

MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ NOVEMBER 20, 2012 ~ 6:00 P.M.

FORT SMITH PUBLIC SCHOOLS SERVICE CENTER

The meeting was called to order by Mayor Sandy Sanders, presiding. Invocation was given by Pastor Jerry Jennings of Mount Moriah Missionary Baptist Church, followed by the Pledge of Allegiance. On roll call the following members of the Board were present: Directors Steve Tyler, Andre' Good, Don Hutchings, George Catsavis, Pam Weber, Kevin Settle and Phillip H. Merry, Jr. The Mayor declared a quorum present.

The Mayor inquired if any Board member had any item of business to present that was not already on the agenda. There was none presented.

The minutes of the November 6, 2012 regular meeting were presented for approval. Settle, seconded by Hutchings, moved approval of the minutes as written. The members all voting aye, the Mayor declared the motion carried.

Mayor Sanders presented a proclamation to Tim Hearn of Fort Smith EMS upon being named the 2012 National EMS Executive of the Year. The award was granted by the National Association of EMT's and the National EMS Management Association in recognition of multiple accomplishments made by Fort Smith EMS under Mr. Hearn's leadership.

Mayor Sanders announced this was the time and place set for a public hearing to certify to the Sebastian County Tax Collector delinquent property cleanup liens. 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.2).

City Clerk Sherri Gard briefed the board on the item advising the ordinance certifies to the Sebastian County Tax Collector a total of \$166,109.92 in delinquent

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property cleanup liens associated with those properties abated or structures demolished by the City of Fort Smith and each lien includes a 10% penalty. Hearings before the Property Owners Appeal Board were held on September 17th and 20th in the Bartlett Community Room at the Fort Smith Police Department. Notification of the hearings was by certified mail and publication in the Times Record. Nine (9) property owners attended the hearings.

Director Hutchings recognized the Property Owners Appeal Board, who were in attendance, for their work on the appeal process.

The following individual was present to address the Board:

- Brian Lovell
Fort Smith, AR

Re: Regarding cleanup liens on 4314 North 54th Street, he alleged no notice of the impending cleanup was received.

Mayor Sanders inquired if Mr. Lovell attended the public hearings before the Property Owners Appeal Board.

Mr. Lovell responded "no" citing he was not aware of the public hearings.

Due to such, Director Hutchings recommended the Mr. Lovell be allowed to address the Property Owners Appeal Board prior to certification of the subject cleanup liens.

Mrs. Gard advised the Property Owners Appeal Board meets on a monthly basis as needed and the next meeting is scheduled for December 12th at 11 a.m. at Fort Smith city offices; therefore, a special hearing will be set for said date.

There being no further individuals present to address the Board, Mayor Sanders closed the public hearing.

Hutchings, seconded by Good, moved adoption of the ordinance including

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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 motion further included the removal of liens for the property located at 4314 North 54th Street to allow the property owner to go before the Property Owners Appeal Board. The motion also included a provision to allow the removal of liens that have been paid since preparation of the ordinance. 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. 84-12.

Mayor Sanders recognized Sherry McKinney, who currently serves on the Property Owners Appeal Board, works with the Citizen Academy and Citizens Academy Alumni and has volunteered for various organizations around the city. Ms. McKinney will soon be moving to Florida; therefore, he conveyed much appreciation for her time and service to the City of Fort Smith.

Item No. 3 was an ordinance amending Section 14-155 of the Fort Smith Municipal Code for the purpose of amending the permitted zoning districts for sexually oriented business.

Director of Development Services Wally Bailey briefed the Board on the item advising such is due to city staff and city attorney's concern of potential future legal challenges regarding the city's current ordinance not permitting enough land area for sexually oriented businesses. In an attempt to get the ordinance closer to what the courts have said is an acceptable land area, city staff reviewed several possible scenarios. The presented amendment would increase the land area allowing sexually oriented businesses to be located in 4% of the City's corporate limits versus the current 1.4%. Such provides a more desirable legal position should a legal challenge occur.

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Good, seconded by Settle, 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 voted as follows: ayes – Tyler, Good, Catsavis, Weber, Settle and Merry; nays – Hutchings. The Mayor declared the motion carried and the ordinance was adopted and given No. 85-12.

Item No. 4 was a resolution authorizing execution of a settlement agreement regarding HOME Program interest in Lots 10, 11 and 12 of Koller Place Subdivision to the City of Fort Smith and authorizing the city administrator and city attorney to approve and execute any document necessary to effectuate approved settlement agreement.

