

# ***AGENDA***

**FORT SMITH BOARD OF DIRECTORS  
STUDY SESSION**

***APRIL 27, 2010 ~ 12:00 NOON***

**FORT SMITH PUBLIC LIBRARY  
COMMUNITY ROOM  
3201 ROGERS AVENUE**

1. Review of southern growth area water and sewer master planning
2. Review Lake Fort Smith Transmission Line Corridor Study
3. Review amendments to meeting procedures
4. Review preliminary agenda for May 4, 2010 regular meeting

## INTER-OFFICE MEMO

**TO:** Dennis Kelly, City Administrator

**DATE:** April 22, 2010

**FROM:** Steve Parke, Director of Utilities

**SUBJECT:** Southern Growth Area Water and Sewer Master Planning  
and Lake Fort Smith Transmission Line Corridor Study

At Tuesday's study session staff and Mickle Wagner Coleman will update the Board on two significant master planning efforts currently underway by the utility department. These are the water and sewer service master planning for the southern growth area and the transmission line corridor study for the new transmission line from the Lake Fort Smith water supply. As portions of this work began some time ago, I have attached a brief summary for each project to help reacquaint you and the Board to each of these areas of work. I have also attached exhibits showing the planning areas. The key points to be discussed on Tuesday are as follows:

**Southern Growth Area Planning**

- existing development
- population projections
- projects to support growth
- changes in areas of development interests
- needed adjustments to master plan project scheduling

**Transmission Line Corridor**

- pipeline route selection
- ability to meet current and future water demands
- ability to prevent system delivery interruptions and assure system reliability
- cultural resources and environmental clearances
- opportunities for construction phasing

The presentation is to serve as an opportunity to update the Board on the projects and to discuss questions, ideas or concerns that they may have at this point. Should you or members of the Board have any questions or desire additional information, please let me know.

attachment

pc: Ray Gosack

## **Southern Growth Area Water and Sewer Master Planning and Lake Fort Smith Transmission Line Corridor Study Summary**

### **Southern Growth Area**

The southern growth area is generally described to include the approximate 13.5 square mile area acquired from the James Fork Water Authority in 2005 and the approximate 6 square mile portion of Chaffee Crossing within Fort Smith. There is also a small isolated area in the northwestern corner generally bounded by Highway 271, the Oklahoma border, Interstate 540 and Harvard Street. The master plan has identified the backbone water and sewer improvements needed to serve these areas along with the options for phasing their construction. As the full implementation of the master plan will require several years to complete, it is the city's intent is to define and extend the initial improvements to support the land areas which allow the orderly progression of residential, commercial and industrial development.

Since 2005 the city has constructed almost all of the first phases of these water and sewer system improvements. The water system improvements include the Howard Hill water transmission line and elevated water storage tank and a 12-inch water line along Highway 45 west of Highway 71. Those three projects have been completed. The sewer improvements include the Rye Hill outfall line extending west from Highway 22 through Chaffee Crossing and Riley Farms subdivision to the west side of Highway 71. Sewer pump stations and force mains were to be built to serve the land area on the west side of Highway 71. The lands west of Highway 71 naturally fall westward toward Oklahoma requiring that the sewer systems in that area to be intercepted and pumped back over the drainage dividing line into the Rye Hill outfall line. The first three segments of the Rye Hill outfall line are now complete or under construction with the fourth and final segment to be under construction later this summer. The construction of the Rye Hill sewer pump stations and force mains has not yet begun. Sewer treatment for the southern growth area would be provided by the city of Barling's sewer lagoons through the year 2014 and after that a sewer pump station and force main to Fort Smith's Massard wastewater treatment plant would be required.

The recent financial downturn which occurred on a national level has impacted many of the planned developments in the southern growth area and the sewer improvements planned on the west side of Highway 71. This has created a change in emphasis on the improvements slated for the first phase of sewer improvements.

### **Transmission Line Corridor Project**

As part of the planning for the expansion of the Lake Fort Smith water supply it was identified that a new 48-inch diameter water transmission line from the Lake Fort Smith water treatment plant to Fort Smith would be required. This new line will provide the additional capacity needed to meet the region's future water demands and also allow us to retire the existing 27-inch transmission line which was placed in service in 1936. The replacement of the first approximately 35,000 feet is required now with the remaining portions replaced in the 2020 to 2025 time frame for additional delivery capacity, reduced operations cost and reliability.

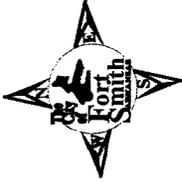
Through the advanced planning for this major construction project the city will realize significant savings in construction costs, assure that long term operation expenses are minimized and that it is placed in the optimal location for future considerations. Early easement acquisition for the new water transmission line will also help eliminate conflicts with future development and cost.

There are several complex and important tasks that are now in progress to prepare for the final design of 30 or so miles of new pipeline and provide the better balance of factors such as:

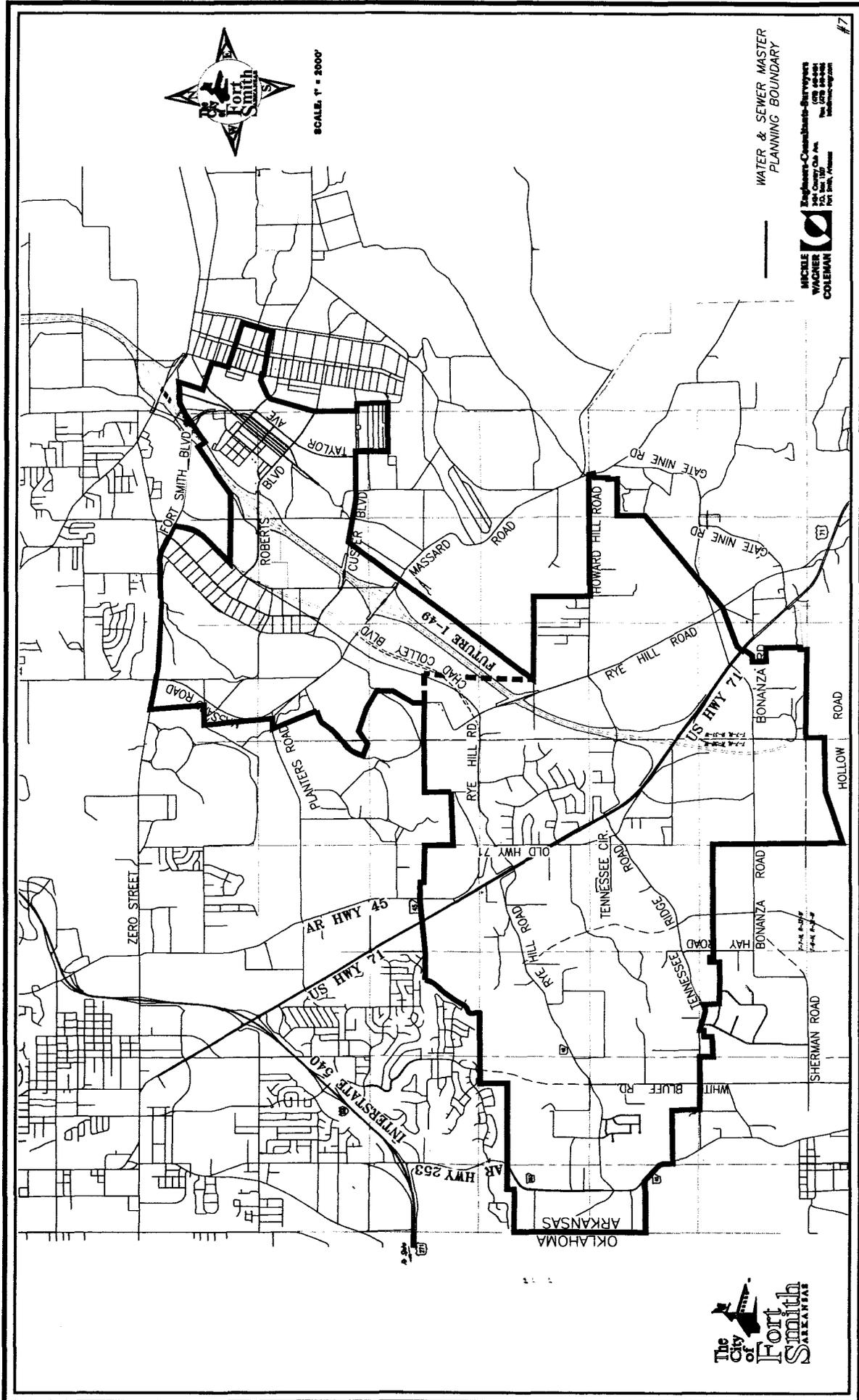
- Overall length of the pipeline route to minimize cost of construction.
- Hydraulic modeling to evaluate pumping requirements to reduce long term operating costs.
- Identification of cultural resource sites to avoid potential constraints, minimize costly environmental investigations and prevent need to perform mitigation.
- Minimize easement acquisitions and impacts to private properties.
- Location and method of third crossing of the Arkansas River.
- Interconnection with existing transmission lines and their respective river crossings.
- Opportunities for construction phasing.
- Ability to maintain and protect the pipeline.

