKLIN, TENNESSEE
CITY HALL BOARDROOM
TUESDAY, DECEMBER 9, 2008 – 7:00 P.M.**

Board Members

Mayor John Schroer	P	Alderman Dana McLendon	A
Alderman Clyde Barnhill	P	Alderman Ken Moore	P
Alderman Pearl Bransford	P	Alderman Ann Petersen	P
Alderman Beverly Burger	P	Alderman Michael Skinner	P
Alderman Dan Klatt	P		

Department Directors/Staff

Russell Truell, Interim City Administrator	P	Shirley Harmon, HR Director	P
Vernon Gerth, ACA Community & Economic Development	P	Mark Hilty, Water/Wastewater Director	P
David Parker, ACA Public Works & Utilities	P	Gary Luffman, Codes Director &	P
Shauna Billingsley, Interim City Attorney	P	Interim Planning Director	--
Rocky Garzarek, Fire Chief	A	Joe York, Streets Director	A
Jackie Moore, Police Chief	A	Becky Caldwell, Assistant Director Solid Waste	P
Fred Banner, MIT Director	A	Lanaii Benne, Assistant City Recorder	P
Lisa Clayton, Parks Director	A	Linda Fulwider, Board Recording Secretary	P
Eric Gardner, Engineering Director	P		

1. Call to Order

The Regular Meeting of the Board of Mayor and Aldermen of the City of Franklin, Tennessee, called to order by Mayor John Schroer on Tuesday, December 9, 2008 at 7:03 p.m. in the City Hall Boardroom.

2. Invocation

The Invocation was offered 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

None present

6. Approval of Minutes

Alderman Petersen moved for approval of the November 17, 2008 Special Meeting minutes. Seconded by Alderman Burger. Motion carried unanimously.

7. 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 32-39 be placed on the Consent Agenda

Mayor Schroer pulled Item 35 per Work Session discussion.

Alderman Burger moved for approval of the Consent Agenda Items 32-34 and 36-39. Seconded by Alderman Barnhill. Motion carried unanimously.

OLD BUSINESS

- 8. Consideration of ORDINANCE 2008-32, An Ordinance to ANNEX the Clovercroft Road South Area, Consisting of 18.39 Acres, Located South of Clovercroft Road, 650 Feet East of the Intersection of Clovercroft Road and John Williams Road (FMPC 7/24/08, BOMA 11/25/08) (Third and Final Reading) Planning Department**

Alderman Burger moved for approval. Seconded by Alderman Moore. Motion to approve Ordinance 2008-32 on Third and Final Reading carried unanimously.

- 9. Consideration of ORDINANCE 2008-33, An Ordinance to ZONE 18.36 Acres Low Residential (R-1), Located South of Clovercroft Road, 650 Feet East of the Intersection of Clovercroft Road and John Williams Road (FMPC 7/24/08, BOMA 11/25/08) (Third and Final Reading) Planning Department**

Alderman Burger moved for approval. Seconded by Alderman Moore. Motion to approve Ordinance 2008-33 on Third and Final Reading carried unanimously.

- 10. Consideration of ORDINANCE 2008-53 To Be Entitled: "An Ordinance of The City of Franklin, Tennessee to Amend Ordinance No. 2007-72 Adopting a Budget for the Fiscal Year 2007-2008" (BOMA 11/25/08) (Third and Final Reading) Russell Truell, Interim City Administrator**

Alderman Bransford moved for approval. Seconded by Alderman Moore. Motion to approve Ordinance 2008-53 on Third and Final Reading carried unanimously.

- 11. Consideration of ORDINANCE 2008-55, An Ordinance to Amend Section 105 of Title Eight of The Franklin Municipal Code Relative to Restrictions as to Locations of Retailers of Alcoholic Beverages (Deferred from BOMA 11/25/08) (Second and Final Reading) Russell Truell, Interim City Administrator**

Alderman Barnhill moved for approval. Seconded by Alderman Klatt.

