

MINUTES OF BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ MAY 18, 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 Steve Tyler, 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, and Kevin Settle. Director Cole Goodman arrived during the discussion of item No. 1. A quorum was declared present.

Mayor Baker presented the following proclamations:

◆ ***Public Works Week in Fort Smith, Arkansas ~ May 16 thru May 22***

This year's theme is "Above, Below, and All Around You!". Mayor Baker noted that the special week provides an opportunity to recognize the importance of street, water & sewer, sanitation, stormwater, parks, public transit, and capital project management. The provision of essential public services relies on the dedication of employees in the public works departments which helps create the foundation for a stronger, more livable community. A public works appreciation picnic will be held Wednesday, May 19th at Fort Smith River Park from 11:00 a.m. to 1:00 p.m. Mayor Baker, along with the Board of Directors and City Administration, extended appreciation to the following departments and presented each department director with a red rose:

- ◆ Stan Snodgrass, Director of Engineering
- ◆ Steve Parke, Director of Utilities
- ◆ Mike Alsup, Director of Parks & Recreation
- ◆ Ken Savage, Director of Fort Smith Public Transit
- ◆ Baridi Nkokheli, Director of Sanitation
- ◆ Bob Wright, Director of Operations

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◆ **May is Building Safety Month in Fort Smith, Arkansas**

Mayor Baker noted the important work of the City Building Department to promote building safety and security to our citizens. The safety of buildings that we occupy daily is essential to the health and welfare of our community. On behalf of the department, Building Official Jimmie Deer accepted the proclamation and red rose.

◆ **May is National Preservation Month in Fort Smith, Arkansas**

Mayor Baker recognized historic preservation in the city and efforts to preserve the historic homes and other structures. Senior Planners Maggie Rice and Brenda Andrews accepted the proclamation and red rose on behalf of the City Planning Department.

The minutes of the May 4, 2010 regular meeting were presented for approval. Settle, seconded by Hutchings, moved approval of the minutes as written. The members present all voting aye, the Mayor declared the motion carried.

Mayor Baker welcomed in attendance Caleb Young of Boy Scouts Troop 123. Caleb was in attendance to earn points toward his citizenship badge.

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.

Item No. 1 was an ordinance repealing and replacing Article II of Chapter 2, Sections 2-26 through 2-47 of the Fort Smith Municipal Code. ~ *this item was tabled at the May 4, 2010 regular meeting* ~

Deputy Administrator Ray Gosack briefed the members on the item as previously reviewed at the April 27th and May 11th study sessions. Section 2-42(f) regarding the

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internal auditor has been modified as the Board directed at the May 11th study session to read as follows: *“Directors and the mayor may request information directly to the internal auditor, who will respond directly to the requesting director or mayor.”* The changes within the ordinance modernize the code, streamline procedural matters, reflect the board’s actual operating practices, and brings the code into compliance with the Arkansas Freedom of Information Act.

The following individuals were present to address the item:

◆ David Harris
2025 South V Street

- ▶ Suggested that reference to assistant mayor within Section 2-34(b) is the appropriate title consistent with state code and any reference to vice-mayor is not appropriate. City Clerk Cindy Remler responded that she was most certain that the code had been amended to include title of vice mayor and would confirm such. Section 2-34(b) would be corrected to be consistent with state code. *(Note: Arkansas State Code 14-48-112 does in fact refer to assistant mayor or vice mayor)*
- ▶ Referenced section 2-34 and suggested use of the word “chair” more appropriate than “chairman”.
- ▶ Referenced Section 2-35(b) ‘Rules of Order’ and requested clarification regarding ‘point of order’.

Deputy Administrator Gosack responded that the mayor, as chairman, always has the option to enforce a point of order. If the board makes a motion and second to end the presentation by a citizen, the mayor can either refer the question to a vote or enforce point of order with no need of a vote.

◆ Eric Arthur
815 North B Street

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- ▶ Referenced Sections 2-40 and 2-41 relative to salaries and actual expenses, and suggested there be a cap on expense accounts for the mayor and board.

It was noted that there are no expense accounts; monies are budgeted each year and everyone has to operate within said budget.

- ▶ Referenced Section 2-44 'citizen complaints & citizen initiated items of business' - he questioned a citizen having to wait 1 year from board's determination to not consider the matter any further.

Goodman, seconded by Maddox, moved adoption of the ordinance to include a correction to Section 2-34(b) to properly reflect use of the titles *assistant mayor or vice mayor* in order to be consistent with state code. The motion also included 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 Campbell, moved adoption of Section 2, the emergency clause, and the members all voting affirmatively, the Mayor declared the motion carried, and the ordinance and emergency clause was adopted and given No. 24-10.