The engineering consultants and staff will utilize these factors to select the optimal route. Protected areas such as wetlands, threatened and endangered species, and archeological sites will be avoided, to the extent possible, to reduce project cost and delay. Detailed hydraulic models will be created to determine the effect of water demands and potential for construction phasing. These hydraulic analyses will include evaluation of increased water demands through the transmission system on the Fort Smith side of the river as well to determine if there are any limitations in delivery or reliability which should be considered in the timing of the new river crossing. It is estimated that the selected pipeline route may involve as many as 500 property parcels. The project scope includes researching property ownerships, preparing exhibits and legal descriptions required for easement acquisitions.

The corridor evaluation is structured so that most of the preliminary engineering design work for the new transmission line project will have been accomplished. This will allow the city to move forward with greater confidence in meeting the region's water needs by selecting a pipeline route having the better cost-to-benefit relationship and by removing many of the unknowns which ultimately impact construction financing.



SCALE: 1" = 2000'



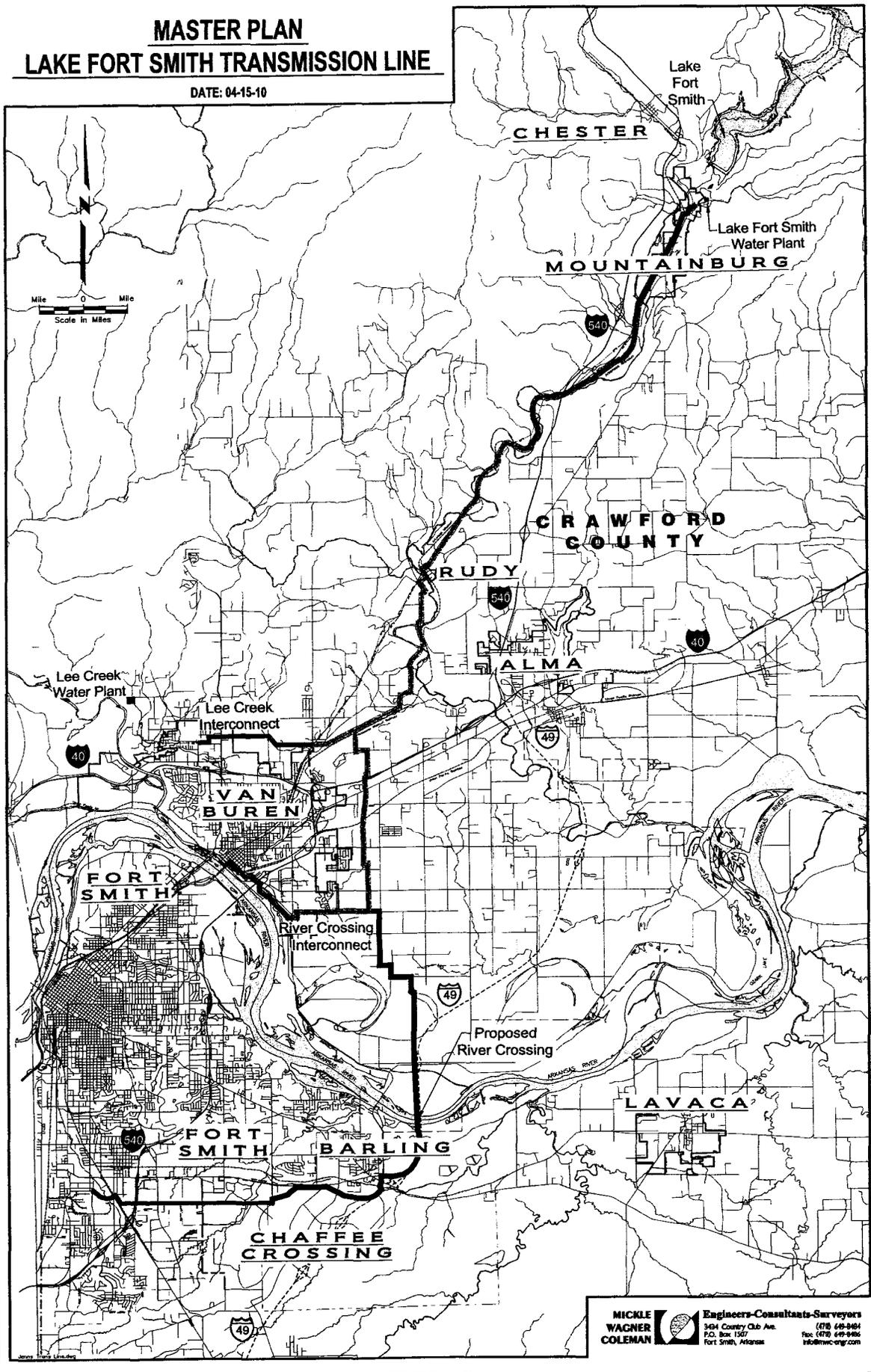
WATER & SEWER MASTER  
PLANNING BOUNDARY

**MICHAEL  
WAGNER  
COLEMAN**  
Engineers-Consultants-Surveyors  
P.O. Box 107  
Fort Smith, Arkansas  
Tel: (501) 843-8888  
mwc@mcw.com



# MASTER PLAN LAKE FORT SMITH TRANSMISSION LINE

DATE: 04-15-10



**MICKLE WAGNER COLEMAN** Engineers-Consultants-Surveyors  
3404 Country Club Ave. P.O. Box 1567 Fort Smith, Arkansas  
(479) 649-2464 Fax: (479) 649-9466 info@mwc-eng.com



3

## MEMORANDUM

April 23, 2010

**TO:** Dennis Kelly, City Administrator

**FROM:** Ray Gosack, Deputy City Administrator

**SUBJECT:** Board Meetings - Municipal Code

At the March 23<sup>rd</sup> study session, the board of directors reviewed public participation at board meetings. The section of the Fort Smith municipal code which covers this topic isn't being followed. During the review, it was noted that this section of the code was outdated in some respects, was confusing in other respects, and wasn't being followed in some respects. This section of the code was written more than 40 years ago. The board asked the staff and city attorney to work on amendments to the code.

Attached is a *marked up* copy of the code with recommended changes. The changes are intended to:

- modernize the code
- streamline the myriad of procedural matters addressed in the code
- reflect the board's actual operating practices
- bring the code into compliance with the Arkansas Freedom of Information Act.

Recommended deletions are shown in ~~strikeout~~ typeface and recommended additions are in underline typeface. There's also comments provided to explain the more significant changes. A list of significant changes is attached.

Once the board is satisfied with the changes, we'll prepare this section of the municipal code for adoption.