Alderman Burger questioned 8-105, Restrictions as to locations of retailers, where it says there can be no retail store for the sale of alcoholic beverages on premises in a historic overlay district. She added there are other concerns about the ordinance as well.

Alderman Burger moved to defer Ordinance 2008-55 to the January 27, 2009 BOMA meeting. Seconded by Alderman Petersen. Motion carried unanimously.

12. **PUBLIC HEARING: Consideration of ORDINANCE 2008-60 To Be Entitled: “An Ordinance Amending The City of Franklin Municipal Code, Creating Chapter 6 of Title 21 and Hereafter Referred to as The Fair Housing Choice Ordinance for the Purpose of Declaring Policies and Procedures Related to Fair Housing Opportunities and Choices Within The City of Franklin** (BOMA 11/25/08)
(Second and Final Reading) Vernon Gerth, ACA Community & Economic Dev.

There being no comments forthcoming, Mayor Schroer declared the Public Hearing closed.

Alderman Bransford moved for approval. Seconded by Alderman Skinner. Motion to approve Ordinance 2008-60 on Second and Final Reading carried unanimously.

13. **PUBLIC HEARING: Consideration of ORDINANCE 2008-62 To Be Entitled: “An Ordinance to Amend Various Sections of The City of Franklin Municipal Code, Title 12 – Building, Utility, Etc Codes, Relating to the Codifying of Permit Fees and Penalties”** (BOMA 11/25/08)
(Second and Final Reading) Vernon Gerth, ACA Community & Economic Dev.

There being no comments forthcoming, Mayor Schroer declared the Public Hearing closed.

Alderman Moore moved for approval. Seconded by Alderman Petersen. Motion to approve Ordinance 2008-62 on Second and Final Reading carried unanimously.

14. **PUBLIC HEARING: Consideration of ORDINANCE 2008-62 To Be Entitled: “An Ordinance Amending The City of Franklin Municipal Code, Creating Title 22 – Comprehensive Fees and Penalties for the Purpose of Designating a Single Title for Codifying All Fees and Penalties Utilized and Assessed by The City** (BOMA 11/25/08)
(Second and Final Reading) Vernon Gerth, ACA Community & Economic Dev.

There being no comments forthcoming, Mayor Schroer declared the Public Hearing closed.

Alderman Moore moved for approval. Seconded by Alderman Petersen. Motion to approve Ordinance 2008-62 on Second and Final Reading carried unanimously.

NEW BUSINESS

15. **Consideration of RESOLUTION 2008-40, A Resolution Authorizing Condemnation for the Acquisition of Easements for the Construction of the Proposed Hooper Lane Sanitary Sewer Project**

David Parker, ACA Public Works & Utilities

Alderman Moore moved for approval. Seconded by Alderman Klatt. Motion to approve Resolution 2008-40 carried unanimously

One lot has yet to be negotiated.

16. Consideration of RESOLUTION 2008-41, A Resolution Supporting Efforts Pursuing Dedicated Funding for Public Transportation in The Greater Nashville Region (WS 12/09/08)
Russell Truell, Interim City Administrator

Alderman Klatt moved for approval. Seconded by Alderman Moore.

Alderman Burger asked for an explanation.

Mayor Schroer explained he sits on a regional task force for the MPO that is comprised of mayors from five counties and cities. Few of the entities involved have public transportation, as do Nashville and Franklin. There is no dedicated funding source for public transportation. Without a dedicated funding source, the State would be unable to accept any money from the Federal government designated for public transportation. There may be a significant amount from the government once the new president is in office. If BOMA approves the resolution, it, along with those approved by the other entities, will go to the State Legislature to ask for ways to provide funding. This will be the first step taken regionally toward public transportation.

Motion to approve Resolution 2008-41 carried unanimously.

17. Consideration of Inter-Local Agreement with Metro-Davidson Government Regarding Fuel Hedging (WS 12/09/08)

Russell Truell, Interim City Administrator

Alderman Klatt moved to approve the inter-local agreement with Metro Davidson Government subject to legal and staff revisions. Seconded by Alderman Moore.

