

MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ AUGUST 4, 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 Pastor Megan Foote of Evangel Temple 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 21, 2015 regular meeting was presented for approval. Lau, seconded by Hutchings, moved approval of the minutes as written. The members present all voting aye, the Mayor declared the motion carried.

Item No. 1 was an ordinance rezoning identified property and amending the zoning map (*from Not Zoned to Transitional by classification located at 11300 Roberts Boulevard*).

Director of Development Services Wally Bailey briefed the Board on the item advising such is per the request of Larry Hall, agent for Chaffee Crossing Clinic. The purpose of the rezoning is to allow a small scale area for limited office, professional service and medical services designed in scale with surrounding residential uses. In addition to the rezoning request, a development plan was submitted that showed a 2,272 square foot medical clinic building with twenty-four (24) parking spaces. A driveway variance was approved allowing the distance between the driveways to be reduced. A neighborhood meeting was held July 6, 2015 with no neighboring property

August 4, 2015 Regular Meeting

owners in attendance. The Planning Commission held a public hearing on July 14, 2015 with no individuals present to speak in opposition to the request. The Planning Commission voted six (6) in favor and two (2) abstentions (Keessee, Howard) to amend the request as follows:

- Construction must comply with the submitted development plan. Changes or amendments to the submitted development plan are permitted, but limited to those described in Section 27-329-8 of the Unified Development Ordinance (UDO). Any changes greater than those described in this section will require Planning Commission approval.
- Board of Zoning Adjustment approval of the companion variance application.
- All platting requirements shall be completed prior to the issuance of the building permit.
- All site features of the development not specifically mentioned or shown on the development plan shall comply with the UDO requirements and Chaffee Crossing Design Guidelines.

The Planning Commission approved the rezoning requested as amended by vote of eight (8) in favor and zero (0) opposed.

Pennartz, seconded by Hutchings 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. 52-15.

Item No. 2 was an ordinance rezoning identified property and amending the zoning map (*from Not Zoned to a Planned Zoning District by classification located at 7500 Wells Lake Road*).

Mr. Bailey briefed the Board on the item advising such is per the request of Mickle Wagner Coleman, agent for Brownwood Life Care. The purpose of the rezoning

August 4, 2015 Regular Meeting

is to allow for a new 42,630 square foot nursing home on a nine (9) acre tract of land. The proposed development includes eighty-six (86) parking spaces and landscaping.

The purpose of a Planned Zoning District (PZD) are to encourage:

- Comprehensive and innovative planning and design of diversified yet harmonious development consistent with the comprehensive plan.
- Better utilization of sites characterized by special features of geographic location, topography, size or shape.
- Flexible administration of general performance standards and development guidelines.
- Primary emphases shall be placed upon achieving compatibility between the proposed development and surrounding areas to preserve and enhance the neighborhood through the use of the enhanced site design, architecture, landscaping and signage.
- Developments that utilize design standards greater than the minimum required by the UDO.

A neighborhood meeting was held June 16, 2015 with one (1) attendee present whom inquired about the detention/water quality basin. Mr. Griffin addressed how the project would accommodate the concerns and there were no objections to the proposed project. The Planning Commission held a public hearing on July 14, 2015 with no individuals present to speak in opposition to the request. The Planning Commission unanimously amended the rezoning request to make approval subject to compliance with the submitted project booklet. The Planning Commission approved the amended request for Board consideration by a vote of eight (8) in favor and (0) opposed.

Director Pennartz inquired if the developers will install the sidewalks, which are included within the design plan, whereby Mr. Bailey responded affirmatively.

Settle, seconded by Pennartz, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be

August 4, 2015 Regular Meeting

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. 53-15.

Item No. 3 was an ordinance amending the special conditions for the Commercial-5 Zoning on the property located at 1520 South "U" Street.

Mr. Bailey briefed the Board on the item advising such is per the request of Al Prieur, agent for Bryan White. The purpose of the proposed amendment is to allow the development of a multi-family development (*four-plex*). The current zoning was approved in 2011 with a special condition for the development of a mini-storage facility; however, the mini-storage facility was never constructed. Although the current zoning classification allows a multi-family development, the special condition attached to the 2011 rezoning does not; therefore, the special conditions must be amended if the proposed development is to proceed. The Planning Commission held a public hearing on July 14, 2015 with no individuals present to speak in opposition to the request. The Planning Commission voted unanimously to amend the request contingent upon the submitted development plan for the multi-family (*four-plex*) development. The Planning Commission approved the amended request for Board consideration by a vote of eight (8) in favor and (0) opposed.

