

MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ JULY 21, 2015 ~ 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 Dr. Howard Huddle of Southside Baptist Church, 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, Tracy Pennartz, Kevin Settle and Don Hutchings. 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 July 7, 2015 regular meeting and July 10, 2015 special meeting were presented for approval. Settle, seconded by Lorenz, moved approval of the minutes as written. The members all voting aye, the Mayor declared the motion carried.

Mayor Sanders recognized the following individuals from Boy Scout Troop 98, who were in attendance to earn their Citizenship in the Community badge:

- ▶ Tyler English
- ▶ Nate English
- ▶ Seth English
- ▶ Brigham Martin
- ▶ Heber Martin
- ▶ Kaleb Longoria
- ▶ Jacob Martin
- ▶ Kyten Longoria

Item No. 1 was a resolution confirming appointment of Acting City Administrator and appointing Acting Deputy City Administrator.

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Mayor Sanders announced the item was originally included on the agenda to facilitate the processing of bond construction payments; however, the item is no longer necessary and has been withdrawn from consideration.

Item No. 2 was an ordinance to amend Article V, Division 2 of the Fort Smith Municipal Code to add Sections 2-187 and 2-188 regarding preference among municipal bidders ~ *Pennartz/Lorenz placed on agenda at the June 23, 2015 study session* ~

Director of Development Services Wally Bailey, serving as top administrative official due to the absence of Acting City Administrator Jeff Dingman, briefed the Board on the item as discussed at the June 23, 2015 study session. The proposed ordinance allows a five-percent (5%) preference to be assigned to local companies in the bidding process. Authorization is per Act 1059 of 2015, which was recently enacted by the State Legislature. Local bidders wishing to be considered for participation must meet several defining requirements, which are as follows:

- ▶ Maintain at least one (1) staffed place of business located within the corporate limits of the city.
- ▶ Has paid real or personal property taxes to the county (benefitting the city) for two (2) successive years.
- ▶ Has a valid business registration/license with the City.

Some exceptions to the preference are outlined within the ordinance, which includes federally funded contracts where the awards are not eligible for such treatment, which includes Community Development Block Grant (CDBG) contracts and some Transit Department purchases. The maximum monetary amount that a bidder may benefit from a local preference will be \$100,000.

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Settle, seconded by Lorenz, 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. Catsavis, seconded by Pennartz, moved adoption of Section 2 the emergency clause. The members all voting affirmatively, the Mayor declared the motion carried and the ordinance and emergency clause were adopted and given Ordinance No. 50-15.

Item No. 3 was a resolution eliminating outside agency funding ~ Lorenz/Pennartz
placed on agenda at the July 14, 2015 study session ~

Mr. Bailey briefed the Board on the item advising such eliminates outside agency funding from consideration in the 2016 Budget.

The following individual was present to address the Board:

- Deborah A. Goad, Executive Director
The Arc for the River Valley

Re: Spoke in opposition to the proposed item citing such will be detrimental to The Arc for the River Valley; therefore, she requested consideration of the item be postponed to allow herself and other organizations to provide the Board with detailed benefits the funding provides to the community.

Director Good reminded all that outside agency funding was initiated many years ago to provide essential services to low to moderate income residents of Fort Smith. He expressed concern with elimination of said funding in its entirety and suggested the list of agencies be reviewed to determine which agencies actually provide essential services. Some non-profit organizations receive funding for non-essential services; therefore, he

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feels such could be eliminated. Many agencies utilize outside agency funding from the City as a matching contribution to receive other funding in which a matching contribution is required; therefore, concern was also conveyed that elimination could affect an organizations ability to receive much-needed funding from other sources.

Catsavis, seconded by Hutchings, moved to table consideration for sixty (60) days. Prior to the vote, Director of Finance Kara Bushkuhl addressed the Board advising the 2016 Budget process has begun; therefore, in order to meet 2016 Budget deadlines and because applications for 2016 outside agency funding must be submitted by mid-September, the applications must be mailed out very soon. If the matter is postponed for the proposed time-frame, such could delay the 2016 Budget process.

