

MINUTES OF BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ JANUARY 19, 2010 ~ 6:00 P.M.

FORT SMITH PUBLIC SCHOOLS SERVICE CENTER

The meeting was called to order by Mayor Ray Baker, presiding. Invocation was given by Director Don Hutchings, followed by the Pledge of Allegiance. On roll call the following members of the Board were present: Directors Steve Tyler, Andre' Good, Don Hutchings, Bill Maddox, Gary Campbell, Kevin Settle and Cole Goodman. A quorum was declared present.

Director Tyler announced the City of Fort Smith was recently named a "2009 Volunteer Community of the Year" by the Arkansas Division of Volunteerism at the Arkansas Municipal League Winter Conference in Little Rock; therefore, he presented the plaque proclaiming same to Mayor Baker.

Mayor Baker, the Board, and City Administration presented the "Good Neighbor Awards" along with a red rose and certificate to the following citizens of Fort Smith for helping to make their neighborhoods and the community a better place in which to live:

- Linda Cooper
- Carl & Cissy Rose (*Carl unable to attend*)
- Coy Frost
- Alan & Deborah Smith
- Edward & Karen James (*unable to attend*)
- Laquita Parker (*unable to attend*)

The minutes of the January 5, 2010 regular meeting were presented for approval.

Director Campbell requested the last paragraph on page 3 be amended to reflect that the City of Fort Smith is opposed to hiring undocumented workers and that City contractors, who knowingly hire such, should be held accountable.

Hutchings, seconded by Campbell, moved approval of the minutes as amended. The members all voting aye, the Mayor declared the motion carried.

January 19, 2010 Regular Meeting

With regard to the time limit policy for persons wishing to address the Board, Mayor Baker communicated that five (5) minutes per side would be extended on controversial items with three (3) minutes for rebuttal per side. Two (2) minutes will be allotted for consent agenda items and for those participating in the Citizens Forum.

Mayor Baker opened the Citizens Forum with the following individuals present to address the Board:

- Mack McKinley
5022 Williams Lane

Re: Advised he addressed the Board in the summer of 2009 regarding an ongoing drainage problem near his residence and alleged he is "*still waiting*" to be contacted by the City with a solution. He later commented that the City only intends to increase the drain tile size under his driveway, which he fears will not be adequate to address the drainage issue, and instead recommended an underground drainage system be installed across his property.

Director Maddox noted that a drainage project is scheduled for 2010 whereby Deputy Administrator Ray Gosack confirmed such and advised the project design is currently underway with a construction contract expected for mid to late summer 2010.

Administrator Kelly assured Mr. McKinley that upon completion of the design, he will be contacted and provided an opportunity to thoroughly review the project as recommended by the design engineer.

Mayor Baker announced that this was the time and place set for a public hearing to close and vacate the east ten (10) feet of South 5th Street right-of-way between South "B" Street and Block "D" Street in Reserve Addition. Notice of the public hearing had been duly published as required by law. Following the public hearing, consideration of an ordinance authorizing same would be given (Item No. 1).

Director of Development Services Wally Bailey briefed the Board on the item advising such

January 19, 2010 Regular Meeting

is per the request of the U.S. Department of Veterans Affairs (VA). The right-of-way is sixty (60) feet on South 5th Street adjacent to the National Cemetery; however, the right-of-way is fifty (50) feet north of the proposed expansion. The VA has requested the right-of-way abandonment so the National Cemetery's interior street and fencing along the west side of the cemetery will be in alignment. All franchise utilities, appropriate city departments, as well as property owners within 300 feet of the property have been contacted with no objections received; therefore, he recommended approval.

Due to several famous baseball players having played at Andrews Field, Director Campbell requested a brief status regarding the placement of a monument at home plate memorializing such.

Administrator Kelly confirmed that Mickey Mantle played at Andrews Field in his minor league days and preliminary research has identified several others such as Joe Garagiola and Satchel Paige. The City would like to preserve the history with the placement of a memorial. The matter has been discussed with Mr. John Spruyt, Director of the National Cemetery, who was in favor of the ideal; however, placement will require formal approval from the VA, which is currently being considered.

Director Hutchings questioned if the VA has indicated their intent to request additional land for another phase of expansion, beyond the upcoming expansion.

Mr. Bailey advised the City has not been notified of an additional request; however, national cemeteries are only allowed to acquire property to meet the need for a limited time.

With regard to the upcoming expansion, Mayor Baker questioned how long such is expected to accommodate whereby Mr. Spruyt responded "45 to 50 years".

There being no individuals present to speak, Mayor Baker closed the public hearing.

