

MINUTES OF BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ JUNE 1, 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 and Kevin Settle. Director Cole Goodman arrived prior to presentation of Item No. 1. The Mayor declared a quorum present.

Pursuant to the newly adopted meeting procedures, Mayor Baker inquired if any Board member had an item of business to present that was not already on the agenda. There was none presented.

The minutes of the May 18, 2010 regular meeting were presented for approval. Hutchings, seconded by Campbell, moved approval of the minutes as written. The members present all voting aye, the Mayor declared the motion carried.

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 rezoning identified property and amending the zoning map from Commercial-Regional (C-4) to Residential Single Family Medium Density (RS-3) by classification at 701, 707, 709, 715, 719, 801, 704, 706, 716, 720 North 32nd Street

Senior Planner Maggie Rice briefed the Board on the item advising such is per the

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request of the City of Fort Smith and is a corrective zoning to accurately reflect how the area has developed. The proposed zone change was prompted due to the request of a property owner to initiate improvements to his residential structure whereby such was not allowed because of the commercial zoning classification. Upon approval, the amendment will allow the property owners in the area to alter or expand their use. As required, a neighborhood meeting was held on Tuesday, April 27, 2010 with only City staff in attendance. The Planning Commission held a public hearing on May 11, 2010 with no individual present to speak in opposition. The Planning Commission approved the rezoning request by a vote of nine (9) in favor and zero (0) opposed.

Director Hutchings requested confirmation that no opposition to the proposed rezoning had been conveyed whereby Ms. Rice confirmed such was correct.

Maddox, seconded by Campbell, 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 and the ordinance was adopted and given No. 26-10.

Item No. 2 was a resolution authorizing an amendment to the Western Arkansas Tennis Association agreement to allow advertising at the Creekmore Tennis Center

Director of Parks and Recreation Mike Alsup briefed the Board on the item as reviewed at the May 25, 2010 study session. The tennis courts at Creekmore Park are in need of resurfacing and approval of the proposed amendment will allow the Western Arkansas Tennis Association (WATA) to sell advertisements on the wind screens at each

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court to provide funding for the project, as well as other large maintenance or capital expenses. The Parks and Recreation Commission reviewed the matter and recommended approval of the proposed amendment. Although advertising is prohibited in city parks, the City Attorney has advised no amendment to the Municipal Code is required as the proposed resolution is sufficient to address the matter; therefore, he recommended approval.

Goodman, seconded by Maddox, 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-105-10.

Item No.3 was an ordinance amending Chapter 14, Article II, of the Fort Smith City Code of Ordinances to add a section regulating the possession, sale and ingestion of certain substances

Police Chief Kevin Lindsey briefed the Board on the item as discussed at the May 25, 2010 study session. Currently, legal herbal mixtures and synthetic chemical compounds, such as K-2, are being marketed as a “legal high” in the Fort Smith region. Several surrounding municipalities have banned the sale and possession of such products, which are currently sold within the city limits of Fort Smith in at least two locations. Some municipalities have prohibited the use of such products only for minors; however, the proposed ordinance prohibits the possession, sale and ingestion of certain substances for all ages.

Campbell, seconded by Hutchings, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by

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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. Goodman, seconded by Settle, moved adoption of 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. 27-10.

Item No. 4 was a resolution supporting the Fort Smith Housing Authority and its efforts to use New Market Tax Credits to stimulate development and redevelopment in low-to-moderate income areas of Fort Smith

Deputy Administrator Ray Gosack briefed the Board on the item as discussed at the May 11, 2010 study session. The tax credits are a stimulus tool offered by the federal government to encourage development and redevelopment in low-to-moderate income areas. In order to utilize the tax credits, a development plan must be prepared and approved by the City of Fort Smith Board of Directors. The Fort Smith Housing Authority (FSHA) is currently in the process of developing the plan and have indicated their intent to obtain public input to assist in its creation. Once finalized, the plan will be submitted for review and approval by the Planning Commission. The resolution essentially conveys the City's support for the FSHA to pursue the use of new market tax credits and to become the certified community development entity for the City. Although the FSHA will be the development entity, possible projects would not be limited to housing, and may include commercial, retail, office and institutional uses.

There was lengthy discussion with much concern expressed regarding the powers of eminent domain to acquire private property for private use.

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Ken Pyle, FSHA Executive Director, advised that the FSHA may only utilize said powers for acquisition of private property for public use; however, upon completion of the development, such property may be turned over to another private individual or entity for private use. The development plan will contain the types and general locations of the projects and the FSHA is hopeful to have the development plan presented to the Planning Commission in July. Upon approval by the Planning Commission, such will be presented to the Board at a study session soon thereafter. Formal consideration of the development plan by the Board of Directors is tentatively scheduled for the first meeting in August.