In the event the motion passes, the Mayor requested concurrence from the Board to allow the aforementioned applications to be forwarded and advertised whereby the Board conveyed no objection to such.

The motion remaining on the floor, the members voted as follows: ayes - Good, Catsavis and Hutchings; nays - Lau, Lorenz, Pennartz and Settle. The Mayor declared the motion defeated.

Director Hutchings spoke in opposition to the proposed resolution citing such has been a twenty-one (21) year investment in the city of Fort Smith and many of the organizations are able to stretch the dollars further than the City maintains the ability to do, and provide a greater return on the investment. Although he conceded budget cuts are necessary, he spoke in favor of cutting costs associated with printing, postage, advertising, travel, etc., but not services that will affect an investment that benefits thousands of residents.

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Director Lorenz conveyed no disagreement with the comments of Directors Good and Hutchings; however, he clarified outside agency funding is not guaranteed on an annual basis citing agency must apply each year. The subject funding is merely \$145,000; therefore, elimination will not close down the agencies citing they also receive funding from other sources. Some of the subject agencies also receive CDBG funds from the City, along with the outside agency funds; therefore, he conveyed discomfort with giving taxpayer money to charity.

Lorenz, seconded by Lau, moved adoption of the resolution. The members voted as follows: ayes - Lau, Lorenz, Pennartz and Settle; nays - Good, Catsavis and Hutchings. The Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-124-15.

Item No. 4 was an ordinance amending the 2015 Budget ~ *Lau/Pennartz placed on agenda at the July 14, 2015 study session ~*

Mr. Bailey briefed the Board on the item as discussed at the July 14, 2015 study session advising the proposed budget reductions will be effective for the last half of 2015.

The following individual was present to address the Board:

- Randy James
Fort Smith, Arkansas

Re: Expressed concern the Animal Control Division of the Fort Smith Police Department will be eliminated citing its importance to the community.

Mayor Sanders clarified the elimination of the Animal Control Division of the Fort Smith Police Department is not included within the proposed budget reduction.

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Director Pennartz advised additional information has prompted additional questions regarding some of the proposed reductions; therefore, she expressed concern with adoption of the proposed ordinance as presented.

Pennartz, seconded by Catsavis, moved to refer the matter for further review at a future study session within the next thirty (30) days. Prior to the vote, Director Lau noted the Finance Department originally included money within the 2015 budget for purchase of an enterprise information system, which the Board previously indicated such was a priority; therefore, inquired if said funds are included within the proposed ordinance.

Deputy Director of Finance Jennifer Walker confirmed that such is, in fact, included within the proposed ordinance.

The motion remaining on the floor and the members all voting affirmatively, the Mayor declared the motion carried.

Item No. 5 was an ordinance amending Ordinance No. 69-13 to adjust the rate schedule for charter services (*Fort Smith Public Transit*).

Director of Public Transit Ken Savage briefed the Board on the item advising the proposed amendment affects only the rate for charter services performed internally for City departments, which were last revised in 2010. Some examples of department charters include Sanitation Department tours, shuttle service for the Mayor's 4th of July, Tales of the Crypt and Leadership Fort Smith. Rates for all other services including charter services available to the public are to remain the same. Upon approval, the proposed adjustment will become effective January 3, 2016 and includes a \$10 per hour increase or a rate of \$95 for the first hour and \$70 for each additional hour of operation for department charters

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performed internally. The Federal Transit Administration will not participate in charter expense of any kind, therefore 100% of the associated costs have to be compensated through rates (internal and external). The Transit Department has been fortunate to have had surplus revenues from private charter collections to supplement internal city department charter expenses to-date. The proposed rate adjustment is necessary to ensure all charter expenses are funded properly and to remain in compliance with federal grant requirements. The Transit Advisory Commission reviewed the proposed rate increase at their May 28, 2015 meeting and voted unanimously to recommend such to the Board for consideration.

Director Catsavis questioned the average length of subject charter services.

Mr. Savage advised the average length of service is difficult to determine because some events are for one (1) or two (2) hours and some are for multiple days.