- Ray

## SIGNIFICANT CHANGES TO BOARD MEETING PROCEDURES

- ▶ Eliminating provisions that appear to violate the Arkansas Freedom of Information Act. (Section 2-27(a)(2); Section 2-43(2 & 3))
- ▶ Recognizing modern means for notifying board members of special meetings and other matters. (Section 2-27(a)(4 & 5); Section 2-31(5))
- ▶ Making it clear that executive sessions are part of regular or special meetings, and not separate meetings. (Section 2-28)
- ▶ Changing the term "agenda meetings" to "study session meetings" (Section 2-29), requiring that notice of study session meetings be given, and removing the requirement that all items for a regular meeting be reviewed at a study session (Section 2-29(c)).
- ▶ Allowing board members to call for a point of order if a board member believes a citizen is violating rules of order or decorum (Section 2-35(b)). The proposed language would require a majority vote of the directors to end the presentation or to enforce the point of order.
- ▶ The presentation of information requiring no board action would be limited to the city administrator, the mayor or a member of the board (Section 2-36(a)). The current language allows anyone to make such presentations. Presentations by citizens are now covered in sections 2-37 for scheduled agenda items and in section 2-44 for other items. The current language also requires a vote of the board before any such presentations (including those by the mayor or a director) may be made. It's recommended this voting requirement be deleted.
- ▶ The current code provides no language for citizen participation on scheduled agenda items. This has been added to Section 2-37(b), and incorporates the practice the board has followed for many years.
- ▶ The code currently provides for a "secretary to the board", which person shall be a stenographer. This position hasn't existed for 30 years. The code has been amended to delete this position. The city administrator and his staff will be responsible for

providing administrative assistance to the board.  
(Section 2-42)

- ▶ Section 2-42(g) of the code requires department heads to "immediately provide . . . all available information and facts requested by the directors . . . concerning the affairs of the department . . ." This section has been re-written so that directors and the mayor may request information that is routine and readily available from department heads, and that such information will be furnished to all directors and the mayor. Requests for information that aren't routine or aren't readily available should be made through the city administrator.
- ▶ The process for the board's approval of the appointment and removal of department heads in the current code (Section 2-43) is flawed. The procedure doesn't flow from one step to the next, and likely violates the Arkansas Freedom of Information Act. The procedure allows for board approval to occur outside of a public meeting. The procedure has been streamlined so that board approval can occur only in a public meeting.
- ▶ Section 2-44 of the current code contains a procedure for citizens initiating items of business that aren't on the agenda. The code requires citizens to first present the matter to the city administrator before presenting the matter at a board meeting. This procedure has been further clarified with new language that provides for how a citizen would bring a matter before the board, and the board's options for acting on the citizen's request. There's also a provision to prevent the same request from being brought before the board repeatedly.

This procedure would result in the board and the public being informed in advance about a citizen-initiated matter when it is presented at a board meeting. A background report would be provided to the board. The procedure avoids surprises and uninformed discussion. If a citizen chooses to present his/her matter to the board, the matter would be scheduled as a regular agenda item. This would allow other stakeholders and interested citizens to comment on the matter if they desired.

If the board desires to continue with an open citizens forum, there's an alternative immediately following Section 2-44(a). This alternative would allow a

citizen up to 2 minutes to present matters at the end of the board meeting. The presentations would be limited to items involving city government and not directly related to items considered on that meeting's agenda (the opportunity to comment on agenda items is when those items are being considered, not at the end of the meeting). Under this alternative, a matter presented by a citizen which requires possible action by the board or city administrator would be handled according to the procedure in Section 2-44(a) (e.g., the citizen first meets with the staff to resolve the problem, and may then come to the board if not satisfied with the staff's action).

## ARTICLE II. MAYOR AND BOARD OF DIRECTORS\*

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\*Cross references: Elections, Ch. 8.

State law references: Board of directors, A.C.A. § 14-48-110 et seq.

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### Sec. 2-26. Regular meetings of the board of directors.

Beginning January 1, 2010 and continuing through December 31, 2010, the regular meetings of the city board of directors shall be held at 6:00 p.m. in the board room at the Fort Smith Public Schools Service Center, 3205 Jenny Lind, on the first and third Tuesday evenings, unless such date is a legal holiday, in which case such meeting shall be held on the following evening at the same time and place.

(Ord. No. 2878, § 1, 3-2-71; Ord. No. 2878, § 1, 1-15-73; Ord. No. 3480, § 1, 8-2-77; Ord. No. 17-83, § 1, 3-1-83; Ord. No. 68-91, § 1, 12-3-91; Ord. No. 72-92, § 1, 11-3-92; Ord. No. 53-93, § 1, 11-16-93; Ord. No. 65-94, § 1, 11-15-94; Ord. No. 77-95, § 1, 12-5-95; Ord. No. 54-96, § 1, 12-17-96; Ord. No. 82-97, § 1, 12-16-97; Ord. No. 101-98, § 1, 12-15-98; Ord. No. 74-00, § 1, 12-19-00; Ord. No. 84-01, § 1, 12-18-01; Ord. No. 73-02, § 1, 12-3-02; Ord. No. 107-03, § 1, 12-16-03; Ord. No. 85-04, § 1, 12-21-04; Ord. No. 77-05, § 1, 11-15-05; Ord. No. 114-06, § 1, 11-21-06; Ord. No. 79-07, 11-20-07; Ord. No. 71-08, 11-18-08)

State law references: Regular meetings of board of directors, A.C.A. § 14-48-120(b).

### Sec. 2-27. Special meetings.

(a) Special meetings of the board of directors may be called by a majority of the board of directors as follows:

(1) On oral motion stating the time, date, place (if then known) (**COMMENT: Since the city doesn't have its own meeting location, it may not be possible to state a place at the time an oral motion is made.**) and item or items of business on the agenda for the proposed meeting adopted by the board of directors at any regular meeting or special meeting of the board which is attended by all directors and the mayor. The city clerk shall confirm the meeting called by notice to each director, the mayor, and the city administrator of the time, date, place and item or items of business on the agenda for the meeting called.

~~(2) When the mayor and all members of the board of directors are present at the meeting and all~~

~~members consent to the having of the meeting without formal notice, and all members consent to a consideration of the item or items of business presented.~~ (COMMENT: This section likely violates the FOIA, e.g., conducting a meeting without formal notice, )

(3) When four (4) or more members of the board of directors are present and all members of the board and the mayor, whether present or absent, consent in writing to the holding of the meeting. The written consent shall contain the time, date, place and item or items of business on the agenda, and shall be recorded in the minutes of the board by the city clerk. Absent members and the mayor may give written consent to the meeting by ~~telegram~~ facsimile or electronic mail addressed to the city clerk.

(4) When four (4) or more members of the board of directors give notice to the city clerk, either orally or in writing, of the time, date, ~~place~~ and item or items of business on the agenda for the special meeting. Oral notice received by the city clerk shall be ~~first~~ reduced to writing and recorded in the minutes of the board. Written notice of the special meeting of the board shall contain the time, date, place and item or items of business on the agenda, and shall be either delivered to each member of the board, the mayor and the city administrator at least twenty-four (24) hours before the time of the meeting called, or shall be ~~mailed to each member of the board of directors, and to the mayor by certified or registered mail sent by~~ electronic mail or facsimile to each member of the board of directors and to the mayor to addresses or facsimile numbers provided by each for this purpose at least forty-eight (48) hours before the time of the meeting called. The city administrator may request all members of the board of directors to call a special meeting for any specified purpose by notice to each member of the board of directors and the mayor of the time, date, place and item or items of business on the agenda of the proposed meeting. The requested meeting may be called by four (4) or more members of the board of directors as provided in this subsection.

(5) If an emergency event, which could not have been reasonably anticipated but which, because of its importance and pressing urgency, requires immediate consideration, the board of directors may have a special meeting at any time and at any place when at least four (4) or more directors are present, and after written notice has been given of the time, place and item of business for consideration to ~~both the business and the residence address of~~ each director, and to the news media by the most expeditious manner possible, at least two (2) hours prior to the meeting. Expeditious manner shall be deemed satisfied if attempted contact is by e-mail, telephone and facsimile copy. ~~All reasonable efforts shall be made to give actual notice of the meeting to the mayor and each of the directors in the most expeditious manner possible.~~ (COMMENT: **These changes take into account technological advancements in providing notice to directors, the mayor and the media. The change would allow a hand-delivered notice, an e-mail, a FAX, or a telephone call.**) Any action taken at such meeting shall be reported promptly to the mayor and to all members of the board of directors who were absent, and any action taken shall be an item of business on the agenda at the next regular or special meeting of the board of directors duly called for reconsideration at the request of any member of the board of directors.

(6) The city clerk shall prepare and give all notice required by this section and the Freedom of Information Act of 1967 [A.C.A. 25-19-101], and when required such notice shall be given to

each member of the board, the mayor, the city administrator, the public and the news media pursuant to the Freedom of Information Act of 1967 [A.C.A. § 25-19-101]. Said notice shall include the time, date, place and item or items of business on the agenda for the meeting called.

