



Mayor – Sandy Sanders

City Administrator – Ray Gosack

City Clerk – Sherri Gard

Board of Directors

Ward 1 – Steve Tyler

Ward 2 – Andre' Good

Ward 3 – Don Hutchings

Ward 4 – George Catsavis

At Large Position 5 – Pam Weber

At Large Position 6 – Kevin Settle

At Large Position 7 – Philip H. Merry Jr.

AGENDA

Fort Smith Board of Directors

Study Session

September 11, 2012 ~ 12:00 Noon

Fort Smith Public Library Community Room

3201 Rogers Avenue

1. Review proposed amendments regarding initiative and referendum
2. Review preliminary agenda for the September 18, 2012 regular meeting

MEMORANDUM

To: Ray Gosack, City Administrator
From: Sherri Gard, City Clerk
Date: September 7, 2012
Re: Initiative and Referendum

At the request of Director Settle at the September 4, 2012 regular meeting, Chapter 2, Article III of the Fort Smith Municipal Code regarding initiative and referendum petitions has been reviewed.

Several amendments are proposed whereby most are merely to ensure language is consistent with the Arkansas Constitution and applicable state statutes. The most significant amendments relate to extending the filing deadline when such deadline falls on a weekend or holiday, clarifying that the ballot title must be submitted as a separate document along with the petition, and eliminate any requirement for board action on petitions determined to be sufficient for placement on a municipal election ballot. In the event that a special election is required, the Board of Directors may be called upon to set the date for the special election.

The proposed amendments and draft ordinance are attached for your review. If you or members of the Board have any questions, please let me know.

Chapter 2, Article III, Section 2-67 of the Fort Smith Municipal Code

All initiative petitions shall be addressed to the city clerk and shall contain the title and **full** text of the measure proposed. All initiative petitions shall be filed with the city clerk at least ninety (90) days before the **next** regular **municipal** election, **either state, congressional or municipal**, at which the proposed measure is to be voted upon.

Chapter 2, Article III, Section 2-68 of the Fort Smith Municipal Code

All referendum petitions shall be addressed to the city clerk and **each petition** shall identify the measure sought to be referred by stating at least the number, date of passage and full title of the measure sought to be referred. **Additionally**, a full and correct copy of the **title and exact** text of the measure sought to be referred shall be attached to the petition and to any separately circulated part of the petition during the time that the petition is being circulated. All referendum petitions shall be filed with the city clerk ~~within thirty (30) days~~ **on or before 5:00 p.m. on the thirty-first (31st) day** after the date of passage of the measure sought to be referred. **If the thirty-first (31st) day occurs on a Saturday, Sunday, or holiday recognized by the City of Fort Smith, or on any other day when city offices are officially closed, the petition and ballot title may be filed by 5:00 p.m. on the following business day.**

Chapter 2, Article III, Section 2-69 of the Fort Smith Municipal Code

At the time of filing **both either an** initiative **and petition or a** referendum ~~petitions~~ **petition with the city clerk**, the exact title to be used on the ballot shall be submitted **with the petition by the petitioner** **by the petitioners separately from the petition and separately from the text of the proposed referred or initiated matter.**

Chapter 2, Article III, Section 2-71 of the Fort Smith Municipal Code

After receipt of an initiative **petition** or referendum petition, the city clerk shall within thirty (30) days determine the sufficiency of the petition. The city clerk may make all necessary factual investigations and may request the counsel of the qualified and licensed attorneys-at-law contracted to provide legal services pursuant to Sections 2-111 -- 2-113 of this Code in reaching a determination as to the sufficiency of the petition. The city clerk may, after giving notice by publication for one (1) insertion in a local newspaper, hold a public hearing at which time the clerk shall hear all persons who wish to be heard on the question of whether such petition is sufficient. **Only the signatures of legally registered voters shall be counted upon petitions.** If the city clerk determines that the petition is sufficient, the city clerk shall ~~so~~ certify that determination in writing to **the sponsors of such petition and to** the board of directors. **If the city clerk shall decide any petition or ballot title to be insufficient, the city clerk shall without delay notify the sponsors of such petition and the board of directors, and permit the sponsors of the petition ten (10) days for correction or amendment. After expiration of the ten (10) day period or upon submission of any correctin or amendment, whichever occurs first, the city clerk shall issue a final certification, whether of sufficiency or insufficiency, in writing to the sponsors and shall notify the board of directors.** The decision of the city clerk shall be final unless suit is brought in the **Chancery Circuit** Court of Sebastian County, Fort Smith District, within thirty (30) days of the date of the clerk's certification ~~to the board of directors~~ **of either insufficiency or sufficiency.**