Mayor Schroer explained the agreement is basically an insurance policy for consistent fuel prices in the next twelve months. Alderman Petersen was not in favor because prices could go down as well as up. Alderman Barnhill commented even with concerns it is a good planning tool for the budget process. The City will not lock in the entire allocation, just a certain percentage.

Motion to approve the inter-local agreement subject to legal and staff revisions carried 6/1 with Alderman Petersen voting no.

18. Consideration of RESOLUTION 2008-42, A Resolution Approving the Fourth Amendment to The City of Franklin Employee's Pension Plan (WS 12/09/08)

Shirley Harmon, Human Resources Director

Alderman Bransford moved for approval. Seconded by Alderman Barnhill. Motion to approve Resolution 2008-41 carried unanimously.

19. Consideration of the Inter-Local Agreement Between The City of Franklin and Williamson County Concerning the Sanitary Sewer Service for a Certain Area of the Unincorporated County (WS 11/25/08)

David Parker, ACA Public Works & Utilities

Mayor Schroer advised of a revision in Part III, Section 1, paragraph (f), to indicate the City will be reimbursed for all costs, not a maximum cost and ~~in an amount not to exceed \$750,000~~ was stricken. The County had wanted a fixed number to take before the County Commission.

Alderman Moore moved for approval. Seconded by Alderman Barnhill.

*Alderman Skinner moved to amend Part III, Section 3, (b), by striking the first part of the sentence, "~~So long as not prohibited by any provision of any bond issuance,~~ and say **Upon completion of construction of the Pipeline Collection System.....**" Seconded by Alderman Klatt.*

Alderman Skinner said he didn't think it was good policy for the City to be responsible for something if the City doesn't own the easement. There was a question regarding why it was drafted with that statement. Counsel for the County gave an explanation and noted they were comfortable with the proposed deletion.

Motion to approve proposed amendment carried unanimously.

Alderman Skinner again brought up the possibility that TDEC would compel the City to stockpile pumps for quick replacement if they fail. At 10% of 450 homes that would be \$90,000. He thinks the County should be responsible for that.

Alderman Skinner moved to add a condition to the agreement, "In the event that the Tennessee Department of Environment and Conservation requires that the City maintain an emergency stockpile of grinder pumps, the County will agree to pay for the stockpile designated for the subdivisions." Seconded by Alderman Bransford. Motion to amend carried 5-2 with Aldermen Barnhill and Petersen voting no.

Alderman Klatt indicated he would not support this agreement because the City of Franklin is not the only solution, but is the easiest and probably the least expensive. He felt the City had not extracted the appropriate concessions from the County regarding future planning. If the County continues to allow septic systems, they will eventually fail. In his opinion, the City needs better jurisdictional control (especially in the UGB) over planning issues so the County doesn't continue allowing septic fields that the City will eventually have to annex, maintain, repair or retrofit. It is not good policy and it is shortsighted.

Alderman Barnhill said he would support this as the right thing to do. The City has the capacity. It won't cost the City anything and the ratepayers must pay the non-resident higher rate. It is right to provide relief for those outside the City.

Motion to approve inter-local agreement with amendments one and two carried 5-2 with Aldermen Klatt and Skinner voting no.

20. Consideration of Agreement Between City of Franklin and Mr. and Mrs. Revelette Regarding Swap of Right-of-Way for Proposed and Current Nichol Mill (WS 11/25/08)
David Parker, ACA Public Works & Utilities

Alderman Moore moved for approval. Seconded by Alderman Klatt. Motion carried unanimously.

21. Consideration of the Middle Tennessee Electric Membership Corporation (MEMC) Agreement for the Relocation/Undergrounding of Electrical Lines for the Police Headquarters Building Project in the Amount of \$64,130.00 (WS 11/25/08)
David Parker, ACA Public Works & Utilities

Alderman Klatt moved for approval. Seconded by Alderman Bransford. Motion carried unanimously.