Director Good extended appreciation to members of the Transit Advisory Commission citing such is a *“good recommendation.”*

Settle, seconded by Good, 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 Ordinance No. 51-15.

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

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- A. Resolution authorizing a time extension for the improvements of the "P" Street and "J" Street Storm Water Pump Stations (143 days)
- B. Resolution accepting completion of and authorizing final payment for the improvements to the "P" Street and "J" Street Storm Water Pump Stations (\$5,054.45 / Engineering Department / Budgeted - Sales Tax Program Fund)
- C. Resolution authorizing the Mayor to execute a correction easement granting Oklahoma Gas & Electric Company an easement for electric facilities in Kelly Park
- D. Resolution granting a temporary revocable license for the placement of concrete steps in a public right-of-way and authorizing the Mayor to execute agreement (1100 Garrison Avenue / Propak Logistics, Inc.)
- E. Resolution authorizing Change Order No. 2 with Archer Western Construction, LLC for the Zero Street Pump Station Weather Improvements - Pump Station and EQ Storage (\$8,313.95 / Utility Department / Budgeted - 2014 Sales and Use Tax Bonds)
- F. Resolution authorizing the Mayor to execute Authorization No. 4 to the agreement for engineering services with RJN Group, Inc. for the Basin 17 Collection System Improvements (\$219,412.00 / Utility Department / Budgeted - 2014 Sales and Use Tax Bonds & upcoming 2015 Water and Sewer Revenue Bonds) ♦ Future Fort Smith item
- G. Resolution accepting the bid of and authorizing the Mayor to execute a contract with Forsgren, Inc. for the Basin 17 Collection System Improvements (\$2,857,019.30 / Utility Department / Budgeted - 2014 Sales and Use Tax Bonds & upcoming 2015 Water and Sewer Revenue Bonds) ♦ Future Fort Smith item
- H. Resolution authorizing the Mayor to execute Authorization No. 2 to the agreement with Burns & McDonnell for engineering services for the Lake Fort Smith and Lee Creek Fluoride Feed Systems (\$249,000.00 / Utility Department / Budgeted - Grant Funds)

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- I. Resolution accepting the bid of and authorizing the Mayor to execute a contract with Goodwin & Goodwin, Inc. for the Lake Fort Smith and Lee Creek Fluoride Feed Systems (\$1,586,300.00 / Utility Department / Budgeted - Grant Funds)
- J. Resolution accepting the bid for sale of a surplus parcel of land and authorizing the Mayor and City Attorney to execute all necessary and legal documentation pertaining to the land thereof (900 North 14th Street)
- K. Resolution to acquire property (water storage tank property near Massard Road)

Regarding Item No. 6D, Director Catsavis expressed concern the subject steps will be located only five (5) feet from Towson Avenue and requested installation of a barrier be considered.

Mr. Gary Smallwood and Mr. Matt Edwards, project contractors, addressed the Board advising it's their desire to ensure a safe environment; therefore, conveyed no objection to installation of the aforementioned barrier and agreed to do whatever is necessary on their part to accommodate the request.

Director Lau questioned if the proposed stairs are "to Code" whereby Mr. Smallwood, as well as Mr. Bailey, confirmed.

Director Settle inquired if the steps will have handrails whereby Mr. Smallwood indicated handrails are not currently proposed.

With regard to Item No. 6H, Director Lau inquired what all the contract includes citing the cost "seems to be extremely high for consulting services."

Director of Utilities advised such includes not only submittal review and contract compliance, but also one (1) full-time, residential inspector at both the Lee Creek and Lake

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Fort Smith water supply facilities, which is typically included for such projects. He clarified that although the City must pay the cost up-front, all costs associated with the subject project will be reimbursed by the Delta Dental Foundation of Arkansas.

There was very lengthy discussion regarding the necessity of such with several directors conveying concern with the “*exorbitant*” cost regardless if the total cost will be fully reimbursed by Delta Dental.