Settle, seconded by Campbell, moved adoption of the ordinance. The motion included

January 19, 2010 Regular Meeting

suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its readings and the members all voting affirmatively, the Mayor declared the motion carried. Hutchings, seconded by Settle, moved adoption of Section 3 the emergency clause. The members all voting affirmatively, the Mayor declared the motion carried and the ordinance and emergency clause were adopted and given No. 1-10.

Item No. 2 was a resolution of the Board of Directors of the City of Fort Smith establishing the assignment of take-home vehicles to the Criminal Investigations Division of the Fort Smith Police Department.

Police Chief Kevin Lindsey briefed the Board on the item as discussed at the January 12, 2010 study session. Upon approval, the proposed resolution establishes the following criteria for assignment of take-home vehicles:

1. All vehicles assigned must be assigned to members of the Criminal Investigations Division as listed on the current CID roster.
2. All vehicles shall be assigned to detectives that live within a 25-mile radius of Police Headquarters.
3. Assigned vehicles may be either seized vehicles or vehicles purchased by the City, as deemed necessary in the best interest of providing services to citizens.
4. All vehicles assigned shall be fueled using the most cost effective method available, which will generally entail fueling vehicles at City owned or contracted sites.
5. Detectives assigned a take-home vehicle will use the vehicle only for business purposes and cause the vehicle and associated equipment to be maintained in usual condition.

Such will allow up to forty (40) city-owned and seized vehicles to be utilized for take-home use by members of the Criminal Investigations Division of the Fort Smith Police Department.

January 19, 2010 Regular Meeting

The following individual was present to address the Board:

- **Sergeant George Lawson
Fort Smith Police Department**

Re: Spoke in favor of the proposed resolution citing such will benefit the community by providing faster response time for arrival to a crime scene, as well as boost morale in the police department. He further commented that many of the take-home/unmarked vehicles are used for covert operations and keeping said vehicles at police headquarters is not recommended. With regard to budget concerns, he advised that other priorities were reduced in the 2010 budget in order to accommodate the cost of reinstating take-home vehicles and alleged such will utilize less than one-half (½) of one percent (1%) of the police department budget.

Director Maddox commented that Administrator Kelly indicated at the study session that additional criteria with regard to personal use of the vehicles will be established; therefore, he questioned if such is included within the proposed resolution.

Administrator Kelly noted that personal use is addressed within the resolution; however, specific personal uses will be further expanded and addressed administratively.

Directors Settle and Good expressed concern with increasing the number of take-home vehicles from five (5) to forty (40). Since the police department currently employs eighteen (18) detectives and maintains twenty-two (22) seized vehicles, he spoke in favor of authorizing said vehicles to detectives only. If the response time is not decreased as anticipated, the Board could consider increasing to the originally requested forty (40) vehicles at a later date.

Chief Lindsey clarified that the Criminal Investigations Division, consisting of the Narcotics and Vice Unit and the Street Crimes Unit, contains both primary and secondary detectives with eighteen (18) classified as primary. Each unit provides very different services and operations; therefore, he recommended approval of the forty vehicles as originally requested.

Director Campbell conveyed much confidence that Chief Lindsey has thoroughly evaluated

January 19, 2010 Regular Meeting

the necessity of forty (40) take-home vehicles and recommended approval. Upon adoption and implementation, he further recommended Chief Lindsey submit a report to keep the Board informed of the utilization of such.

Administrator Kelly questioned if any of the detectives will be excluded from obtaining a take-home vehicle due to the twenty-five (25) mile radius limitation.

Chief Lindsey advised such will exclude three (3) detectives; however, they are aware of the limitation and have conveyed no objection to the criteria.

Hutchings, seconded by Campbell, moved adoption of the resolution. The motion included the requirement that a report be submitted in six (6) months providing statistical information regarding the utilization of the take-home vehicles. The members voted as follows: ayes - Tyler, Good, Hutchings, Maddox, Campbell and Goodman; nays - Settle. The Mayor declared the motion carried and the resolution was adopted and given No. R-16-10.

Item No. 3 was an ordinance establishing the fees for rental of the trains at Creekmore Park

Director of Parks and Recreation Mike Alsup briefed the Board on the item advising the purpose of such is due to a citizen request to rent the trains. The Parks and Recreation Commission approved the proposed fees and recommended the steam engine only be made available for rental on days that it is normally scheduled to run, i.e., Memorial Day, July 4, Labor Day and the first day of Holiday Express. The steam engine was built by Sam Skidmore of Paris, Texas and began service in Creekmore Park in 1949. Mr. Skidmore built five (5) of the steam engines and ours is the last of the five (5) in operation.

Due to the rarity of the steam engine, Director Settle expressed concern with the inclusion of the steam engine and recommended such be removed from the ordinance.