City Administrator Ray Gosack briefed the Board on the item. The Board authorized continued investigation and litigation regarding the subject HOME Funds loan per Resolution No. R-220-12, adopted October 16, 2012. The City Attorney had discussions with Barlee Properties and Lend-a-Hand's legal counsel about resolving the potential litigation whereby a tentative settlement has been reached. Barlee Properties agrees to extend the period of the below-market rental rates from 15 years to 20 years. The value of the additional 5 years of below-market rental rates is estimated to save lower income tenants \$19,000 and over the entire 20 years an estimated savings of \$78,000 and satisfy HUD requirements. Barlee Properties also agrees to pay the City \$37,500 that will go back into the City's HOME Program thus increasing the resources available for HOME-eligible projects. Upon approval, the City would avoid the possibility of having to repay the HUD \$150,000 and assures the additional \$37,500 for Fort Smith's HOME program. If further litigation is pursued and the City does not prevail, such would create the risk that the City would be required to repay the \$150,000 to HUD

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and losing the \$37,500 payment offered by Barlee Properties.

At the request of Administrator Gosack, City Attorney Jerry Canfield addressed the Board whereby he spoke in favor the proposed settlement.

If the proposed settlement is not accepted, Director Settle questioned the anticipated length of litigation.

Mr. Canfield advised typical litigation is nine (9) months at the local trial level and eighteen (18) months if an appeal is filed; therefore and due to the complicated issues involved, the process could be timely as well as expensive.

Director Merry clarified if the proposed settlement is approved, the City would not have to pay the \$150,000 and would avoid any future ramifications due to this issue.

Director Weber spoke in opposition to the proposed resolution citing the HOME program would suffer due to not receiving full repayment.

Directors Settle and Good spoke in favor of the item citing the proposed settlement cost and benefits outweighs the anticipated length and cost of litigation.

Hutchings, seconded by Good, moved adoption of the resolution. The members voted as follows: ayes - Tyler, Good, Hutchings, Settle and Merry; nays – Catsavis and Weber. The Mayor declared the motion carried and the resolution was adopted and given No. R-244-12.

Item No. 5 was a resolution accepting bid for uniform rental services.

Director of Purchasing Alie Bahsoon briefed the Board on the item advising an employee selection committee conducted interviews on November 13th whereby each vendor (Aramark, Cintas and Unifirst) was given the opportunity to expound on their bid proposal and respond to a series of questions. At the conclusion of the interviews, the committee considered numerous factors and the members voted for the preferred

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vendors by anonymously ranking the vendors by preference. Ten (10) votes were cast of which eight (8) members chose Cintas Corporation as their preferred vendor. Unifirst and Aramark each received one (1) first place vote. Cintas was chosen as the preferred bidder for several reasons some of which were: the opportunity cost benefit, mending and repairs of garments, replacement costs, comfort satisfaction, few complaints with existing contract, local excess inventory, proven reliable track record and excellent professional relationship with designated Cintas driver.

The following individual was present to address the Board:

- Shawn Hatcher, Unifirst representative
Fort Smith, AR

Re: Spoke in opposition of the proposed resolution alleging Unifirst was the low bidder and can offer the same excellent service while saving the city money.

Mr. Bahsoon reiterated after re-evaluation of all bidders the employee committee chose Cintas as preferred bidder due to several factors, one of which is the excellent relationship and service they have provided the City for the past seven (7) years.

There was brief discussion whereby several Directors conveyed multiple questions and expressed concern that the numbers presented were skewed because not every employee will wear every garment listed.

Mr. Bahsoon advised this was an open ended bid, with the only pre-requisite being the vendor's attend a mandatory pre-bid meeting.

Settle, seconded by Hutchings moved to table consideration of the proposed resolution to the December 4, 2012 regular meeting to allow staff to calculate the exact cost savings. The members voted as follows: ayes - Tyler, Good, Hutchings and Settle; nays – Catsavis, Weber and Merry. The Mayor declared the motion carried.

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Item No. 6 was an ordinance amending Section 2-26 of the Fort Smith Municipal Code setting the time and location for the regular meeting of the Board of Directors for the year 2013.

Mrs. Gard briefed the Board on the item advising the governing body is required by law to set the dates, time and location for regular meetings for the upcoming year; therefore, such is the annual ordinance to accomplish such for the year 2013. As recommended at the November 13, 2012 study session, all regular meetings were scheduled for the first and third Tuesday of each month with the exception of the months of January, March and July whereby said meeting dates were recommended as follows:

First/Third Tuesday	Recommended Date
First Tuesday, January 1 (<i>New Years Day</i>)	Thursday, January 3
Third Tuesday, March 19 (<i>week of spring break</i>)	Tuesday, March 26
First Tuesday, July 2 (<i>week of Independence Day</i>)	Tuesday, July 16

The school has advised the meeting room is unavailable the evening of Tuesday, March 26; however, such is available either Wednesday, March 27 or Thursday, March 28. The Board should determine which date is most feasible and include such in the motion to adopt the ordinance.

