

**MINUTES OF BOARD OF DIRECTORS SPECIAL MEETING**

**TUESDAY ~ DECEMBER 10, 2013 ~ 12:00 NOON**

**FORT SMITH PUBLIC LIBRARY COMMUNITY ROOM**

The special meeting was called by Directors Keith Lau, Pam Weber, Kevin Settle and Philip H. Merry for the purpose of considering the following:

1. Items regarding acquisition of property for the Mill Creek Pump Station and Equalization Tank Project
  - A. Resolution authorizing the City Administrator to accept an offer made by property owner for the acquisition of real property in connection with the Mill Creek Pump Station and Equalization Tank Project *(\$147,500.00 / Utility Department / Budgeted - 2012 Sales and Use Tax Bonds)*
  - B. Resolution authorizing acquisition of real property in connection with the Mill Creek Pump Station and Equalization Tank Project *(\$86,000.00 / Utility Department / Budgeted - 2012 Sales and Use Tax Bonds)*

The special meeting was called to order by Mayor Sandy Sanders presiding. On roll call the following members were present: Directors Keith Lau, Andre' Good, Mike Lorenz, George Catsavis, Pam Weber, Kevin Settle and Philip H. Merry, Jr. A quorum was declared.

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.

As directed at the December 3, 2013 regular meeting, City Administrator Ray Gosack advised staff met with the property owner, Mr. Steve Beam, to discuss acquisition of the subject property. Such took place on Thursday, December 5, 2013 whereby the City extended an offer of \$115,000 for the property; however, Mr. Beam advised he would accept no less than \$147,500. Item No. 1A authorizes acquisition of the subject property

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for Mr. Beam's final offer of \$147,500. Item No. 1B is the same resolution presented for consideration at the December 3, 2013 regular meeting, which authorizes acquisition of the property for \$86,000 and initiation of eminent domain proceedings to ensure the project may proceed on schedule. If the Board adopts Item No. 1B, he conveyed much assurance that negotiations will continue. Approval of either resolution will ensure the City acquires the property, which will allow the City to move forward with necessary sanitary sewer system improvements.

The following individual was present to address the Board:

- David Armbruster  
Fort Smith, Arkansas

Re: Although he understands the property acquisition will create an inconvenience for Mr. Beam, he feels \$147,500 is too high (Item No. 1A). Due to such, he spoke in favor of Item No. 1B, which authorizes initiation of eminent domain proceedings with a starting amount of \$86,000; however, he encouraged the City to compromise and possibly increase the amount to help offset some of the required relocation expenses.

There was lengthy discussion regarding the importance of acquiring the property in a timely manner to ensure the project remains on schedule to satisfy Department of Justice (DOJ) requirements; determination of property value and inclusion of relocation expenses (confirmed by Mr. Ken Beam to be approximately \$20,000); and, the cost for litigation if eminent domain is initiated.

Director Weber moved to amend Item No. 1A reducing the amount from \$147,500 to \$115,000. Prior to receiving a second, Administrator Gosack recommended the motion include a provision that said amount must be accepted by the property owner by 12:00 Noon, December 17, 2013. If such is not accepted by said time and to ensure the property

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is acquired to address DOJ time constraints, Item No. 1B can then be presented for consideration at the December 17, 2013 regular meeting.

Director Weber noted acceptance of the recommended provision; however, no second was offered on the motion. Due to such, Mayor Sanders declared the motion defeated for lack of a second.

Merry, seconded by Catsavis, moved adoption of Item No. 1A as originally presented (\$147,500.00). The members voted as follows: ayes - Good, Catsavis, Settle and Merry; nays - Lau, Lorenz and Weber. The Mayor declared the motion carried and the resolution was given Resolution No. R-183-13.

There being no further business to come before the Board, Settle moved that the meeting adjourn. The motion was seconded by Lorenz, and the members all voting aye, the Mayor declared the motion carried, and the special meeting stood adjourned at 12:27 p.m.

**APPROVED:**

  
MAYOR

**ATTEST:**

  
CITY CLERK