

MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ OCTOBER 7, 2014 ~ 6:00 P.M.

FORT SMITH PUBLIC SCHOOLS SERVICE CENTER

The meeting was called to order by Vice-Mayor Kevin Settle, presiding. Invocation was given by Billy McDaniel, Executive Pastor from Eastside Baptist Church, followed by the Pledge of Allegiance. On roll call the following members of the Board were present: Directors Keith Lau, Andre' Good, George Catsavis, Pam Weber, Kevin Settle and Philip H. Merry, Jr. Director Lorenz arrived during presentation of Item No. 1. The Vice-Mayor declared a quorum present.

Vice-Mayor Settle noted the absence of Mayor Sandy Sanders citing he recently underwent minor knee surgery, but is doing well and expected to be back in the office later in the week. He further extended wishes for a very speedy recovery.

The Vice-Mayor acknowledged attendance of several members of Citizens Academy Class 15; therefore, he extended a heartfelt welcome.

Vice-Mayor Settle 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 16, 2014 regular meeting and October 2, 2014 special meeting were presented for approval. Good, seconded by Weber, moved approval of the minutes as written. The members present all voting aye, the Vice-Mayor declared the motion carried.

With regard to the time limit policy for persons wishing to address the Board, the Vice-Mayor communicated that five (5) minutes per side would be granted for controversial items with three (3) minutes for rebuttal per side, and two (2) minutes for comments only.

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Item No. 1 was an ordinance establishing a limited policy of the City of Fort Smith, Arkansas, for the hearing and settling of specifically identified tort claims.

City Administrator Ray Gosack briefed the Board on the item citing such is due to a recent event whereby a resident experienced flooring damage directly associated with a leak in the City's water service line. The existing policy contains no reference for damage claims for a water service line leak; therefore, the proposed policy addresses the matter and provides that such occurrences on a date after January 1, 2014 may be processed under the new policy.

Merry, seconded by Catsavis, 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, Vice-Mayor Settle declared the motion carried. Catsavis, seconded by Merry, moved adoption of Section 3 the emergency clause. The members all voting affirmatively, the Vice-Mayor declared the motion carried and the ordinance and emergency clause were adopted and given Ordinance No. 54-14.

Item No. 2 was a resolution approving and authorizing implementation of the Five-Year (2015-2019) Sales Tax Program for street, bridges and related drainage improvements ~ Merry/Lau placed on agenda at the September 23, 2014 study session ~

Director of Engineering Stan Snodgrass briefed the board on the item as discussed at the September 23, 2014 study session. Such authorizes implementation of the proposed projects within the Sales Tax Program.

In order to provide citizens access to upcoming projects, Director Settle

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recommended the Capital Improvement Projects (CIP) be posted on the City's website.

Mr. Snodgrass advised all CIP projects are consistently posted on the City's website under Engineering Department's link.

Weber, seconded by Catsavis, moved adoption of the resolution. The members all voting affirmatively, the Vice-Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-136-14.

Item No. 3 consisted of the following millage ordinances:

- A. Ordinance fixing the rate of and levying five (5.0) mills upon all taxable real and personal property in the city of Fort Smith, Arkansas for the year 2014 for general purposes
- B. Ordinance to levy one (1) mill tax upon each dollar of assessed value of taxable real and personal property to be used for maintenance of a public-city library pursuant to the provisions of Amendment No. 30 of the Constitution of the State of Arkansas of 1874 adopted November 5, 1940, and for other related purposes
- C. Ordinance to levy one (1) mill tax upon each dollar of assessed value of taxable real and personal property for Police Retirement and Pension Fund, pursuant to the provisions of Amendment No. 31 of the Constitution of the State of Arkansas of 1874 adopted November 5, 1940, and for other related purposes
- D. Ordinance to levy one (1) mill tax upon each dollar of assessed value of taxable real and personal property for Fire Retirement and Pension Fund, pursuant to the provisions of Amendment No. 31 of the Constitution of the State of Arkansas of 1874 adopted November 5, 1940, and for other related purposes

Administrator Gosack advised the items contain no change and is merely a continuation of the existing millage rates. Upon approval, the ordinances will be certified to the Sebastian County Clerk for presenting to the Quorum Court when considering the

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millage for all cities in Sebastian County at their November meeting. With the exception of a couple years in the 1980's when millage for all cities in Arkansas was reduced, the city's millage for general purposes has been five (5) mills since 1892.