(7) No special meeting of the board of directors shall be called to order until the two (2) hour notice of the meeting is first given to the public and the representatives of the ~~newspapers, radio stations and television stations~~ news media as required by the Freedom of Information Act of 1967 [A.C.A. § 25-19-101 et seq.].

~~(b) It is the purpose of this section to permit the board of directors to have special meetings at any time or place when the mayor and all members of the board of directors agree to the holding of such meeting, to protect absent members, the public, and to require notice of the item or items of business on the agenda prior to the meeting, if required by any member. (COMMENT: The preceding sections already allow for this. This language is redundant. The following language, which is currently part of the code, will be added to paragraph (7) above.)~~ The mayor and each member of the board of directors shall be deemed to have consented to any special meeting of the board of directors and its consideration of the items of business stated on the agenda at the beginning of the meeting if they are present at the beginning of the meeting and do not object to the holding of the meeting ~~without formal notice.~~

(Ord. No. 2878, § 2, 3-2-71)

State law references: Special meetings, A.C.A. § 14-48-120(c); notice of special meetings, A.C.A. § 25-19-106(b)(2).

### **Sec. 2-28. Executive sessions.**

(a) ~~Executive sessions of the board of directors shall immediately follow regular or special meetings of the board~~ be scheduled as the last item of business on a regular or special meeting agenda, subject to the provisions of Section 2-37(a) for re-arranging the order of the meeting agenda.

(b) Except as otherwise specifically provided by law, executive sessions will be permitted only for the purpose of discussing or considering employment, appointment, promotion, demotion, disciplining or resignation of any public officer or employee.

(c) Any item of business arising at ~~an agenda, a study session,~~ regular or special meeting of the board, requiring the consideration of the board in executive session shall be automatically postponed ~~to the next~~ for executive session at the next regular or special meeting of the board. A motion duly adopted to consider an item of business in executive session shall automatically postpone consideration of the item of business ~~and constitute a call of an executive session to immediately follow the next regular meeting of the board in a conference room in the civic center, except as otherwise provided by ordinance.~~ All seven (7) directors may concur with adding the item to the agenda of the meeting in progress for an executive session before adjournment of the regular or special meeting in progress. If consideration at the regular or

special meeting in progress does not occur, the matter shall be scheduled for an executive session at the next regular or special meeting. (COMMENT: This change would allow the board to continue discussion of the item at the same meeting in executive session if all 7 directors concur. If such concurrence doesn't happen, then the matter would be scheduled for an executive session at the next regular or special meeting.)

~~(d) An executive session may be called to follow any regular or special meeting of the board as provided herein for the call of special meetings of the board. Items for consideration at all executive sessions of the board shall be determined and an agenda prepared and notice given as provided herein for regular meetings of the board.~~ (COMMENT: This section is repetitive of the provisions in Section 2.28(a).)

(e) Any decision of the board of directors made in executive session, which decisions ~~are~~ is required by the Freedom of Information Act of 1967 [A.C.A. § 25-19-101 et seq.] to be ~~confirmed at a~~ presented and voted on at the public meeting, shall be the subject of formal action by the board which shall reconvene in public session after the executive session.

(f) Only the members of the board, ~~and the mayor, and the city administrator~~ shall regularly attend executive sessions of the board. Persons specifically requested to attend a particular meeting may do so as allowed by the Arkansas Freedom of Information Act, and such person or persons shall leave the meeting at the conclusion of the matter ~~presented by~~ pertaining to them.

(Ord. No. 2878, § 3, 3-2-71; Ord. No. 2968, § 1, 3-20-72)

State law references: Executive sessions, A.C.A. § 25-19-106(c).

**Sec. 2-29. Agenda meetings. Study session meetings.**

(a) The board of directors may hold ~~agenda meetings~~ study session meetings at such times, under such circumstances and on such conditions as the board may prescribe for the purpose of informing themselves of the business and affairs of the city, provided no official action of the board of directors shall be taken at such meetings. The city clerk shall not be required to keep minutes of study session meetings.

( ) The city clerk shall prepare and give notice of study session meetings. Such notice shall be given to each member of the board, the mayor, the city administrator, the public and the news media pursuant to the Freedom of Information Act of 1967 [A.C.A. § 25-19-101]. Said notice shall include the time, date, place and item or items of business on the agenda for the meeting called.

(b) The ~~agenda~~ regularly-scheduled study session meeting shall precede the regular meeting of the board by at least five (5) days.

(c) To the extent practical, ~~all items of business and matters for consideration at the next regular meeting of the board~~ items of business or matters which are complex or involve policy decisions shall be presented at the ~~preceding agenda~~ a study session meeting together with a briefing of relevant facts and circumstances ~~prior to being placed on the agenda of a regular meeting.~~ Additionally, the city administrator shall provide a list of all then-known items contemplated to be on the next regular meeting agenda. (COMMENT: The practice for many years has been to not review all items of business for the next board meeting. Rather, study sessions are used to review complex matters or policy decisions before being placed on a regular meeting agenda. The board also reviews a preliminary agenda of items for the next regular meeting.)

(d) The time and place of ~~agenda~~ study session meetings shall be determined by a majority of the members of the board, and notice given as herein provided.

(e) Only the city administrator, the mayor, or a member of the board of directors may invite persons to address the board of directors at ~~an agenda~~ a study session, and a majority of the board of directors may limit the time of a presentation, or deny any presentation to the board. In all controversial and complex matters, such a briefing may be a condition precedent to further consideration of the item of business. The city administrator or his staff shall undertake reasonable efforts to give notice of the study session to ~~persons~~ persons having an existing direct interest, as contrasted with a general interest, in the item of business under study by the board of directors at ~~an agenda~~ a study session, ~~except as to personnel matters which are the subject of executive session, shall be given advance notice of the meeting of consideration of the item of business together with all assimilated information to be presented to the board prior to the agenda session preceding the regular or special meeting at which board action is anticipated and the board of directors may to permit such directly interested persons to make informed presentations to the board if requested to do so.~~

(f) The ~~agenda~~ study session meeting room shall be so arranged as to encourage and facilitate communication between the mayor, the members of the board of directors, the city administrator and any invited guests.

(Ord. No. 2878, § 4, 3-2-71; Ord. No. 3104, §§ 1, 2, 8-7-73)

State law references: Agenda meetings, A.C.A. § 14-48-120(i).

### **Sec. 2-30. Personnel to attend agenda study session meetings.**

(a) The city administrator or the ~~assistant~~ deputy city administrator and city clerk ~~or assistant city clerk~~ shall attend all agenda study session meetings of the board. The city administrator shall also require the presence at the agenda study session meetings of other employees of the city having relevant superior personal knowledge or expert opinion of matters to be presented to the board for consideration.

(b) The board of directors may on a motion duly adopted require the qualified and licensed

attorneys at law contracted to provide legal services pursuant to sections 2-111--2-113 of this Code, or in his absence an assistant qualified and licensed attorney at law contracted to provide legal services pursuant to sections 2-111--2-113 of this Code, ~~the secretary to the board,~~ **(COMMENT: There is no secretary to the board. See discussion in Section 2-42.)** or any other municipal employee to attend ~~one (1) or more~~ study session meetings of the board.