22. **Consideration of Change Order for the Goose Creek Area 2.0 MG Water Storage Tank Project in the Amount of \$28,480.00** (WS 11/25/08)

David Parker, ACA Public Works & Utilities

Alderman Moore moved for approval. Seconded by Alderman Petersen. Motion carried unanimously.

23. **Consideration of the McEwen Drive Extension East of Wilson Pike Alignment** (WS 11/25/08)

David Parker, ACA Public Works & Utilities

Shauna Billingsley asked that this item be deferred

Alderman Klatt moved to defer this item to the January 13, 2009 BOMA meeting. Seconded by Alderman Barnhill. Motion carried unanimously.

24. **Consideration of the Request from RPM for Additional Services to the Professional Services Agreement for the Traffic Signal Design of the Intersection of McEwen Drive and Carothers Parkway in an Amount Not to Exceed \$3,500** (WS 11/25/08)

David Parker, ACA Public Works & Utilities

Alderman Bransford moved for approval. Seconded by Alderman Skinner. Motion carried unanimously.

25. **Consideration of Change Order No. 1 on the Del Rio Pike Sanitary Sewer Rehabilitation Project with Mid-South Utility Group in the Amount of \$5,270.00** (WS 11/25/08)

David Parker, ACA Public Works & Utilities

Alderman Klatt moved for approval. Seconded by Alderman Skinner. Motion carried unanimously.

26. **Consideration of the Request from Gresham Smith Partners for Additional Services (Contract Administration) to the Professional Services Agreement for the Granbury Street Water Line Upgrade Project in an Amount Not to Exceed \$24,500.00** (WS 11/25/08)

David Parker, ACA Public Works & Utilities

Alderman Skinner moved for approval. Seconded by Alderman Bransford.

Discussion

- Alderman Klatt: The City has talented and qualified inspectors, why does the City have to spend this much for construction oversight.
- Mark Hilty: Construction administration goes beyond inspection. They could certainly do it but there are time constraints with the driver for this project being a deadline of July for the line to be in place. He doesn't want the project to slip.
- Alderman Barnhill: Why couldn't this project be done in-house since it is just an upsize of the waterline to get water to the Boys and Girls Club?
- Alderman Klatt: Be cognizant of having people capable of doing these jobs. If they are understaffed, then the right thing is to hire someone and not pay all this money.
- Mr. Hilty: Their work is variable and they can do management. Mayor Schroer added if the Boys and Girls Club isn't done in time, they couldn't exercise their life safety program because there would not be enough pressure. Inspectors are a component of this and others involved may not be qualified to review certain items Gresham Smith would be doing in this contract.
- Alderman Skinner: Trusts Mr. Hilty's judgment on this issue.

- Alderman Petersen: The City decided to do this with City money and she has a problem with paying extra to get it fast tracked.
- Alderman Barnhill: The County agreed to build the Boys and Girls Club but never built it. The reason it has to be fast tracked is the Carter House exercised its option on the gymnasium where club now meets.
- David Parker: If the Board does not approve the complete amount, some construction administration is needed from Gresham Smith. This is because they do not want to relieve the design professionals from their liability to be sure the design is done correctly.

Motion to approve additional services carried 5-2 with Aldermen Klatt and Petersen voting no.

27. Consideration of a Resolution to Issue Capital Outlay Notes in an Amount Not to Exceed \$45,000,000 (WS 11/25/08)

Russell Truell, Interim City Administrator

Alderman Klatt moved for approval. Seconded by Alderman Moore.

Alderman Petersen asked how this was to be divided between funds and said it appears the plan is to issue about half the \$45,000,000.

Mr. Truell said there was a lot in the budget prior to the election of this Board. The biggest expenditure is the construction of police headquarters. Some road projects were undertaken before as well.

Motion to approve resolution carried unanimously.

28. Consideration of the Temporary Construction Easement from First Citizen Bank Located at 1304 Murfreesboro Road for the Construction of the SR 96 at Royal Oaks Boulevard Intersection Improvements (WS 11/25/08)

David Parker, ACA Public Works & Utilities

Alderman Barnhill moved for approval. Seconded by Alderman Bransford. Motion carried unanimously.