Merry, seconded by Lorenz, moved adoption of all millage ordinances. The motion included suspending the rule to allow the three (3) full readings of the ordinances to be by caption and for the readings to occur on the same date. The City Clerk read each ordinance and members all voting affirmatively, the Vice-Mayor declared the motion carried and the ordinances were adopted and given Ordinances No. 55-14 through 58-14, respectively.

Item No. 4 was a resolution expressing desire of City of Fort Smith regarding Clean Water Act negotiations and direct administration to continue with planned sanitary sewer system improvements ~ *Settle / Lau placed on agenda at the October 2, 2014 special meeting* ~

Administrator Gosack briefed the Board on the item citing such was requested at the October 2, 2014 special meeting. The proposed resolution affirms the Board's desire to continue negotiations, and directs staff to proceed with planned projects irrespective of the state of negotiations.

The following individual was present to address the Board:

- David Harris
Fort Smith, Arkansas

Re: Expressed great concern with potential consequences if the matter goes to court. Although he conceded much progress has been made in the last few years, he alleged "*nothing*" was done for approximately 17 to 18 years prior to. Due to such, he conveyed discontent that

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the City did, however, move forward with other expensive projects such as the convention center, softball fields, etc.

Director Catsavis noted that no lawsuit had been filed before the October 2, 2014 special meeting; however, the filing was anticipated soon thereafter. Due to such, he inquired if the lawsuit has now been filed and questioned the anticipated length of litigation.

City Attorney Jerry Canfield advised the lawsuit has not yet been filed; however, the City has been notified the lawsuit is ready, but merely awaiting a signature. With regard to the length of litigation and due to complexity of jurisdictional issues, etc., the matter simply cannot be adequately determined. Regardless, he noted that merely dealing with jurisdictional issues could potentially take at least a year.

Due to improvements already accomplished to date, Administrator Gosack conveyed much confidence fewer complaints are being received. Regardless of the disposition of litigation, he assured the Board that the City will continue to move forward with improvements.

Lorenz, seconded by Good, moved adoption of the resolution. The members all voting affirmatively, the Vice-Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-137-14.

Item No. 5 was a resolution of the Board of Directors of the city of Fort Smith certifying local government endorsement of business to participate in the Tax Back Program (as authorized by Section 15-4-2706(d) of the Consolidated Incentive Act of 2003) (*Dixie Consumer Products, LLC*)

Deputy City Administrator Jeff Dingman briefed the Board on the item advising

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such is per the request from the Arkansas Economic Development Commission and the Fort Smith Regional Chamber of Commerce on behalf of Dixie Consumer Products, LLC, who plans to expand its current production facility located at 4411 Midland Boulevard. The expansion is an anticipated \$40 million investment and will add fifteen (15) new jobs to the region at approximately \$19 per hour. Participation in the Tax Back Program allows for new or expanding businesses to request refunds of sales taxes paid on building materials, new equipment and other eligible expenses incurred due to construction and/or expansion, and requires governmental endorsement. Participation requires approval from the governing body; therefore, he recommended approval.

Director Merry merely conveyed much appreciation to Dixie Consumer Products, LLC for their investment in the city of Fort Smith.

Good, seconded by Lorenz, moved adoption of the resolution. The members all voting affirmatively, the Vice-Mayor declared the motion carried. Lorenz, seconded by Merry, moved adoption of Section 3 the emergency clause. The members all voting affirmatively, the Vice-Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-138-14.