Since the proposed development is a two-story structure, Director Pennartz inquired that if the Fort Smith Municipal Code requires an exit to be located in the rear of the structure.

Mr. Bailey advised the development plan has not been submitted to the Building and Fire Departments for review; however, such will be submitted for compliance

August 4, 2015 Regular Meeting

review upon adoption of the proposed ordinance. If required, no building permit will be issued until the plan is in compliance with the Fort Smith Municipal Code.

Lorenz, 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, the Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 54-15.

Item No. 4 was items regarding water and sewer revenue bonds:

- A. Resolution authorizing the offering of water and sewer revenue bonds to refund outstanding water and sewer revenue bonds, Series 2005B and to finance sewer improvements; and prescribing other matters relating thereto *(80/20 Stephens, Inc. & Raymond James) ~ Good/Hutchings placed on agenda at the July 14, 2015 study session ~*
- B. Resolution authorizing the offering of water and sewer revenue bonds to refund outstanding water and sewer revenue bonds, Series 2005B and to finance sewer improvements; and prescribing other matters relating thereto *(50/50 Stephens, Inc. & Raymond James) ~ Settle/Pennartz placed on agenda at the July 14, 2015 study session ~*

Acting City Administrator Jeff Dingman briefed the Board on the item as discussed at the July 14, 2015 study session.

Mayor Sanders announced the 7th recital (Whereas) of Item No. 4B had been revised with a minor language change to more accurately reflect the motion of Director Settle when such was placed on the agenda. Due to such, the motion to adopt Item No. 4B should include "as revised."

The following individuals were present to address the Board:

- Terry Gallamore, Fort Smith Branch Manager
Raymond James

August 4, 2015 Regular Meeting

Re: Spoke in favor of Item No. 4B and acknowledged several employees of the firm who were present and also reside in Fort Smith. He advised of the firm's commitment to Fort Smith and provided a hand-out which referenced a multitude of community related events/organizations the firm is involved with.

- Ron Pyle, Arkansas Public Finance Division
Raymond James

Re: Spoke in favor of Item No. 4B referencing accomplishments of the firm, their experience in the subject matter, the benefits the firm could provide and requested to be an equal partner with the Stephens, Inc.

- John C. Carson
Raymond James

Re: Spoke in favor of Item No. 4B conveying support of his colleagues and their request for the allocation of the bond issues be evenly distributed between Stephens, Inc. & Raymond James. Much assurance was conveyed that the firm can provide an additional level of resources citing the creation of competition leads to better service by both firms.

- Dennis Hunt, Executive Vice-President
Stephens, Inc.

Re: Spoke in favor of Item No. 4A and acknowledged his colleague, Mr. Kevin Faught, who was also in attendance. He did not dispute the abilities of Raymond James; however, he reiterated the subject bonds are Arkansas bonds citing Stephens, Inc. is proficient in such field. The three (3) key factors to consider are continuity of experience, strong relationship with community and proven commitment to Fort Smith, which Stephens, Inc. has consistently provided. He further noted Stephens, Inc. commitment to purchase Fort Smith's bond offerings with unsold balances citing an occurrence in 2011 when Stephens, Inc. bought one-hundred percent (100%) of the unsold balance on the bonds whereby Raymond James was not interested in buying their twenty percent (20%) of unsold bonds. He expressed his desire for the Board to consider such when deciding the underwriting arrangement.

Director Good commended the presenters on information provided. Concern was expressed with the enormous amount of the bonds citing the City is in unfamiliar

August 4, 2015 Regular Meeting

territory with the consent decree. Due to such, he spoke in favor of retaining the current bond underwriting allocation citing now is not the appropriate time to change bond.

Director Lau requested Acting City Administrator Jeff Dingman's position on the issue.

Acting Administrator Dingman advised there is a good working relationship with both firms; however, he conveyed agreement with Director Good advising he supports continuing with the current 80/20 arrangement at this time.

Regarding the aforementioned 2011 occurrence of unsold bonds referenced by Mr. Hunt, Directors Lau and Lorenz requested further clarification and questioned if such adversely affected the City.

Acting Administrator Dingman simply advised Stephens, Inc. remedied the situation by purchasing the unsold bonds before it could adversely affect the City.