Prior to consideration of the next item, Mayor Baker introduced a resolution authorizing settlement of claims of estate of John A. Woods, III, deceased, and advised that the city administrator requested such be added to the agenda.

Hutchings, seconded by Maddox, moved that the item be added to the agenda as item No. 5. The members all voting affirmatively, the Mayor declared the motion carried.

Item No. 2 was an ordinance ordering the owners of certain dilapidated and

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substandard housing to demolish same, authorizing the city administrator to cause the demolition of such structures to occur, and for other purposes ~ 3602 Reed Lane & rear storage building, and 2910 North K Street.

Building Official Jimmie Deer briefed the members on the properties in question, advising that all have been condemned, and the owners have not been in contact with the building department regarding permits or any desire to repair the structures.

Campbell, seconded by Tyler, moved adoption of the ordinance. The motion included 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. Settle, seconded by Good, moved adoption of Section 5, the emergency clause, and the members all voting affirmatively, the Mayor declared the motion carried, and the ordinance and emergency clause was adopted and given No. 25-10.

Item No. 3 was a resolution accepting and prioritizing the recommendations of the Homelessness Task Force.

Senior Planner Brenda Andrews briefed the members on the item as such was reviewed in a special study session with the task force on Monday, May 3, 2010. The Board was also briefed on the recommendations at a study session March 30, 2010. The resolution will give the Board and staff direction in preparation of budgets, pursuing funding opportunities, and review other decisions related to homelessness issues. The prioritized recommendations are as follows:

1. Strengthen the Old Fort Homeless Coalition with city involvement through a full-time paid staff person

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2. Explore a campus site in a current industrial area south of Garrison Avenue
3. Old Fort Homeless Coalition conduct an analysis of homelessness services to identify any gaps in service to the homeless
4. Put more teeth in existing ordinances and hold property owners responsible for the maintenance of their properties, and add more staff to administer ordinances
5. Identify a homeless management reporting system to identify the scope of the homeless problem in our area
6. Establish a campus setting with a consolidation of services that will eliminate travel, duplication of services, and better represent the dignity of homeless persons (including exploring funding sources and solutions to the disposition of service providers existing facilities
7. Continuation of enhanced police protection in the Belle Grove and downtown areas
8. Create a job corps, through the Old Fort Homeless Coalition, and that the city give priority to the jobs corps when city services, such as lot clean ups are contracted
9. Undertake a community education program to generate support (awareness) for the homeless and a homelessness campus

The following individuals were present to address the item:

- ◆ David Harris
2025 South V Street

Referenced priorities 2 and 6, and suggested that the City explore use of the 'new market tax credits' for the campus funding.

- ◆ Eric Arthur
815 North B Street

- ▶ Suggested that a campus environment will only increase homeless persons entering the city.
- ▶ Questioned priority number 4 and what such has to do with homelessness.

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- ◆ Linda Gabriel
Next Step Day Room
123 North 6 Street

Expressed appreciation to the task force and members of the City staff for the many hours of work on this project.

There was considerable discussion regarding implementation of the recommendations. Administrator Kelly advised that hiring of a full-time paid staff person will be considered during the 2011 budget process, and in the interim, several department directors will be involved. While several items require funding in order to implement, there are others, however, that can be addressed now.

Campbell, seconded by Hutchings, moved adoption of the resolution. The members all voting affirmatively, the Mayor declared the motion carried, and the resolution was adopted and numbered R-91-10.

The Consent Agenda (Item No. 4) was introduced for consideration, the items being as follows:

- A. Resolution granting a temporary revocable license for the placement of a storage building in a public utility easement pursuant to terms of agreement and authorizing Mayor to execute agreement (8609 Vickery Lane)
- B. Resolution granting a temporary revocable license for the placement of two driveways in a public right-of-way pursuant to terms of agreement and authorizing Mayor to execute agreement (2025 South "S" Street and 1912 South 21st Street)
- C. Resolution to accept the bids and authorize contracts for the construction of Street Overlays/Reconstruction, Project No. 10-03-E (\$1,739,088.05)
- D. Resolution accepting bid for the remodel of the sanitation administration building (\$56,222.53)