(Ord. No. 2878, § 5, 3-2-71; Ord. No. 3-02, § 5, 1-22-02)

### **Sec. 2-31. Formulation of agenda.**

Each item of business for consideration by the board of directors at any regular, special, study session or executive session meeting of the board shall be first placed on a written agenda, which shall be formulated and disseminated as follows:

- (1) The preparation of the agenda for each regular, special, study session or executive session meeting of the board of directors shall be the duty of the city clerk, under the supervision of the mayor.
- (2) An item of business may be placed on the agenda for any regular, special, study session or executive session meeting of the board at ~~an agenda~~ a study session meeting preceding the meeting of consideration by the city administrator, or by the concurrence of any two (2) members of the board. An item of business may be placed on the agenda for any regular, special, study session or executive session meeting of the board at any time by the city administrator provided notice of the specific subject of the addition to the agenda is given to the mayor and the members of the board of directors at least forty-eight (48) hours before the meeting of consideration. ~~Any member of the board of directors may cause the item of business added to the agenda by the city administrator after the preceding agenda session to be deferred for consideration at the following regular meeting in the manner provided in subsection (6) below by giving notice of a request for such deferral to the city clerk at least twenty-four (24) hours in advance of the meeting of consideration.~~ **(COMMENT: The preceding sentence was deleted since paragraph 4 below provides a way to remove agenda items. Also, the preceding sentence allows only 1 director to defer an item, even if the other 6 directors disagree.)**
- (3) An item of business may be placed on the agenda at least forty-eight (48) hours prior to the time of the meeting of consideration by four (4) members of the board upon notice to the city clerk of the name of the proposed directors and the specific subject of the items of business to be considered. The city clerk shall immediately notify the directors, the city administrator and the mayor of the specific subject of the addition to the agenda.
- (4) Any item of business may be denied a place on or removed from the agenda by notice of four (4) directors to the city clerk prior to the date of the meeting of the proposed consideration. The city clerk shall immediately notify the city administrator, the mayor, the directors and other interested persons of such action.
- (5) An item of business requiring immediate action by the board may be placed on the agenda

within forty-eight (48) hours or at the meeting of consideration by unanimous notice from all seven (7) members of the board to the city clerk pursuant to subsection (3) above or by unanimous vote of the entire membership of the board. An absent member of the board may express consent to consideration by those present in writing, or by telegram facsimile or electronic mail communicated to the city clerk. ~~No motion to defer, table or postpone any item of business not on the agenda for the meeting of consideration prior to the day of the meeting shall be necessary unless the item of business is first placed on the agenda by unanimous notice of the entire board to the city clerk prior to the meeting or by a unanimous vote of the entire board to place the item of business on the agenda after the meeting of consideration is called to order.~~ **(COMMENT: The preceding sentence was deleted because it's confusing and states the obvious.)** ~~Every effort shall be made by the city administrator and the members of the board of directors to obviate the necessity for hasty consideration of items of business by the board pursuant to this subsection.~~ **(COMMENT: This sentence was deleted because it's generic and isn't specific. The specific requirements for late additions to the agenda are addressed adequately in the preceding sentences.)**

(6) An item of business presented at a regular or special meeting of the board, not placed on the agenda of the meeting at which presented, shall be automatically placed on the agenda of the following regular meeting unless its place on the agenda is denied, or it is removed as provided in this article.

(7) Any ordinance or resolution placed on the agenda of any regular or special meeting of the board requiring by its terms the appointment by the board of a person and the insertion of a person's name in the ordinance or resolution shall be automatically referred to and constitute a call of an executive session immediately following prior to adjournment of such meeting, and formal action on the ordinance or resolution shall take place in public session after the executive session.

(Ord. No. 2878, § 6, 3-2-71; Ord. No. 3104, § 3, 8-7-73)

### **Sec. 2-32. Briefing of board by the city administrator.**

(a) The city administrator may present to the board of directors at any meeting any matter without detailed briefing for the purpose of determining whether the board desires that the matter be staffed and the board thoroughly briefed at a subsequent meeting of the board, or not. Available information relevant to the question of further consideration and briefing should be presented.

(b) It shall be the duty of the city administrator to keep the members of the board advised of all facts and circumstances pertaining to or affecting the legislative policy of the city, and it shall be the duty of the city administrator and his staff to investigate, assimilate relevant information, and brief the board of directors on all matters requiring consideration and legislative action by the board.

(c) Before any complex or controversial item of business is placed on the agenda of a regular,

special, study session or executive session meeting of the board by the city administrator, the city administrator and his staff shall first present to the board so much of the following as is relevant and feasible:

- (1) Statement of the problem or the issue presented.
  - (2) A statement of all pertinent and relevant facts together with available documentation.
  - (3) Any expert opinion concerning the item of business for consideration.
  - (4) Copies of other municipal legislation affecting the item of business.
  - (5) Copies of pertinent comparable legislation in other municipalities.
  - (6) Statement of the intended results of any proposed legislation or statement of policy on the evils problems sought to be eliminated, or the good to be accomplished by the proposed legislation.
  - (7) A statement of the obstacles to accomplishment of the desired objective.
  - (8) A statement of the possible solutions with advantages and disadvantages of each.
  - (9) The course of action recommended by the city administrator, if any, and his reasons therefor.
- (d) It shall be the duty of the city administrator and his staff to present to the board the same information outlined in this section for each item of business initiated by members of the board at their request, or by citizens presenting complex or controversial items of business, provided the city administrator may require as a condition precedent to his presentation of an item of business initiated by a citizen that the initiating person attend a meeting of the board and make a presentation of relevant facts and circumstances to the board and such other of the staff briefing requirements outlined in the preceding subsection as is relevant and reasonable.
- (e) The majority of the board may, by vote, if timely done pursuant to section 2-31, place a complex or controversial item of business on the agenda at the request of the city administrator without the complete and thorough briefing to the board required by this section.
- (f) All or any part of the information to the board required by this section may be furnished either orally or in writing to each member of the board prior to or at the presentation of the item of business for a place on the agenda.
- (g) The city administrator shall request the board of directors to authorize the necessary staff, equipment and material to perform the duties prescribed by this article.

(Ord. No. 2878, § 7, 3-2-71)

### **Sec. 2-33. Meeting material, equipment and supplies.**

- (a) The city clerk shall have present at each meeting of the board of directors a copy of Robert's

Rules of Order, a copy of this Code, and at the meeting of initial consideration, a copy of every other contract, resolution or ordinance of the city directly affecting matters of consideration by the board. The city administrator shall advise the city clerk prior to each meeting of the subject of matters proposed for consideration by the board which are not known by the city clerk to be already on the agenda. The city clerk shall provide necessary supplies for each director at each meeting. The city administrator shall have present at the meeting of initial consideration every legal opinion, and other letters, documents, charts, maps or photographs not in the possession of the city clerk directly affecting new matters of consideration by the board at each agenda, regular, special, study session or executive session meeting of the board, except where impractical because of the complexity or bulk of the documents, in which case available summaries shall be utilized.

(b) Upon request by any director, the city administrator and his staff shall have present at any subsequent meeting of consideration the relevant documents described in subsection (a) above.

(Ord. No. 2878, § 8, 3-2-71)

#### **Sec. 2-34. Presiding officer; vote; mayor's veto; overriding veto.**

(a) The mayor shall preside at all regular, special, and study session meetings, including executive sessions, of the board of directors but shall not have a vote on any matter coming before the board. The mayor shall have the power of veto over all decisions made by the board of directors, except with respect to matters relative to city personnel, but a veto by the mayor may be overridden by the affirmative vote of five (5) or more members of the board of directors. In the absence of the mayor, the assistant mayor shall have the same duties and authority as chairman without veto, and also shall have the right to vote as a director.

(b) In the absence of both the mayor and the assistant mayor the board of directors shall elect from its membership a person to serve as chairman of the meeting. Such election of a chairman shall not occur before the designated starting time of the meeting and shall not occur before a quorum is present.

(Ord. No. 2878, § 9(a)--(b), 3-2-71)

State law references: Similar provisions, A.C.A. §§ 14-48-111, 14-48-112.

#### **Sec. 2-35. Rules of order.**

(a) Robert's Rules of Order shall govern the proceedings of all regular, special, agenda and executive meetings of the board of directors, except as modified by A.C.A. tit. 14, ch. 48 [§ 14-48-101 et seq.], and the provisions of this article. The city administrator shall provide a copy of Robert's Rules of Order to each member of the board of directors, the mayor and the city clerk.

(b) The mayor, assistant mayor or other person presiding over the meeting shall have the affirmative duty and authority to require the members of the board of directors and other persons

present at the meeting to comply with the rules of order. The chairman of the meeting shall constantly maintain the decorum of the meeting, and shall have authority to order the removal of persons not on the board of directors violating the rules of order or disturbing the meeting. The chairman of the meeting may require the city administrator to provide a person having police authority to be present at a meeting to assist in the performance of the duties of the presiding officer. It is the purpose of this subsection to require the chairman of the meeting to enforce the rules of order and to maintain the decorum of the meeting without a request for rule compliance or objection to rule violation by a member of the board of directors. If a member of the board of directors believes there is a violation of the foregoing by a citizen, he or she may make a motion to end the presentation or assert a point of order. If said motion receives a second, there shall immediately be taken a vote of the board of directors on the motion to end the presentation. The chairman may enforce the point of order or may submit same to a vote of the board of directors. **(COMMENT: This added provision allows board members, by majority vote, to end citizen presentations which violate rules of conduct or meeting decorum.)**

(c) A majority of the board may on a motion, without second, order the previous question, which shall have the effect to cut off all debate and bring the board to a direct vote upon the immediate question or questions on which it has been asked and ordered. The previous question may be asked and ordered upon a single motion, a series of motions allowable under the rules, or an amendment or amendments, or may be made to embrace all authorized motions or amendments and include the item of business to its passage or rejection. It shall be in order, pending the motion for the previous question, or after the previous question shall have been ordered on its passage, for the mayor to entertain and submit without debate a motion to commit, with or without instructions, to a standing or select committee. All incidental questions of order arising after a motion is made for the previous question, and pending such motion, shall be decided, whether an appeal or otherwise, without debate.