The Consent Agenda (Item No. 6) was introduced for consideration, the items being as follows:

- A. Resolution to accept the bids and authorize a contract for the construction of Street Overlays/Reconstruction Project No. 14-03-B (\$2,119,570.81 / Engineering Department / Budgeted - Sales Tax Program)
- B. Resolution to accept the bids and authorize a contract for the 2014 Street Striping Replacement Project No. 14-85-A (\$51,456.86 / Engineering Department / Budgeted - Sales Tax Program)

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- C. Resolution accepting completion of and authorizing final payment to Richardson Roofing, LLC for the re-roofing of the Creekmore pool building and the roof replacement of the Creekmore Community Center (\$8,700.00 / Parks Department / Budgeted - Capital Outlay Improvements)
- D. Resolution accepting the bid of and authorizing the Mayor to execute a contract with Nebo Residuals Services, Inc. for Lake Fort Smith and Lee Creek Water Treatment Plant Residuals Lagoon Cleaning (\$500,000.00 / Utility Department / Budgeted - Water and Wastewater General Account)
- E. Resolution authorizing Change Order No. 4 with Crawford Construction Company for the Chaffee Crossing Water Supply Improvements - Pump Station (\$9,885.40 decrease / Utility Department / Budgeted - 2012 Sales and Use Tax Bonds)
- F. Resolution accepting the project as complete and authorizing final payment to Crawford Construction Company for the Chaffee Crossing Water Supply Improvements - Pump Station (\$101,427.29 / Utility Department / Budgeted - 2012 Sales and Use Tax Bonds)

Lorenz, seconded by Catsavis, moved adoption of all consent agenda items. The members all voting affirmatively, the Vice-Mayor declared the motion carried and the resolutions were adopted and given Resolutions No. R-139-14 through R-144-14 respectively.

Vice-Mayor Settle opened the Officials Forum with the following comments offered:

▶ Vice-Mayor Settle

- Re:
- 1. Announced the monthly Town Hall Meeting will be held immediately following adjournment and encouraged those wishing to speak to sign-in at the City Clerk's desk.
 - 2. Following the Town Hall meeting, he announced the Board will visit with the Citizens Academy.

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3. Announced U.S. Representative Bill Shuster, chairman of the House Transportation and Infrastructure Committee was in Fort Smith to discuss infrastructure improvements. Vice-Mayor Settle conveyed much appreciation to Congressman Steve Womack for providing Rep. Shuster with a tour of Fort Smith.
4. Expressed much gratitude to the University of Arkansas Fort Smith (UAFS) for recently hosting the "Paint the Park Pink" event in recognition of October being Breast Cancer Awareness Month.
5. Noted the passing of Reverend A. J. Parish citing he was "*great community leader*" and extended condolences to his family.

► Director Weber

- Re:
1. Announced the Beautify Fort Smith fall cleanup will be held on Saturday, October 18. Those interested may obtain cleanup supplies beginning at 8:00 a.m. in the Central Mall parking lot. She encouraged the Mayor, Board and residents to participate.
 2. Noted the recent cleaning of the area near Exit 13 (Jenny Lind Road) on Interstate 540 citing such was an effort initiated by Director Lorenz, who she expressed much appreciation.

Director Lorenz noted such was a combined effort of the Fianna Hills Property Owners Association, Fianna Garden Club and Bradford & Udouj Realty; therefore, he too extended much appreciation to all those who participated in the cleanup. He further noted the recent cleanup was only Phase I citing Phase II, which will consist of tree trimming provided by OG&E.

► Director Merry

- Re:
1. Announced Christmas Honors is fast approaching and announced the following important dates:

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December 12 - wreath prep day
December 13 - wreath placement
January 3 - wreath pick-up day

He encouraged all residents to participate in the annual event.

2. Also noted the passing of Reverend A. J. Parish.

▶ Administrator Gosack

Re: 1. Reminded all of the upcoming joint meeting with the Sebastian County Quorum Court regarding the aquatic center at Ben Geren Regional Park on Thursday, October 9th. A tour of the site is set for 5:30 p.m. and the joint meeting scheduled for 6:30 p.m. at the Safe Shelter at the park. The project is on schedule for opening in May 2015.

2. Announced the First Pitch Ceremony for the new softball fields at Ben Geren Regional Park is set for 10:30 a.m., October 11th and encouraged all to attend.

There being no further business to come before the Board, Lau moved that the meeting adjourn. The motion was seconded by Lorenz, and the members all voting aye, the Vice-Mayor declared the motion carried and the meeting stood adjourned at 6:33 p.m.

APPROVED:



MAYOR

ATTEST:



CITY CLERK