29. Consideration of the Final Change Order on the Acton Street Improvements Project with Sessions Paving Company for a DEDUCT in the Amount of \$10,727.48 for the Close Out of the Project (WS 11/25/08)

David Parker, ACA Public Works & Utilities

Alderman Skinner moved for approval. Seconded by Alderman Klatt. Motion carried unanimously.

30. Consideration of Appointment to the Franklin Planning Commission
Mayor John Schroer

Mayor Schroer reappointed Scott Harrison to the Franklin Planning Commission.

Alderman Moore moved for approval of the reappointment. Seconded by Alderman Skinner. Motion carried unanimously.

31. Consideration of Nomination to the Historic Zoning Commission
Mayor John Schroer

Mayor Schroer nominated Tim Kerns and Rusty Womack to the Historic Zoning Commission.

Alderman Barnhill moved for approval of the nominations. Seconded by Alderman Bransford. Motion carried unanimously.

CONSENT AGENDA

32. **Consideration of Bid Award for the Supply, Delivery, Planting and Related Contract Services for a Lot of 64 Trees at Jim Warren Park, for the Parks Department** (WS 12/09/08)
Approved unanimously Lisa Clayton, Parks Director
33. **Consideration of Bid Award for the Supply, Delivery, Planting and Related Contract Services for a Lot of Trees at the Jim Warren Park Skate Park, for the Parks Department**
(WS 12/09/08)
Approved unanimously Lisa Clayton, Parks Director
34. **Consideration of Bid Award for the Supply, Delivery, Planting and Related Contract Services for a Lot of Trees at the Jim Warren Park Football Fields, for the Parks Department** (WS 12/09/08)
Approved unanimously Lisa Clayton, Parks Director
35. **Consideration of Contract Award for Financial Advisor Contract Services, for the Finance Department** (WS 12/09/08)
Russell Truell, Interim City Administrator
- Alderman Klatt moved to defer this item to the January 13, 2009 BOMA meeting. Seconded by Alderman Burger. Motion carried unanimously.*
36. **Consideration of Sole-Source Purchase of Traffic Signal Equipment, Hardware, Parts and Supplies from Temple, Inc. of Decatur, Alabama, for the Traffic Division of the Streets Department** (WS 12/09/08)
Approved unanimously Joe York, Streets Director
37. **Consideration of the Request from Wilbur Smith Associates for Additional Services to the Professional Services Agreement for the Design of Mack Hatcher Parkway in an Amount Not to Exceed \$7,000.00** (WS 12/09/08)
Approved unanimously David Parker, ACA Public Works & Utilities
38. **Consideration of Renewal of Liquor License Retailer's Certificate for James Woodward, Cool Springs Wine and Spirits, 1935 Mallory Lane, Franklin, Tennessee**
Approved unanimously Mayor John Schroer
39. **Consideration of Adjustments to City Organizational Chart**
Approved unanimously Russell Truell, Interim City Administrator

MATTERS FROM EXECUTIVE SESSION

40. **Consideration of Matters from December 9, 2008, 4:30 p.m. Executive Session**
Mayor John Schroer

Alderman Klatt moved to authorize legal counsel to file an appeal of the court judgment in the case of Stansell Electric and Lee Masonry. Seconded by Alderman Moore. Motion carried unanimously.

Alderman Klatt moved to waive attorney client privilege in the Dodson Randolph ouster investigation and waive attorney client privilege in the Joe Williams case up to the Board's decision to terminate employment. Seconded by Alderman Bransford. Motion carried unanimously.

ADJOURN

Alderman Klatt's motion to adjourn was seconded by Alderman Barnhill and unanimously approved.

Meeting adjourned 7:59 p.m.

Mayor John C. Schroer

Minutes prepared by: Linda Fulwider, Board Recording Secretary, City Administrator's Office - 1/16/2009 3:09 PM