(d) No member of the board of directors shall speak or debate on any item of business, which is not on the agenda at any regular meeting of the board of directors, except on a motion to add the item of business to the agenda as provided in this article, without the unanimous consent of the members of the board who are present.

(e) The minutes of each regular or special meeting of the board of directors shall be accurately summarized by the city clerk, reduced to writing, and a copy ~~mailed~~ provided to each member of the board of directors and the mayor prior to the next regular meeting. No minutes of any past meeting of the board of directors shall be read at any subsequent meeting unless a reading is requested by a member of the board of directors.

(f) The chairman of each meeting of the board shall rotate the opportunity to first speak or debate on successive items of business among the members of the board.

(g) All special and standing committees of the board shall be appointed by the chairman of the meeting, subject to the approval of a majority of the board, which approval shall be recorded.

(h) The membership of standing committees shall terminate on December thirty-first of each year and new members appointed at the next regular meeting of the board. Special committees

shall terminate upon the presentation to the board of a committee report stating that it is final or at the expiration of one (1) year, whichever event occurs first.

(i) The referral of a matter or item of business to a committee shall have the effect of requiring the city administrator and his staff to fully support the committee in its work.

(Ord. No. 2878, § 9(c)--(k), 3-2-71)

Editor's note: Resolution No. R-121-99, §§ 1--4, adopted May 18, 1999, set forth meeting protocol for the city board of directors. The resolution allows full discussion of all points of view on each issue brought before the board. The resolution also stipulates that all discussions will be conducted in a civil and dignified manner, and that all comments during a discussion will be pertinent. Last, it provides that all members of the board will call attention to the mayor when comments are irrelevant to the discussion.

State law references: Board of directors to adopt rules of order, A.C.A. § 14-48-120(j).

#### **Sec. 2-36. Presentation of information requiring no board action.**

(a) Any information or report may be presented to the board of directors by the city administrator, by the mayor, or by a member of the board (COMMENT: Items presented by citizens should follow the provisions of Section 2-44.) at any meeting of the board ~~upon a majority vote of the board.~~ (COMMENT: Remarks from the mayor and board members not requiring board action have historically been made without requiring a vote of the board. Given the requirements of the Freedom of Information Act, board meetings are the only opportunity for directors to share information among themselves.) ~~If a majority of the board express their consent by an affirmative vote, any information or report pertaining to an item of business not on the agenda may be presented to the board at any meeting of the board, provided~~ No official action shall be taken on such matter unless first placed on the agenda as provided herein.

(b) Any member of the board may request the city administrator to remain after any meeting for the purpose of informing the city administrator of specific citizen complaints or other matters not requiring the attention of the entire board and the city administrator and his staff shall note the complaints or matters presented for action under section 2-45, or for other appropriate action, and the director presenting the complaint or the matter shall be advised of the action taken.

(Ord. No. 2878, § 10, 3-2-71)

State law references: City administrator form of municipal government, A.C.A. § 14-48-101 et seq.

#### **Sec. 2-37. Agenda consideration at opening of meeting; public comment on agenda items.**

(a) After each regular or special meeting of the board of directors is called to order and the roll is

called, the mayor shall inquire of ~~those present including~~ the members of the board of directors if ~~anyone~~ any director desires to present any item of business or other matter to the board during the meeting, or which is not already on the agenda of a regular or special meeting.

**(COMMENT: Citizen-initiated items are permitted by section 2-44. Section 2-37(a) should be limited to items requested by board members.)** If the mayor receives an affirmative response, the subject of all such items of business or matters for consideration shall be promptly determined. No person, except a member of the board of directors, shall be permitted by the mayor to discuss any item of business or other matter presented at the meeting for a place on the agenda until the item of business is placed on the agenda, or other matter is approved by the board for presentation at the meeting. The mayor shall submit separately to the board for vote without motion each item of business or other matter proposed by ~~those present at the meeting a~~ director. ~~Persons~~ A director presenting items requiring board action, but not placed on the agenda of the meeting at which presented, shall be told by the mayor that the item will be on the agenda for the next regular meeting of the board, unless removed by a majority of the board. At each regular or special meeting of the board the mayor ~~shall~~ may then ascertain the number of persons present for each item on the agenda and shall rearrange the order of the agenda subject to the approval of the board, so that the business of the largest groups of people present is first on the agenda.

(b) After a motion is made and seconded for approval of each item on the agenda of any regular or special meeting of the board, and before such item is discussed by members of the board, the mayor shall inquire of those present if anyone has a statement to make concerning the item under consideration. An applicant before the board may have up to five (5) minutes to make an opening presentation. If a group of citizens opposes the applicant, they may have up to five (5) minutes to make an opposing presentation. Each side shall have up to three (3) minutes to make a rebuttal presentation. All other comments from citizens shall be limited to no more than two (2) minutes per citizen. Any of these time limits may be extended by a consensus of the members of the board. Citizen comments must be relevant to the agenda item under consideration.

~~(b) The city administrator shall notify the person presenting the item of business placed on the agenda for the next regular meeting of the requirements for the briefing of the board of directors.~~  
**(QUESTION: This section isn't necessary since only directors may introduce items to be added to the agenda.)**

(Ord. No. 2878, § 11, 3-2-71; Ord. No. 3104, § 4, 87-73; Ord. No. 3270, 7-1-75)

### **Sec. 2-38. Ordinances and resolutions--Passage; one subject, title rule.**

(a) All ordinances, resolutions or orders for the appropriation of money shall require for their passage or adoption the concurrence of a majority of the board of directors. All by-laws and ordinances of a general or permanent nature shall be fully and distinctly read on three (3) different days, unless five (5) members of the board of directors shall dispense with the rule. The

affirmative vote of at least five (5) directors to suspend the rule shall dispose with the requirement to fully read the item and with the requirement of voting on three (3) different days. No ordinance shall contain more than one (1) subject which shall be clearly expressed in its title.

(b) The formality of suspending the rules regarding readings on successive dates shall not be required in the event of a unanimous vote of the entire board.

(c) If a by-law or ordinance is duly adopted, or amended, and a director voting against the measure states consents to dispensing with the rules, such director's vote on the measure adopted shall be recorded for the measure to reflect the unanimous vote required by subsection (b) above.

(d) If it shall be necessary for the preservation of the public peace, health and safety that a measure shall become effective immediately, and the measure contains an emergency section, a separate roll call vote by yea and nay shall be had on the emergency section. Five (5) or more votes in favor of the emergency shall be required. If the emergency section is not adopted, the remainder of the measure shall be considered passed.

(Code 1976, §§ 2-29--2-31)

State law references: Vote required for passage of legislation, A.C.A. §§ 14-55-203, 14-55-204; reading requirements for ordinances and bylaws, A.C.A. § 14-55-202; bylaws and ordinances to contain only one subject, A.C.A. § 14-55-201.

#### **Sec. 2-39. Same--Voting requirements.**

(a) On the passage of every ordinance, resolution or order to enter into a contract by the board of directors, the yeas and nays shall be called and recorded; and to pass any ordinance, resolution or order, a concurrence of at least four (4) members of the board of directors shall be required.

(b) When a motion for passage or adoption of an item of business which is the subject of an ordinance or resolution on the agenda at any regular, or special or executive **(COMMENT: The word "executive" was deleted since nothing is formally adopted during executive session and there's no readings in executive session)** meeting of the board of directors is duly seconded, the ordinance or resolution shall be read prior to the first vote, subjected to any other parliamentary procedure including subsidiary and privileged motions, and then put to vote to end that only one (1) vote shall be taken on each main motion.