Mr. Pyle advised Raymond James provided an explanation of the occurrence citing Raymond James entered into negotiations with Stephens, Inc. for the unsold bonds alleging Stephens, Inc. allocated to Raymond James a lesser amount of bonds that Raymond James had ordered. Due to the nature of the underwriter and trading business, such under-allocation created a disagreement and ultimately negotiations ceased. Although it appeared Raymond James did not have interest in buying the unsold bonds, he conveyed much assurance that such was certainly not the case. A meeting with City Administration was scheduled soon after the occurrence whereby he took full responsibility for the unfortunate issue and vowed such "*will never happen again.*"

Mr. Hunt with Stephens, Inc. also addressed Board citing Mr. Pyle was not responsible for the issue advising the matter originated from a Dallas office. He further

August 4, 2015 Regular Meeting

expressed full confidence in Mr. Pyle's commitment and assurance there will not be a reoccurrence of the above stated issue.

Regarding the 2011 issue, Director Pennartz requested confirmation that Raymond James was interested in purchasing the unsold bonds and if the subject unsold bonds were sold throughout the United States whereby Mr. Pyle responded affirmatively to both inquiries.

Director Catsavis simply conveyed concurrence with the comments of Director Good.

Director Settle spoke in support of Item No. 4B alleging the utilization of two (2) companies evenly (50/50) is fair and equitable. Such would increase the resources in the midst of uncharted territory regarding the consent decree alleging such will benefit the city and the citizens.

Settle, seconded by Pennartz, moved adoption of Item No. 4B as revised.

Prior to the vote, Director Catsavis offered a motion to allocate the underwriting services with seventy percent (70%) to Stephens, Inc. and thirty percent (30%) to Raymond James. There was no second offered; therefore, the Mayor declared the motion died for lack of a second.

Director Lau also expressed concern with changing the long-standing allocation percentage.

At the request of Director Good, Deputy Finance Director Jennifer Walker addressed the Board advising that given the current circumstances, i.e. vacancies in the City Administrator position and the upcoming changes with the Director of Finance position; and, because Stephens, Inc. has already started work on the upcoming issuance, now is not the right to change the underwriter allocation.

August 4, 2015 Regular Meeting

There was continued discussion regarding the matter with several directors speaking in favor and opposition to the proposed resolutions.

The motion remaining on the floor (adoption of Item No. 4B as revised), the members voted as follows: ayes – Lorenz, Catsavis, Pennartz and Settle; nays – Lau, Good Hutchings. The Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-134-15.

Item No. 5 was a 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*).

Director of Utilities Steve Parke briefed the Board on the item advising the proposed resolution was defeated at the July 21, 2015 regular meeting citing the directors were concerned with the cost of the services. Although the estimated engineering cost of \$249,000.00 appears to exceed the normally expected percentage of the \$1,586,300.00 construction cost, what may not be readily apparent is the complexity of the reviews and oversight needed in order to assure the proper and safe integration of the new chemical addition into the water treatment processes and control systems at two (2) separate drinking water treatment plant locations. As previously discussed, the work is being performed on an hourly basis and not for a lump sum; therefore, the City will be billed for only the actual time and expenses, and such is to be reimbursed by the Delta Dental Foundation of Arkansas. Delta Dental Foundation of Arkansas has reviewed the project costs and has accepted and approved the grant request of \$2,015,300.00 to fully reimburse one-hundred percent (100%) of the engineering and construction costs. The grant condition to complete the work and

August 4, 2015 Regular Meeting

begin feeding fluoride into the water supply is March 16, 2016. Completing the work within the remaining approximate eight (8) months presents a compressed time period and has influenced the project costs as well. He understands bringing the originally presented and defeated resolution back to the Board is not ideal; however, staff does not feel comfortable foregoing cost at the expense to the users of the system. Staff respectfully requests the Board's reconsideration and approval of the proposed resolution.

Director Settle advised he continues to struggle with the amount in comparison to the drawings.

Mr. Parke sympathized with Board's concerns reiterating the cost is attributed to the level of complexity that the system requires and the assurance that such is done so properly, which is not specifically reflected in the drawings. The cost could be lowered; however, such would reduce the amount of care and oversight that could result in exposure and risk to the system users. Since such directly affects the drinking water system, there is a high potential for risk; therefore, assuring exceptional care and oversight is crucial.