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- E. Resolution authorizing the purchase of a tv inspection van for use by the sewer line maintenance department (\$220,000.59)
- F. Resolution authorizing the execution of a memorandum of agreement between the City of Fort Smith, Arkansas, and PoliceReports.US concerning the online distribution and collection of fees for accident reports on behalf of the Fort Smith Police Department
- G. Resolution authorizing the Mayor to execute an easement with Oklahoma Gas and Electric Company
- H. Resolution authorizing partial payment to Crossland Heavy Contractors, Inc., for construction of the Lake Fort Smith Water Treatment Plant - Contract 3 (\$2,376,299.36)
- I. Resolution authorizing the Mayor to execute an agreement with Old Republic Surety Company for the settlement of performance obligations by surety associated with construction of the Lake Shepherd Springs Recreational Area, Swimming Pool and Pump House Project (\$74,250.00)
- J. Resolution authorizing acquisition of real property interests for the Sunnymede Basin Sewer Improvements Project (\$10,981.00)
- K. Resolution authorizing partial payment to Branco Enterprises, Inc. for construction of the Phase II "P" Street Wastewater Treatment Plant Wet Weather Improvements - Schedule 2 (\$654,332.85)
- L. Resolution accepting the bid of and authorizing the Mayor to execute a contract with Dixon Contracting, Inc. for the Sunnymede Walking Trails (\$582,629.00)

Director Settle addressed item C and proposed overlay of Savannah Street. He questioned if the expansion of Hwy. 45 between Phoenix and Zero no longer included plans to straighten the "jog" portion of Savannah Street. Director of Engineering Stan Snodgrass responded that Savannah was not included in the highway department project, thus, the reason it is included in city overlay project.

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Maddox, seconded by Tyler, moved adoption of the Consent Agenda. The members all voting affirmatively, the Mayor declared the motion carried, and the resolutions were adopted and numbered R-92-10 through R-103-10.

Item No. 5 was a resolution authorizing settlement of claims of estate of John A. Woods, III, deceased.

Attorney Rick Wade representing the city attorney's office, briefed the members on the item. Mr. John A. Woods, III, was arrested in January 2009 for public intoxication, and died shortly thereafter in the Sebastian County Detention Center as a result of an overdose of methamphetamine. The lawsuit, filed by his estate, named the City of Fort Smith, Police Chief Kevin Lindsey, as well as police officers involved in the arrest, and dispatchers who handled the emergency 911 call. Additional defendants included Sebastian County, its county administrator, Sheriff Frank Atkinson, and several jailers. A settlement conference was held on May 6, 2010, led by U.S. Magistrate James Marschewski, acting as a mediator. A tentative settlement was reached with Sebastian County agreeing to pay \$130,000 and it is recommended that the City of Fort Smith contribute \$15,000 to that settlement. Mr. Wade advised that at minimum, if the lawsuit were to proceed to trial, it is anticipated that the City's legal expenses in defending itself and the employees involved, would well exceed the proposed settlement amount. The release document for the settlement will be drafted in such a way that there is no admission of liability.

Following discussion, Hutchings, seconded by Maddox, moved adoption of the resolution. The members voted as follows: ayes - Tyler, Maddox, Campbell, Settle, and Goodman; nays - Good and Hutchings. The Mayor declared the motion carried, and the resolution was adopted and numbered R-104-10.

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Mayor Baker opened the Directors Forum with the following director wishing to comments:

▶ Director Settle

Requested a special meeting prior to May 25th study session to consider an ordinance banning "K-2" substance. After some discussion it was suggested that the issue first be placed on the agenda for the May 25th study session for review to which Director Settle concurred.

Mayor Baker offered the floor to Administrator Kelly whereby Mr. Kelly reminded of the Public Works cookout scheduled for Wednesday, May 19, 11:00 a.m. - 1:00 p.m. at the River Park Events Building.

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

AIRPORT COMMISSION

appointment tabled to the June 1, 2010 regular meeting

COMMUNITY DEVELOPMENT ADVISORY BOARD

Yvonne Keaton Martin ~ reappointed
Term Expires June 30, 2013

FORT SMITH MUNICIPAL EMPLOYEES BENEVOLENT FUND

Reappointed Ricky Brooks (police dept) Mark Talley (fire dept)
and Garry Cathcart (non-uniform rep)
Terms expire June 30, 2013

HOUSING ASSISTANCE BOARD

Karen V. Wuthrich
Jim Harris
Terms Expire April 30, 2012

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

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Mayor Baker announced that the performance evaluation for Administrator Kelly will be continued during an executive session at the June 1, 2010 regular meeting.

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

APPROVED:



MAYOR

ATTEST:



CITY CLERK