(Code 1976, § 2-32)

State law references: Voting requirements for passage of legislation, A.C.A. § 14-55-203.

## Sec. 2-40. Salaries.

(a) The mayor shall receive compensation in the amount of ten thousand dollars (\$10,000.00) per year. Additionally, the mayor shall receive as reimbursement for vehicle expense the sum of four hundred fifty dollars (\$450.00) per month.

(b) Each member of the board of directors shall receive compensation in the amount of one thousand dollars (\$1,000.00) per year. A member's compensation shall be reduced by one-twenty-fourth (1/24th) for each regular meeting at which a member is absent. No such compensation shall be paid for attendance at any special meeting called by the board of directors. Each member of the board of directors shall receive as reimbursement for vehicle expense the sum of four hundred dollars (\$400.00) per month.

(Code 1976, § 2-16; Ord. No. 100-98, §§ 1, 2, 12-8-98)

State law references: Salary of mayor, A.C.A. § 14-48-111(c); compensation of directors, A.C.A. § 14-48-120(h).

## Sec. 2-41. Actual expenses.

~~(a) The mayor is hereby authorized a monthly vehicle expense allowance in the amount of four hundred fifty dollars (\$450.00) per month for the use of the mayor's personal vehicle on city business.~~ **(COMMENT: The vehicle allowance is provided for in Section 2-40(a) above.)**

(b) The mayor and the members of the board of directors shall be reimbursed for actual out-of-pocket expenses incurred in the performance of their official duties, and they shall be reimbursed for personal automobile use on city business requiring travel more than twenty-five (25) miles one (1) way from the ~~city~~ principal office location of the city.

(c) Application for reimbursement shall be made within thirty (30) days of the date the non-travel expense is incurred or within two (2) weeks of the date the travel is concluded and the application shall be supported by appropriate vouchers in the same manner as provided by the city administrator for reimbursement of expenses of other municipal personnel. Reconciliation of travel advances shall be made within ~~thirty (30) days~~ two (2) weeks of the date the travel is concluded. In addition, the application for reimbursement shall state the date and item of municipal business requiring the expenditure or travel. All travel expense reimbursements and travel advances shall be made in accordance with the city's travel policy.

(d) To the extent feasible, the city administrator shall establish a procedure for providing direct services and supplies to the mayor and the members of the board necessary to an efficient and economical performance of their official duties.

(Code 1976, § 2-17; Ord. No. 2878, § 15, 3-2-71; Ord. No. 12-82, 2-2-82; Ord. No. 7-95, §§ 1, 2, 1-17-95)

**Sec. 2-42. Administrative assistance to the board of directors.**

(a) The city administrator shall provide such secretarial assistance to the board of directors and the mayor as is prescribed by the board for its members and the mayor; ~~one (1) stenographer shall be designated secretary to the board and the mayor, subject to the prior approval of the board. The secretary to the board shall be primarily responsible to the mayor and the individual members of the board of directors to provide to the mayor and the members of the board of directors assistance requested by them in gathering information, drafting and preparing proposed legislation, and in handling the correspondence and administrative requirements of the members of the board of directors and the mayor in the performance of their official duties.~~

**(COMMENT: The duties of the preceding sentence are typically the responsibility of more senior staff, not an administrative secretary. None of the present staff can recall a "secretary to the board" position ever having been in place for at least 30 years.)** The city administrator shall provide adequate office space and the necessary furniture, equipment and supplies for the secretary to the board, and for one (1) member of the board, or the mayor to work effectively on city business. Available personnel, supplies, space, furniture and equipment now utilized by the mayor may be designated and assigned to the requirements of this section. ~~The person designated as secretary to the board pursuant to this section shall not be discharged by the city administrator without the prior approval of a majority vote of the entire board of directors.~~

(b) Each member of the board of directors shall be provided with supplies, documents and information necessary to the proper performance of the duties of director in preparation for and in attending meetings of the board.

~~(c) The secretary to the board shall receive and maintain a copy of all correspondence from the city administrator to the members of the board, all correspondence initiated by the directors, all resolutions, ordinances, reports and other documents presented to or required for the board for the continuing use of the board of directors at the office of the secretary to the board. The permanent records of the city clerk shall not be duplicated. The files of the secretary to the board shall be maintained for the primary purpose of providing each director and the mayor with a file of information pertaining to a matter or item of business for consideration by the board so long as such matter or item of business continues as a matter of consideration by the board. Ordinances published in this Code, and files of completed action shall be destroyed after one (1) year under the supervision of the assistant mayor. (COMMENT: Records are maintained by the city clerk's office, city administration, and departments. There is no secretary to the board position.)~~

~~(d) The city administrator, with the approval of the board, may delegate the duties of secretary to the board to a stenographer as an additional primary duty, unless otherwise provided by a resolution of the board.~~

(e) Official stationery bearing the names of the mayor and the members of the board shall be provided to the secretary to the board.

(f) The city administrator shall provide to each member of the board of directors on request an

appropriately designed identification card for use by the members of the board on official business.

~~(g) Every department or office head of the city shall immediately provide to a member of the board, or to the secretary to the board, all available information and facts requested by the directors or the secretary to the board concerning the affairs of the department or office.~~

**(COMMENT: This paragraph violates the chain of command and can result in information being provided to some directors but not to all directors. A suggested replacement follows.)** Directors and the mayor may request information that is routine and readily available from any department or office head of the city. The department or office head shall furnish all available information and facts requested by the directors and mayor to the city administrator, who shall then forward such information and facts to all directors and the mayor. Requests from directors or the mayor for information that is not routine or is not readily available shall be made through the city administrator.

(Ord. No. 2878, § 16, 3-2-71)

### **Sec. 2-43. Director approval procedure of city administrator personnel action.**

Except as otherwise provided in this article, the city administrator shall obtain the approval of the board of directors prior to the employment or discharge of exempt personnel of the city who are heads of departments, city clerk, internal auditor, ~~secretary to the board~~ and the qualified and licensed attorneys at law contracted to provide legal services pursuant to sections 2-111--2-113 of this Code as follows:

(1) The city administrator shall notify all members of the board of directors either orally or in writing of the proposed action, the reasons therefor, and all relevant and pertinent facts bearing upon the decision of either employment or discharge.

**(COMMENT: The process which follows is broken. For example, the process allows for a board member to request an executive session after 4 or more board members have given their concurrence to the proposed action, but it doesn't provide for notification of board members when 4 or more directors have approved the action. How does a board member know when to call an executive session unless all board members have been notified that 4 or more have approved the personnel action? This "approval" outside of a public meeting violates the Arkansas Freedom of Information Act. Also, para. 3 below says that once the city administrator notifies the individual, the action is binding on the board. This seems to run afoul of a board member's ability to request an executive session to consider the matter. Should there be a time limit for a board member to request an executive session? Without a time limit, how would the city administrator know when to notify the affected employee/applicant? The following language is suggested to be added to paragraph 1 above to remedy these problems.)**

After notification from the city administrator, there shall be scheduled an executive session at the next regular or special meeting of the board of directors to discuss approval, denial or modification of the city administrator's proposed action.

~~(2) Each member of the board of directors may express approval or disapproval of the proposed action by either oral or written notice to the secretary of the board of directors who shall maintain permanent record thereof. At such time as four (4) or more members of the board of directors have given notice to the secretary of the board of the approval of the proposed action and if no executive session is requested, the secretary of the board shall notify, in writing, the city administrator that the required approval has been obtained and recorded. If any member of the board requests consideration of the proposed action in executive session, the secretary of the board shall notify the city clerk, a meeting shall be called and all action shall be deferred to the meeting.~~

(3) Upon receipt of the written notice of the approval of a majority of the board of directors of the action proposed by the city administrator, the city administrator shall then notify in person or by telephone the individual subject to the approved action and may confirm the action in writing to the individual, which action shall be binding on the board of directors, and who shall then each be immediately notified of the action taken by a majority of the board. **(COMMENT: This last clause isn't necessary since the board will have taken action in a public meeting.)**

~~(4) The recorded action of the board as provided in subsections (2) and (3) above shall be confirmed by resolution at the next regular meeting of the board following notification of the action taken by the city administrator. The resolution shall be automatically placed on the agenda of the next regular meeting.~~ **(COMMENT: This section isn't necessary since the board will have taken action in a public meeting.)**

~~(5) The majority of the board may express its approval of the proposed exempt personnel action of the city administrator at any regular, special or executive meeting of the board as herein provided for other items of business on the agenda, provided the city administrator may brief the board on the item of business at the meeting of consideration.~~ **(COMMENT: This section isn't necessary since the board will have considered the proposed action in an executive session and public meeting as provided for in the sentence added to paragraph (1) above.)**

(6) Where reasonable and feasible, employees of the city shall be first given an opportunity to resign at the request of the city administrator and the board of directors prior to notice of discharge.