There was continued lengthy discussion regarding the necessity of multiple, full-time inspectors whereby Director Pennartz called the question to end debate on the matter.

Lorenz, seconded by Hutchings, moved adoption of the resolution. The members voted as follows: ayes – Good, Lorenz, Pennartz and Settle Hutchings; nays – Lau, and Catsavis. The Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-135-15.

August 4, 2015 Regular Meeting

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

- A. Resolution setting public hearing date on petition to vacate a portion of an alley located in Block 19, South Fort Smith Addition, an addition to the City of Fort Smith, Arkansas
- B. Resolution authorizing a special warranty deed and a bill of sale conveying property to Evans Enterprises, Inc. and prescribing other matters pertaining thereto
- C. Resolution authorizing a time extension for the construction of South 7th Street and Parker Avenue Overlay / Reconstruction and Trolley Extension, Project 14-90-A (32 days)
- D. Resolution accepting completion of and authorizing final payment for the construction of South 7th Street & Parker Avenue Overlay / Reconstruction and Trolley Extension, Project No. 14-90-A (\$120,048.40 / Engineering Department / Budgeted – Sales Tax Program Fund)
- E. Resolution authorizing the Mayor to execute an electric utility easement with Oklahoma Gas & Electric for the River Valley Sports Complex
- F. Resolution accepting Change Order No. 1 with Creative Design Pools, LLC for construction of the Compass Park Splash Pad (\$7,416.11 / Parks Department / Budgeted – 1/8% Sales and Use Tax) ♦
- G. Resolution accepting completion of and authorizing final payment to Creative Design Pools, LLC for construction of the Compass Park Splash Pad (\$18,166.74 / Parks Department / Budgeted – 1/8% Sales and Use Tax) ♦
- H. Resolution accepting the bid of and authorizing the Mayor to execute a contract with KBM Industrial Services, Inc. for the Lee Creek Water Treatment Plant Trash Rake Access Platforms (\$39,971.61 / Utility Department / Budgeted – Water and Sewer Operations Budget)
- I. Resolution authorizing Change Order No. 1 with Forsgren, Inc. for the Mill Creek Interceptor Improvements – Phase II (96 days)
- J. Resolution accepting the project as complete and authorizing final payment to Forsgren, Inc. for construction of the Mill Creek Interceptor Improvements – Phase II (\$114,596.71 / Utility

August 4, 2015 Regular Meeting

Department / Budgeted – 2012 and 2014 Sales and Use Tax Bonds)

Mayor Sanders announced that Item No. 6B had been revised to correct the amount and date on the bill of sale and special warranty deed; therefore, the motion to adopt must include “as revised.”

Pennartz, seconded by Hutchings, moved adoption of all consent agenda items with inclusion of the aforementioned revision to Item No. 6B. The members all voting affirmatively, the Mayor declared the motion carried and the resolutions were adopted and numbered R-136-15 through R-145-15, respectively.

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

➤ Director Settle

Re: Expressed gratitude to the Fort Smith Police and Fire Department staff who were on scene at an automobile accident in which his wife was involved in.

➤ Director Pennartz

Re: Commended Fort Smith Police Officer Jeffrey Lum, who saw a citizen struggling to mow her lawn in the summer heat and stopped to help her.

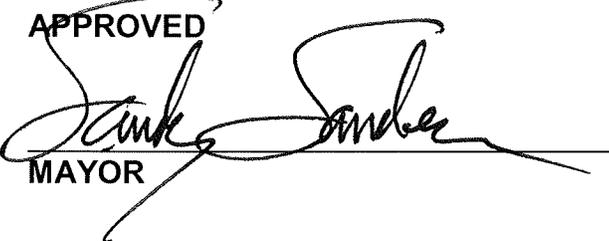
The Board entered into executive session at approximately 7:26 p.m. and after reconvening, the Mayor announced the Board wishes to confirm the appointment of Jeff Dingman as Acting City Administrator and introduced Item No. 7.

Item No. 7 was a resolution confirming appointment of Jeff Dingman as Acting City Administrator and authorizing execution of agreement pertaining thereto.

Settle, seconded by Hutchings, moved to appoint Jeff Dingman as Acting City Administrator. The members all voting affirmatively, the Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-146-15.

August 4, 2015 Regular Meeting

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 present all voting aye, the Mayor declared the motion carried and the meeting stood adjourned at 7:53 p.m.

APPROVED

MAYOR

ATTEST


CITY CLERK