Regarding Item No. 6J, the following individual was present to address the Board:

- Deborah Newborn
Fort Smith, Arkansas

Re: Advised the proposed action was prompted by her interest in early 2015 to purchase the subject property from the City. After speaking with City staff, she was advised the competitive bidding process would be required; therefore, requested she be notified when all necessary actions were accomplished to allow her to submit a bid. Unfortunately, she was never notified. Ms. Newborn attempted multiple times to contact Purchasing Manager Alie Bahsoon, who oversaw the bidding process; however, by the time contact was made, she was informed the bidding process had already been accomplished and only one (1) bid was received, i.e. \$100 from Fort Smith Public Schools. The subject property maintains an assessed value of \$6,000; therefore, she spoke in opposition to the City accepting \$100 for the property. She urged the Board to re-open the bidding process to allow her an opportunity to submit a bid as she originally requested.

Mr. Bailey advised the subject property is located on a corner lot adjacent to Tilles Elementary School. Fort Smith Public Schools (FSPS) also owns the lot next to the subject property, which is the only lot contiguous to 900 North 14th Street. The Fort Smith Municipal Code requires only those property owners contiguous to the subject property be notified

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by certified mail and bid solicitation be published in the newspaper. Each of the aforementioned were accomplished as required; therefore, all competitive bidding requirements were met.

There was lengthy discussion and concern expressed with accepting the \$100 bid when the subject property maintains an assessed value of \$6,000.

At the request of Director Pennartz, Mr. Alie Bahsoon addressed the Board and confirmed that all competitive bidding requirements were met; however, he conceded that Ms. Newborn was not notified of the impending competitive bidding process as she originally requested citing such was an *"oversight on his part."*

If the Board rejects the bid, Director Settle questioned if the bidding process can be *"re-opened."*

City Attorney Jerry Canfield advised the City maintains the right to reject the bid and may opt to retain ownership of the property. Due to the circumstances associated with a potential rejection of the submitted bid and if such were challenged, he conveyed confidence the City would maintain a basis to legally defend its position to *"start over."*

Mr. Bailey advised the subject bid document contains the statement, *"The City of Fort Smith reserves the right to reject any and all bids and to waive any and all irregularities."*

Catsavis, seconded by Settle, moved to reject the bid presented for consideration as Item No. 6J. The members all voting affirmatively, with the exception of Director Hutchings who voted *"no"*, the Mayor declared the motion carried and the bid was rejected.

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Catsavis, seconded by Hutchings, moved adoption of all consent agenda items with the exception of Item No. 6J, which the bid was formally rejected as noted above. The members voted affirmatively on all items with the exception of Item No. 6H whereby Directors Lau, Catsavis, Pennartz and Settle voted “no.” The Mayor declared the motion carried for all items except Items No. 6H, which was defeated with three (3) in favor and four (4) opposed. The resolutions were adopted and numbered R-125-15 through R-133-15 respectively.

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

▶ Mayor Sanders

Re: Simply advised last week consisted of great things citing the announcements of Furniture Factory Outlet relocating to the Fort Smith, bringing approximately sixty (60) new jobs; and, the ribbon cutting for Interstate I-49.

The Board entered into executive session at approximately 6:59 p.m. and after reconvening, the Mayor announced the following appointment nominations:

CAPITAL IMPROVEMENT PLAN ADVISORY COMMITTEE

Stan Vlademar - Ward 1
William Lamon - Ward 2
Tiffinee Baker - Ward 2
Robert Brown - Ward 3
Aaron St. Amant - Ward 3
David Armbruster - Ward 4
Philip Rosar - Ward 4

Terms expire July 21, 2016; July 21, 2017; and, July 21, 2018.
(Per Ordinance 40-15, specific terms will be determined by lot for each member at the first meeting)

HISTORIC DISTRICT COMMISSION

Cheryl Boswell
Term expires July 31, 2018

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OUTSIDE AGENCY REVIEW PANEL

No action taken

PARKS AND RECREATION COMMISSION

Madeline Marquette

Term expires August 31, 2010

Pennartz, seconded by Hutchings, moved acceptance of the above named nominations. The members all voting aye, the Mayor declared the motion carried.

There being no further business to come before the Board, Settle moved that the meeting adjourn. The motion was seconded by Lau 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