(7) No director nor the mayor shall communicate the exempt personnel action proposed by the city administrator, except through the city administrator as herein provided.

(Ord. No. 2878, § 17, 3-2-71)

#### **Sec. 2-44. Citizen complaints and citizen initiated items of business.**

(a) Any citizen having a complaint or an item of business with the city should present the complaint or the item of business to the city administrator's office for action prior to presentation of the complaint or item of business to the board of directors at a meeting. Before presentation of the complaint or item of business to the board of directors, the aggrieved citizen shall first notify

the city administrator, or his designated representative, of the nature of the complaint, and the city administrator shall immediately cause an investigation to be made of the complaint or requested item of business and notify the citizen and board of directors of the results of the investigation and recommended action, if any. A citizen who remains aggrieved by the action of the city administrator may then present the matter to the board of directors at any subsequent regular meeting for action pursuant to section 2-31(6) after giving notice to the city administrator at least seven (7) days before the regular meeting. The matter shall be scheduled as an item of business on the regular meeting agenda. The city administrator shall provide the board of directors with a briefing report on the citizen's request, any action taken by the city administrator or his staff, and other information deemed relevant by the city administrator. The citizen shall have up to three (3) minutes to present his or her request at the regular meeting. The board of directors may extend this time limit by its concurrence. After considering the citizen's request, the board of directors may:

- (1) take any action it deems appropriate, consistent with applicable law;
- (2) determine to not consider the matter any further;
- (3) request additional information from the citizen or the city administrator;
- (4) defer the matter for further consideration at a study session meeting or a subsequent regular meeting.

If the board of directors determines to not consider the matter any further, the city administrator shall not schedule on a regular, special or study session meeting agenda any identical or substantially similar request made by any citizen within one (1) year of the board of directors' determination to not consider the matter any further.

**(COMMENT: The following section is offered as another option for citizens introducing items to the board of directors.)**

(l) At each regular meeting, there shall be an item on the agenda immediately preceding adjournment of the meeting, which item shall allow citizens to introduce matters to the board of directors. Each citizen shall have up to two (2) minutes to present his or her matters, which matters shall be limited to those involving the city government and shall not be directly related to items considered on that meeting's agenda. If a matter presented by a citizen requires consideration of possible action by the board of directors or the city administrator, the matter shall be handled in accordance with Section 2-44(a).

(b) Matters presented by citizens to the city administrator requiring action by the board shall be staffed as required in this article and placed on the agenda by the city administrator.

**(COMMENT: This requirement is included in paragraph (a) above.)**

(c) Persons appearing at agenda meetings of the board may be permitted by a majority of the board to present items of business for consideration for a place on the agenda of the next regular or special meeting of the board. The city administrator shall cause the board of directors to be briefed as required by the item presented at the next agenda meeting of the board. Matters not considered for a place on the agenda shall be referred by the mayor to the city administrator and

~~his staff for action. The action taken shall then be reported to the board. (COMMENT: The opportunity for citizens to present matters to the board is provided for in paragraph (a) above.)~~

~~(d) Matters presented to the board at any meeting requiring no action by the board, or which are not appropriate for immediate action by the board shall be referred by the mayor to the city administrator and his staff for action. The person presenting the referred matter shall be advised of the specific action taken and the reasons therefor. The city administrator, or a member of the administrator's staff, shall report the action taken on the referred matter to the board at the next meeting of the board. The city clerk shall include the subject matter of the item referred and the name and address of the person presenting the item, in the minutes of the meeting of the board, and the city clerk shall automatically place the referred item on the agenda of the next meeting of the board as a report by the city administrator, or the administrator's staff, on the referred item, unless removed or deferred by a majority of the board as provided herein. (COMMENT: The opportunity for citizens to present matters to the board is provided for in paragraph (a) above.)~~

~~(e) The city administrator shall promptly notify the citizen presenting a complaint or item of business, and the originating director, if any, of the action taken on the complaint or item of business presented. (COMMENT: This is provided for in paragraph (a) above.)~~

(Ord. No. 2878, § 18, 3-2-71; Ord. No. 3104, § 5, 8-7-73)

#### **Sec. 2-45. Record of action requested by the board.**

The city clerk shall maintain a list of the items of business for which a member of the board has requested a staff briefing or other action, and a list of all items referred to the city administrator or other city official for action, the date of the request or referral, and the name of the person making the request or presenting the item referred, and the anticipated date for a report on the action requested. The date of the subsequent report or briefing shall be noted on the list, ~~and all items remaining open shall be read at each agenda meeting of the board at or after the stated anticipated date for report on the action requested.~~

(Ord. No. 2878, § 19, 3-2-71)

#### **Sec. 2-46. Notice.**

Unless otherwise specifically provided in this article, any notice to the city clerk ~~or the secretary to the board~~ required by this article may be given orally or in writing. Notice received orally shall be first recorded in writing by the recipient. All notices shall be immediately communicated to the city clerk, who shall maintain a permanent record of all notices in the minutes of the meetings of the board. Unless otherwise specifically provided in this article, the city clerk shall give written notice of each item of business placed on the agenda of any regular, special, study

session or executive meeting of the board to the members of the board, the mayor and the city administrator at least four (4) days prior to the date of the meeting of consideration. Actual notice of any item of business subsequently placed on the agenda as provided herein shall be immediately given by the city clerk to each member of the board, the mayor and the city administrator by the most effective and expeditious means available.

(Ord. No. 2878, § 20, 3-2-71)

**Sec. 2-47. Effect of noncompliance with article; procedures.**

(a) Failure to comply with the provisions of this article shall not invalidate any action of the board which is otherwise in accordance with the law of this state, unless a member of the board states the objection at the time of the action, or files an objection to the action of the board at or prior to the next regular meeting of the board. If a member of the board makes or files an objection to a proceeding, the facts and grounds for the objection shall be stated by the objecting director and referred by him to the qualified and licensed attorneys at law contracted to provide legal services pursuant to sections 2-111--2-113 of this Code for opinion, which shall be presented to the board as an item of business on the agenda at the second regular meeting following the challenged action.

(b) If the opinion of the qualified and licensed attorneys at law contracted to provide legal services pursuant to sections 2-111--2-113 of this Code states that the challenged action violates the provisions of this article, the matter challenged shall automatically be reconsidered by the board.

(c) If the opinion of the qualified and licensed attorneys at law contracted to provide legal services pursuant to sections 2-111--2-113 of this Code states that the challenged action does not violate the provisions of this article, no further consideration of the challenged action shall be required.

(d) At the adjournment of the second regular meeting following the challenged action, all violations of the provisions of this article shall be deemed waived, the action taken confirmed, and no violation of this article shall be grounds for invalidating any action of the board thereafter, if the action otherwise complies with the laws of this state.

(Ord. No. 2878, § 21, 3-2-71; Ord. No. 3-02, § 5, 1-22-02)

Secs. 2-48--2-65. Reserved.

# ***AGENDA*** ~ ***Summary***

## **FORT SMITH BOARD OF DIRECTORS STUDY SESSION**

***APRIL 27, 2010 ~ 12:00 NOON***

**FORT SMITH PUBLIC LIBRARY  
COMMUNITY ROOM  
3201 ROGERS AVENUE**

1. Review of southern growth area water and sewer master planning  
***Presentation by Director of Utilities Steve Parke - information item only***
2. Review Lake Fort Smith Transmission Line Corridor Study  
***Presentation by Director of Utilities Steve Parke - information item only***
3. Review amendments to meeting procedures  
***Ordinance placed on May 4, 2010 regular meeting agenda***
4. Review preliminary agenda for May 4, 2010 regular meeting