

MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ SEPTEMBER 17, 2013 ~ 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 Reverend Phil Redding of River of Life Fellowship, followed by the Pledge of Allegiance. On roll call the following members of the Board were present: Directors Keith Lau, Andre' Good, Mike Lorenz, George Catsavis, Pam Weber, Kevin Settle and Philip H. Merry, Jr. The Mayor declared a quorum present.

Mayor Sanders 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 September 3, 2013 regular meeting were presented for approval. Settle, seconded by Good, moved approval of the minutes as written. The members all voting aye, the Mayor declared the motion carried.

The Mayor announced that such is election day for the Fort Smith Public School Board; therefore, since polls do not close until 7:30 p.m., he noted "*there's still time*" and urged those who have not voted to do so.

Item No. 1 was an ordinance directing the installation of a four way stop at the intersection of Chad Colley Boulevard and Massard Road ~ *Settle/Merry placed on agenda at the September 3, 2013 regular meeting ~*

Director of Streets and Traffic Control Greg Riley briefed the Board on the item advising the proposed ordinance was requested due to a tragic accident that resulted in a fatality on August 29, 2013. It was suggested that had there been a four-way stop at the intersection, the fatal accident would not have occurred. This is the only reported accident

September 17, 2013 Regular Meeting

since the intersection opened in four (4) directions on September 22, 2011. Traffic control at intersections is typically controlled and managed using the Manual on Uniform Traffic Control Devices (MUTCD), which sets standards that are generally followed throughout the country. Traffic counts have been completed and Traffic Engineering Consultants (TEC) has provided an engineering report that indicates the subject intersection does not meet the MUTCD warrants for a four-way stop. In order to address concerns, TEC recommends changes to signage in the area, which are identified as follows:

- “Cross Traffic Does Not Stop” warning signs on Chad Colley Boulevard
- Appropriately spaced “Stop Ahead” warning signs on Chad Colley Boulevard
- Larger “Stop” signs on Chad Colley Boulevard
- “Cross Road” warning signs on Massard Road
- Decrease speed limit to 35 miles per hour in all directions

The following individual was present to address the Board:

- Larry Madden
Rye Hill area

Re: Alleged there is a lack of police presence at the subject intersection; however, he spoke in favor of the item citing every effort should be made to prevent another fatality at the location.

Director Settle spoke in favor of the item. Although the study indicates the intersection does not meet the warrants for a four-way stop, he conveyed disagreement with such; therefore, he recommended approval of the proposed ordinance.

Directors Good, Lau and Lorenz spoke in opposition to the item citing the Board of Directors should accept and adhere to the recommendations of those qualified to determine if a four-way stop is warranted. Concern was also expressed that a four-way stop will increase the likelihood of accidents; therefore, Director Good questioned if the police department maintains any concerns.

September 17, 2013 Regular Meeting

Police Chief Kevin Lindsey noted he feels the TEC recommendation for updated and additional signage is an appropriate resolution; however, the proposed four-way stop may be warranted as traffic increased in the area.

If the City proceeds with installation when the four-way stop does not meet warrants of the MUTCD, Director Catsavis questioned if such creates a legal issue for the City.

City Attorney Jerry Canfield advised state law grants municipalities discretion on such matters; however, it also requires municipalities to adhere to the MUTCD. The courts have indicated that issues regarding unwarranted traffic control devices may be raised with the Arkansas Highway and Transportation Department (AHTD), who maintains authority to require removal of such. He conveyed much confidence that unwarranted traffic controlling devices do not invalidate traffic citations and posed no concern that such will create a legal liability for the City.

Director Merry spoke in favor of the item citing anything that will assist in getting traffic to slow down *"is not a bad thing"*. If an issue arises and the AHTD requires the intersection to be returned to a two-way stop, the City can then simply remove the additional stop signs.

If the proposed ordinance is defeated, Director Lau inquired what will be done.

Mayor Sanders advised that if the measure is defeated, it's the City's intent to proceed with the above noted TEC recommendations for additional and updated signage.

Settle, seconded by Merry, 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 - Catsavis, Weber, Settle and Merry;

September 17, 2013 Regular Meeting

nays - Lau, Good and Lorenz. The Mayor declared the motion carried, but did not obtain five (5) affirmative votes required for passage on its first reading. Due to such, he announced the ordinance be will placed on the October 1, 2013 regular meeting agenda for its second reading.