City Attorney Rick Wade clarified that the FSHA may only implement the power of eminent domain to acquire privately owned properties that are in blighted condition in nuisance areas of the city, which will be generally identified within the development plan. If property is initially acquired for public use and eventually utilized for private use, (provided the aforementioned criteria is followed and according to existing case law) he conveyed much assurance that such could withstand potential future litigation before the Arkansas Supreme Court. If the Board so desires, the City of Fort Smith may include additional conditions and/or guidelines within the development plan to ensure the improvement projects initiated by the FSHA coincide with the City's criteria for development or redevelopment.

Mayor Baker spoke in favor of the new market tax credits; however, he conveyed much concern with the proposed resolution and feels the City of Fort Smith should be the designated development agency to oversee the development projects.

Administrator Kelly noted that the City does not maintain adequate staffing to

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implement the program or obtain financing for such, and stated that the FSHA is better equipped to oversee the tax credit developments.

In response to Mayor Baker's comment, he advocated that the FSHA has the much needed experience to utilize low income housing tax credits and to oversee development projects. The U.S. Department of the Treasury requires development entities to provide a multi-year track record of development projects; therefore, such experience will be a valued asset for the City.

Director Tyler questioned if the FSHA will require additional staff to adequately manage the projects.

Mr. Pyle responded that the employment of two individuals, one clerical position and one full-time staff person is anticipated.

Campbell, seconded by Tyler, moved adoption of the resolution. Prior to the vote, Director Settle requested confirmation that the development plan must be approved by the Board prior to initiation of projects, and Mr. Pyle confirmed such is correct.

The motion remaining on the floor, the members voted as follows: ayes - Tyler, Hutchings, Maddox, Campbell, Settle and Goodman; nays - Good. The Mayor declared the motion carried and the resolution was adopted and given No. R-106-10.

Item No. 5 was a resolution to accept the bids and authorize contracts for the construction of Street Overlays/Reconstruction, Project No. 10-03-C (\$1,091,129.12)

Director of Engineering Stan Snodgrass briefed the Board advising the item authorizes contracts for asphalt street overlays, reconstruction and minor drainage improvements to Waldron Avenue, Euper Lane, Burnham Court, Duncan Road, South "Y"

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Street, Sunchase Lane, 68th Circle and Dallas Street. The total length of streets to be improved is approximately 2.0 miles.

Settle, 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 given No. R-107-10.

Mayor Baker commented that this date is Director Hutchings birthday and everyone joined in to sing "Happy Birthday" to him.

The Mayor opened the Officials Forum; however, no comments were offered.

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

AIRPORT COMMISSION
M. Scott Archer (reappointment)
Term expires June 30, 2013

Note: Director Hutchings left immediately prior to reconvening from executive session.

Settle, seconded by Good, moved acceptance of the appointment nomination. The members present all voting affirmatively, the Mayor declared the motion carried.

Mayor Baker simply announced that the performance evaluation of the City Administrator has been completed.

With regard to the time limit policy for persons wishing to address the Board, Mayor Baker communicated that due to the newly adopted meeting procedures, two (2) minutes will be allotted for those participating in the Citizens Forum.

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

- Eric Arthur
815 North "B" Street

Re: Expressed concern with the City's budget deficit, as well as the Mayor's budget, and inquired how such will be resolved.

Administrator Kelly noted that revenues are being closely monitored and upon completion of the second quarter (June 30), a determination will be made if additional budget adjustments are necessary.

- Paul Speer
27910 Highway 22
Charleston, AR

Re: Encouraged the decrease of "wasteful spending" and recommended street improvements be temporarily postponed and said monies utilized for other purposes until revenues are increased.

Director Settle clarified that street improvements were approved by the voters and Director Maddox noted that due to said tax being approved by voters, such monies may only be utilized for street improvements and no other purpose.

- Jerry Hamel
8701 Rogers Avenue

Re: Questioned the Mayor, City Administrator and each member of the Board if they were familiar with budgets and requested confirmation that the City can "live within its budget".

Director Settle simply noted that Arkansas State Law requires municipalities to maintain a balanced budget.

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- Nan Bartlett
1500 Fresno, Apt. 22

Re: Expressed much concern with the influx of illegal immigrants to the region; therefore, she urged the arrest of those violating immigration laws and encouraged the Board to take all necessary action to ensure such occurs.

Mayor Baker advised such authority must be granted by the federal government and noted the City of Fort Smith has requested such on multiple occasions; however, each request has been denied.

- Louis Vincent
28 Courtland Street

Re: Alleged police officers already maintain the authority to arrest illegal immigrants and urged such authority be utilized.

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

APPROVED:


MAYOR

ATTEST:


CITY CLERK