Chapter 2, Article III, Section 2-72 of the Fort Smith Municipal Code

- (a) In the case of an initiative petition, ~~after receipt of the clerk's certification, the board of directors shall, at its next regular meeting, or at an earlier special meeting;~~ the city clerk shall, upon certification of the sufficiency of the petition and of the ballot title, notify the county board of election commissioners and the board of directors, that the measure has been initiated and should be placed on the ballot at the next regular ~~municipal~~ election, either state, congressional or municipal, and the ~~board city clerk~~ shall submit a copy of the ballot title for the initiated matter to the county board of election commissioners.
- (b) In the case of a referendum petition, ~~after receipt of the certification from the clerk; the board of directors shall, at its next regular meeting, or at an earlier special meeting, establish a date for a special election, which date may be the same as the date for the next regular municipal election if such election is to be held within one hundred twenty (120) days; shall notify the county board of election commissioners that the measure has been referred to the vote of the people and shall submit a copy of the ballot title to the county board of election commissioners;~~ the city clerk shall, upon certification of the sufficiency of the petition and of the ballot title, notify the county board of election commissioners and the board of directors that the measure should be placed on the ballot at the next regular state, congressional or municipal election unless the petition expressly calls for a special election or, absent a call for a special election in the petition itself, the board of directors orders a special election. If the petition expressly calls for a special election, the board of directors shall fix the date for the special election on the referendum measure. Whether pursuant to petition or order of the board of directors, the date of the special election shall be set no more than one hundred twenty (120) days after the date of certification of the petition's sufficiency by the city clerk. The city clerk shall submit a copy of the ballot title to the county board of election commissioners and advise the county board of election commissioners of the date of any special election determined by the board of directors.

ORDINANCE NO. _____

**AN ORDINANCE AMENDING CHAPTER 2, ARTICLE III
OF THE FORT SMITH MUNICIPAL CODE
REGARDING INITIATIVE AND REFERENDUM**

**BE IT ORDAINED AND ENACTED BY THE BOARD OF DIRECTORS OF THE
CITY OF FORT SMITH, ARKANSAS, THAT:**

SECTION 1: Chapter 2, Article III, Section 2-67 of the Fort Smith Municipal Code is hereby amended to read as follows:

All initiative petitions shall be addressed to the city clerk and shall contain the title and text of the measure proposed. All initiative petitions shall be filed with the city clerk at least ninety (90) days before the next regular election, either state, congressional or municipal, at which the proposed measure is to be voted upon.

SECTION 2: Chapter 2, Article III, Section 2-68 of the Fort Smith Municipal Code is hereby amended to read as follows:

All referendum petitions shall be addressed to the city clerk and each petition shall identify the measure sought to be referred by stating at least the number, date of passage and full title of the measure sought to be referred. Additionally, a full and correct copy of the exact text of the measure sought to be referred shall be attached to the petition and to any separately circulated part of the petition during the time that the petition is being circulated. All referendum petitions shall be filed with the city clerk on or before 5:00 p.m. on the thirty-first (31st) day after the date of passage of the measure sought to be referred. If the thirty-first (31st) day occurs on a Saturday, Sunday, or holiday recognized by the City of Fort Smith, or on any other day when city offices are officially closed, the petition and ballot title may be filed by 5:00 p.m. on the following business day.

SECTION 3: Chapter 2, Article III, Section 2-69 of the Fort Smith Municipal Code is hereby amended to read as follows:

At the time of filing either an initiative petition or a referendum petition with the city clerk, the exact title to be used on the ballot shall be submitted by the petitioners separately from the petition and separately from the text of the proposed referred or initiated matter.