Although the Parks and Recreation Commission approved the proposed fees and usage

January 19, 2010 Regular Meeting

schedules, Director Maddox questioned if Mr. Alsup was also in agreement.

Mr. Alsup conveyed no objection to the rental of the steam engine provided the use is limited and closely monitored.

Director Campbell noted the steam engine is a true asset to the community and can be a valuable advertising tool to promote Fort Smith. He spoke in favor of the inclusion of the steam engine, but recommended the revenues from the rental fee be solely dedicated for repair and maintenance of the train.

Director Good also spoke in favor the item and expressed much appreciation to Mr. Alsup and the Parks and Recreation Commission for their work

Settle, seconded by Goodman, moved adoption of the ordinance with an amendment to remove the steam engine. The members voted as follows: ayes - Maddox, Settle and Goodman; nays - Tyler, Good, Hutchings and Campbell. The Mayor declared the motion defeated.

Campbell, seconded by Good, moved adoption of the ordinance as originally presented. The members all voting affirmatively, with the exception of Director Maddox, the Mayor declared the motion carried and the resolution was adopted and given No. 2-10.

Item No 4 was an ordinance establishing the fees for The Park at West End

Mr. Alsup briefed the Board on the item advising the Parks and Recreation Commission have reviewed the proposed fees and recommend approval. The \$1 fee for rides is less than what has previously been charged; however, such is recommended because staff feels the lower fee will ensure return ridership.

Administrator Kelly advised that the liability insurance for the Ferris wheel and carousel has been determined to cost approximately \$6,000 annually.

Director Tyler noted that the A & P Commission has indicated their intent to promote The

January 19, 2010 Regular Meeting

Park at West End and encouraged the Mayor, chairman of the A & P Commission, to ensure such is accomplished.

The following individual was present to address the Board:

- Bobby Aldridge
Parks & Recreation Commission

Re: Simply confirmed that the A & P Commission has committed to create and implement a marking plan for the park.

Goodman, seconded by Hutchings, moved adoption of the ordinance. The members voted as follows: ayes - Tyler, Good, Hutchings, Campbell and Goodman; nays - Maddox and Settle. The Mayor declared the motion carried and the ordinance was adopted and given No. 3-10.

Item No. 5 was a resolution amending R-71-08 to include charter service rates for the Fort Smith Public Transit

Director of Transit Ken Savage briefed the Board advising the item incorporates charter rates into the transit department's passenger fare rate schedule. Such is necessary to display the department's rates and minimum seven (7) day notification requirement, and to cover the total costs of performing incidental charter service. The Federal Transit Administration (FTA) does not allow grant funds to be used in competition with private charter providers; therefore, the rates must reflect, at a minimum, actual expenses. The Transit Advisory Commission held a public hearing on March 19, 2010 with no individual present to comment and unanimously approved the proposed rates. The rates will become effective February 1, 2010.

Administrator Kelly questioned if such includes a distance limitation on private charters.

Mr. Savage advised no distance limitation is included; however, the transit department tries to keep within a fifty (50) mile radius.

Mayor Baker questioned the status regarding placement of covered shelters for bus stops throughout the city.

January 19, 2010 Regular Meeting

Mr. Savage noted that no shelters have been ordered to date as locations are still being determined.

Settle, seconded by Campbell, moved adoption of the resolution. The members all voting affirmatively, the Mayor declared the motion carried and the resolution was adopted and given No. R-17-10.

The Consent Agenda (Item No. 6) was introduced for consideration, the items being as follows:

- A. Resolution of the Board of Directors of the City of Fort Smith expressing appreciation for Christmas Honors 2009
- B. Resolution accepting an amendment to the proposal for the purchase, stabilization and renovation of the former Mallalieu Church building (extending to January 31, 2011)
- C. Resolution authorizing partial payment to Branco Enterprises, Inc. for construction of the Phase II "P" Street Wastewater Treatment Plant Wet Weather Improvements-Schedule 2 (\$626,435.85)
- D. Resolution accepting the bid of and authorizing the Mayor to execute a contract with Wilson Brothers Construction Company, Inc. for the Ramsey Tributary Basin MC-05 Sewer Improvements (\$463,955.50)

Regarding Item No. 6A, Director Settle extended much appreciation to Phil Merry and all those who helped to coordinate the event, as well as all the volunteers who worked to place the wreaths at the National Cemetery.

Mayor Baker recommended, with Board concurrence, that the language within the resolution, "*a core team of eight other citizens*" be removed and replaced with each individual's name.

Mr. Merry and Lea Taylor addressed the Board and announced that a time capsule, to be opened in fifty (50) years, will be placed in the cemetery containing photographs of the event and

January 19, 2010 Regular Meeting

the sign-up sheet with the names of all volunteers.