Settle, seconded by Weber, moved adoption of the ordinance as proposed with inclusion of the second regular meeting in March to be held on Monday, March 25. 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 voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given No. 86-12.

The Consent Agenda (Item No. 7) was introduced for consideration, the items

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being as follows:

- A. Resolution authorizing partial payment to Forsgren, Inc. for the construction of Garrison Avenue Streetscape, 9th Street – 13th Street, Project No. 09-90-B, Job 040545 (*\$638,867.03 / Engineering Department / Budgeted – Sales Tax Program Fund*)
- B. Resolution to accept bids and authorize contract for 2012 Street Striping Replacement, Project No. 12-85-A. (*\$72,982.72 / Engineering Department / Budgeted – Sales Tax Program Fund*)
- C. Ordinance declaring exceptional circumstance and authorizing continuation of agreement with Data-Tronics Corporation
- D. Resolution authorizing Change Order No. 1 with Forsgren, Inc. for the River Front Development Water and Sewer Extensions (*\$73,600.00 / Utility Department / Budgeted - 2008 Revenue Bonds*)
- E. Resolution authorizing the city administrator to accept an offer made by property owner for the acquisition of an easement in connection with the Lake Fort Smith 48-Inch Water Transmission Line Project (*\$12,000.00 / Utility Department / Budgeted - 2008 Revenue Bonds*)
- F. Resolution authorizing Change Order No. 9 with Crossland Heavy Contractors, Inc. for construction of the Lake Fort Smith Water Treatment Plant – Contract 3 (*\$1,500.00 reduction / Utility Department / Budgeted – 2008 Revenue Bonds*)
- G. Resolution accepting the project as complete and authorizing final payment to Crossland Heavy Contractors, Inc. for construction of the Lake Fort Smith Water Treatment Plant Contract 3 (*\$1,507,391.40 / Utility Department / Budgeted -2008 Revenue Bonds*)

Hutchings, seconded by Catsavis, moved adoption of all consent agenda items.

The members all voting affirmatively, the Mayor declared the motion carried and the ordinance and resolutions were adopted with the ordinance given No. 87-12 and the resolutions numbered R-245-12 through R-250-12 respectively.

Mayor Sanders opened the Officials Forum with the following comments offered:

- ♦ Mayor Sanders

Re: Announced the Christmas festivities at area parks will

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officially begin December 3rd; however, the Creekmore Express train at Creekmore Park will be up and running on November 23rd and 24th.

♦ Director Settle

Re: Congratulated UAFS women's volleyball team and coaches for being undefeated in conference tournament, as well as making it to regional finals; therefore, he conveyed much support for their continued success.

The Board convened into executive session at approximately 6:58 p.m. and after reconvening, Mayor Sanders announced the following appointment nominations:

HISTORIC DISTRICT COMMISSION

Charles Lane
Term expires July 31, 2014

OAK CEMETERY COMMISSION

Reginald Moore
Term expires November 30, 2015

NATIONAL LEAGUE OF CITIES CONFERENCES

(November 28 – December 1, 2012 / Boston, MA)

Jeff Dingman, Deputy City Administrator
Russell Gibson, Director of Information Technology

Settle, seconded by Hutchings, moved adoption of all appointment nominations.

The members all voting aye, the Mayor declared the motion carried.

Item No. 8 was discussion regarding downtown streetscape ~ *Placed on the agenda by Directors Weber, Tyler, Catsavis and Merry on Friday, November 16, 2012 ~*

The following individual was present to address the Board:

- Frank Sharum
Frank Sharum Landscape Design Inc.
Fort Smith, AR

Re: Expressed discontent with comments made at the recent City of Fort Smith budget hearings directly related to his business and the Garrison Avenue Streetscape, 9th – 13th Street Project 09-90-B.

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Director Weber commended Frank Sharum for the excellent job he does and expressed gratitude toward his willingness to invest in the beautification of Fort Smith with the streetscape project, as well as the beautification project city wide. She was disheartened to learn that the federal funding allocated to the Garrison Avenue Streetscape Project, that included streetscape improvement from 9th-13th Street, could be used only in said designated area. Much regret was conveyed for the issue and clarified that Mr. Sharum was unaware of her inquiry for additional funding. It was her effort to correct a perceived wrong and intent to improve the downtown area so Fort Smith could receive the full benefit of the completed design.

Director Merry also conveyed much appreciation to Mr. Sharum for his involvement in the project.

Director Tyler merely noted disappointment that an issue to complete the landscape design was not brought to the Board.

There being no further business to come before the Board, Settle moved that the meeting adjourn. The motion was seconded by Good, and the members all voting aye, the Mayor declared the motion carried and the meeting stood adjourned at 7:20 p.m.

APPROVED:



Mayor

ATTEST:



City Clerk