SECTION 4: Chapter 2, Article III, Section 2-71 of the Fort Smith Municipal Code

is hereby amended to read as follows:

After receipt of an initiative petition or referendum petition, the city clerk shall within thirty (30) days determine the sufficiency of the petition. The city clerk may make all necessary factual investigations and may request the counsel of the qualified and licensed attorneys-at-law contracted to provide legal services pursuant to Sections 2-111 -- 2-113 of this Code in reaching a determination as to the sufficiency of the petition. The city clerk may, after giving notice by publication for one (1) insertion in a local newspaper, hold a public hearing at which time the clerk shall hear all persons who wish to be heard on the question of whether such petition is sufficient. Only the signatures of legally registered voters shall be counted upon petitions. If the city clerk determines that the petition is sufficient, the city clerk shall certify that determination in writing to the sponsors of such petition and to the board of directors. If the city clerk shall decide any petition or ballot title to be insufficient, the city clerk shall without delay notify the sponsors of such petition and the board of directors, and permit the sponsors of the petition ten (10) days for correction or amendment. After expiration of the ten (10) day period or upon submission of any correction or amendment, whichever occurs first, the city clerk shall issue a final certification, whether of sufficiency or insufficiency, in writing to the sponsors and shall notify the board of directors. The decision of the city clerk shall be final unless suit is brought in the Circuit Court of Sebastian County, Fort Smith District, within thirty (30) days of the date of the clerk's certification of either insufficiency or sufficiency.

SECTION 5: Chapter 2, Article III, Section 2-72 of the Fort Smith Municipal Code

is hereby amended to read as follows:

- (a) In the case of an initiative petition, the city clerk shall, upon certification of the sufficiency of the petition and of the ballot title, notify the county board of election commissioners and the board of directors that the measure should be placed on the ballot at the next regular election, either state, congressional or municipal, and the city clerk shall submit a copy of the ballot title for the initiated matter to the county board of election commissioners.
- (b) In the case of a referendum petition, the city clerk shall, upon certification of the sufficiency of the petition and of the ballot title, notify the county board of election commissioners and the board of directors that the measure should be placed on the ballot at the next regular state, congressional or municipal election unless the petition expressly calls for a special election

or, absent a call for a special election in the petition itself, the board of directors orders a special election. If the petition expressly calls for a special election, the board of directors shall fix the date for the special election on the referendum measure. Whether pursuant to petition or order of the board of directors, the date of the special election shall be set no more than one hundred twenty (120) days after the date of certification of the petition's sufficiency by the city clerk. The city clerk shall submit a copy of the ballot title to the county board of election commissioners and advise the county board of election commissioners of the date of any special election determined by the board of directors.

SECTION 6: Emergency Clause. In order to comply with the requirements of the Arkansas Constitution as it relates to providing a mechanism by which voters may, by referendum or initiative, submit an issue to the vote of the citizens, the Board of Directors determines that there is an immediate need for the effectiveness of these proposed Code changes, and thus an emergency is declared to exist and this Ordinance will be in full force and effect from this date.

PASSED AND APPROVED this ____ day of _____, 2012.

APPROVED:

Mayor

ATTEST:

City Clerk



September 5, 2012

TO: Members of the Board of Directors
Members of the Oak Cemetery Commission

RE: Appointments:

The terms of Ms. Carole Barger, Mr. Chuck Girard and Mr. Robert Burris of the Oak Cemetery Commission will expire effective November 30, 2012. In accordance with Ordinance No. 2926 applications for this prospective vacancy are now being received. Applicants must be residents and registered voters in the City of Fort Smith.

Please submit applications to the city administrators office no later than the close of business on September 28, 2012. A list will be compiled for review by the Board of Directors. Applications are available on the City of Fort Smith website. Go to www.fortsmithar.gov and click on boards and commissions.

Sincerely,

A handwritten signature in blue ink that reads "Ray Gosack".

Ray Gosack
City Administrator

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P.O. Box 1908
Fort Smith, Arkansas 72902
(479) 785-2801
Administrative Offices FAX (479) 784-2430



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At Large Position 5 – Pam Weber

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AGENDA ~Summary

Fort Smith Board of Directors

Study Session

September 11, 2012 ~ 12:00 Noon

Fort Smith Public Library Community Room

3201 Rogers Avenue

1. Review proposed amendments regarding initiative and referendum
Hutchings/Settle placed ordinance on the September 18, 2012 regular meeting
2. Review preliminary agenda for the September 18, 2012 regular meeting

OTHER:

Director Merry requested staff review purchase amounts requiring board approval.