With regard to Item No. 6B, Director Tyler expressed concern with the security of the building and questioned who would be liable if someone were hurt due to the structure. He further questioned if wood supports could be placed to prevent the structure from falling outward and if the boards currently over the windows could be painted.

Mr. Scott Hathaway, architect and co-signer of the agreement, advised the City of Fort Smith remains the legal owner until adequate funds are raised to actually purchase the property from the City. With regard to the requested wood supports, it would be very difficult to provide such additional security measures without a great expense; however, the painting of windows can be considered.

Director Maddox inquired about having another engineering report regarding the structural integrity of the building whereby Mr. Hathaway confirmed they agreed to do so; however, such has not been completed to date.

Director Good recommended signs be posted advising the public of the danger or placement of temporary fencing around the structure to ensure appropriate distance is maintained.

Mr. Bailey noted that fencing is not an option simply because of the structure's close proximity to the street. In order to place the fencing at an appropriate distance, such would require blocking the sidewalk and/or closure of the street. He expressed great concern with the integrity of the structure citing it is "*in very serious condition*".

Director Goodman noted staff has been concerned with the structural integrity of the building for over two (2) years and has indicated the structure is a public hazard. Due to such, he requested the aforementioned engineer's report be submitted within thirty (30) days to determine if the structural integrity has decreased since first inspected. If the report identifies the structure

January 19, 2010 Regular Meeting

as being unsalvageable or the cost is too great to repair, he recommended the structure be demolished. He further recommended the item be removed from the consent agenda and voted on as a separate item.

The following individual was present to address the Board:

- David Harris
2025 South "V" Street

Re: Commented that the Darby House was in similar disrepair prior to its renovation and such is now an asset to the community and utilized for many events. Due to such, he urged every effort be made to save the structure.

Hutchings, seconded by Settle, moved adoption of all consent agenda items with the aforementioned amendment to Item No. 6A and the exclusion of Item No. 6B, which will be voted on as a separate item. The members all voting affirmatively, the Mayor declared the motion carried and the resolutions were adopted and numbered R-18-10 and R-20-10 through R-21-10 respectively.

Goodman, seconded by Campbell, moved adoption of Item No. 6B contingent upon an engineer's report, due within sixty (60) days, that the structure has not become more of a hazard to public. The members all voting affirmatively, the Mayor declared the motion carried and the resolution was adopted and given No. R-19-10.

Mayor Baker opened the Directors Forum with the following wishing to comment:

- ▶ Director Settle

Re: 1. Regarding the January 26th special study session to discuss quality of place issues, he requested the Fort Smith School District and University of Arkansas Fort Smith be invited to participate.

2. Noted that the amount of state and federal funding to municipalities is based on population; therefore, he urged all residents to participate in the upcoming census to ensure an accurate count is achieved.

January 19, 2010 Regular Meeting

3. Requested staff to review existing bonds to determine if refinancing of said bonds would be feasible.

▶ Director Campbell

Re: Simply advised he distributed various information to Board regarding issues to be discussed at the January 26th special study session.

▶ Director Good

Re: Expressed much appreciation to all those who attended a recent event at the Fort Smith Museum of History.

The Mayor offered the floor to Administrator Kelly for the City Administrator's Report whereby he advised the trip to Washington, D.C. to lobby for "Quality of Place" funding is scheduled for February 23rd through 25th. Since multiple directors will be traveling to Washington, D.C., the study session scheduled for February 23rd has been cancelled.

An executive session was held and after reconvening, the Mayor announced the following appointment nominations:

ARKANSAS FAIR AND EXHIBITION FACILITIES BOARD

John Ayers (reappointment)
Term expires March 7, 2015

OUTSIDE AGENCY REVIEW PANEL

Peggy Weidman
Madeline Martinez
Barbara Peterson
Elizabeth Momand
Jeromy Price
Derrick Joe
Steve Rinke
Jonathan Fry
Sherry Savage

Terms to be determined

PLUMBING ADVISORY BOARD

Herbert Davis (reappointment)
Scott Hathaway (reappointment)
Terms expire February 28, 2014

January 19, 2010 Regular Meeting

Settle, seconded by Hutchings, moved acceptance of all appointment nominations. The members all voting aye, the Mayor declared the motion carried.

With regard to the performance evaluation of Administrator Kelly, Mayor Baker simply announced that no salary increase was discussed.

There being no further business to come before the Board, Settle moved that the meeting adjourn. The motion was seconded by Maddox, and the members all voting aye, the Mayor declared the motion carried, and the meeting stood adjourned.

APPROVED:


MAYOR

ATTEST:



CITY CLERK *acting*