The Consent Agenda (Item No. 2) was introduced for consideration, the items being as follows:

- A. Resolution encouraging the Arkansas Veterans' Home Task Force to locate the new Arkansas Veterans' Home at Chaffee Crossing in Fort Smith
- B. Resolution adopting annual audit requirements and retaining BKD, LLP as external auditors (*approximately \$143,000.00 / Finance Department / Budgeted - various funds*)
- C. Resolution authorizing the Mayor to execute an electric utility easement to Arkansas Valley Electric Cooperative for the Fort Smith Landfill Scale Facility (R-94-13)
- D. Resolution authorizing Amendment No. 1 to Authorization No. 2 with Brixey Engineering & Land Surveying, Inc. for engineering services for South 62nd Street Sewer Improvements (*\$9,000.00 / Utility Department / Budgeted - 2012 Sales and Use Tax Bonds*)
- E. Resolution authorizing a Change Order No. 1 with Forsgren, Inc. for South 62nd Street Sewer Improvements (*\$15,324.98 / Utility Department / Budgeted - 2012 Sales and Use Tax Bonds*)
- F. Resolution accepting the project as complete and authorizing final payment to Forsgren, Inc. for South 62nd Street Sewer Improvements (*\$36,670.00 / Utility Department / Budgeted - 2012 Sales and Use Tax Bonds*)
- G. Resolution authorizing the Mayor to execute an agreement with CDM Smith, Inc. for providing engineering services for Basin 17 Collection System Improvements Evaluation (*\$78,000.00 / Utility Department / Budgeted - 2012 Sales and Use Tax Bonds*)

September 17, 2013 Regular Meeting

- H. Resolution authorizing the City Administrator to accept an offer made by property owner for the acquisition of easements in connection with Mill Creek Interceptor Improvements - Phase II (\$1,600.00 / Utility Department / Budgeted - 2012 Sales and Use Tax Bonds)
- I. Resolution authorizing partial payment to Archer Western Construction, LLC for the construction of Zero Street Pump Station Wet Weather Improvements - Pump Station and EQ Storage (\$920,588.63 / Utility Department / Budgeted - 2012 Sales and Use Tax Bonds)

Director Weber questioned who selects the City's auditor. and how often the auditor is changed.

Internal Auditor Mitzi Kimbrough advised the Audit Committee selects the auditing firm.

Administrator Gosack advised the auditor is selected annually; however, clarified that even if the same auditing firm is selected for multiple years, different personnel are utilized each year.

Settle, seconded by Lorenz, moved adoption of all consent agenda items. The members all voting affirmatively, the Mayor declared the motion carried and the resolutions were adopted and numbered R-141-13 through R-149-13 respectively.

Item No. 3 was an ordinance amending Fort Smith Municipal Code Section 2-221 to establish a \$1,000.00 reimbursement limit on sanitary sewer backup claims
~ Settle/Merry placed on agenda at the September 10, 2013 study session ~

Administrator Gosack briefed the Board on the item advising the city's current policy maintains a \$500 limit for payment of claims related to sanitary sewer backups. The amount was intended to meet the typical insurance deductible and to close the gap in coverage to prevent any out-of-pocket expense for residents. There was recent interest

September 17, 2013 Regular Meeting

to increase the limit as some insurance companies have adjusted their deductibles to \$1,000 or that it is becoming more common for property owners to choose the higher deductible in order to reduce the overall cost of insurance. He further encouraged all residents to ensure that their homeowner's policy includes coverage for sanitary sewer backups and noted that inclusion of such is relatively inexpensive.

Lau, seconded by Weber, 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 Merry, 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. 47-13.

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

◆ Mayor Sanders

- Re:
1. Noted much appreciation that Governor Beebe was in Fort Smith for last week's announcement that Thermold Magazines is moving their national headquarters to Fort Smith. Such is an estimated \$7 million investment that creates approximately 60 new jobs in the city.
 2. Advised that more than 1,200 new jobs in Fort Smith have been announced since December 2012.
 3. Announced that approximately 500 employees of HMA, Inc. began moving into their facility at the former Phoenix Expo Center.
 4. Extended much congratulations to the Arkansas Best Corporation upon celebrating their 90th Anniversary.

September 17, 2013 Regular Meeting

◆ Director Catsavis

Re: Announced the Arkansas-Oklahoma State Fair is September 20th - 28th at Kay Rodgers Park and encouraged all to attend.

◆ Administrator Gosack

Re: 1. Advised an update on the 2014 Budget and proposed Five Year Capital Improvement Program for streets, bridges and associated drainage will be presented at the September 24, 2013 study session.

2. Reminded all that the 2014 budget review hearings are scheduled for November 12, 14 and 18; therefore, encouraged the Board to ensure their calendars reflect said dates.

The Board entered into an executive session at approximately 6:29 p.m. and after reconvening, Mayor Sanders announced the following appointment nomination:

FIRE CODE BOARD OF APPEALS AND ADJUSTMENTS

Mike Schluterman (reappointment)

Term expires October 31, 2017

Catsavis, seconded by Lorenz, moved acceptance of the appointment nomination.

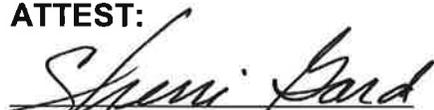
The members all voting aye, the Mayor declared the motion carried.

There being no further business to come before the Board, Merry 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 6:34 p.m.

APPROVED:


MAYOR

ATTEST:


CITY CLERK