

MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ JANUARY 19, 2016 ~ 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 Jerry Jennings of Mount Moriah Missionary Baptist Church, followed by the Pledge of Allegiance.

On roll call the following members of the Board were present: Directors Keith Lau, Mike Lorenz, George Catsavis, Tracy Pennartz, Kevin Settle and Don Hutchings. Director Andre' Good arrived during presentation of Item No. 1. 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 January 5, 2016 regular meeting were presented for approval. Pennartz, seconded by Hutchings, moved approval of the minutes as written. The members present all voting aye, the Mayor declared the motion carried.

With regard to the time limit policy for persons wishing to address the Board, the 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.

Item No. 1 was an ordinance amending Section 2-37(b) of the Fort Smith Municipal Code regarding meeting procedures ~ *Settle/Good placed on agenda at the January 12, 2016 regular meeting ~*

Acting City Administrator Jeff Dingman briefed the Board on the item as discussed at the January 12, 2016 regular meeting advising such amends the existing meeting

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procedure to clarify and define the sequence of hearing public comments and discussing agenda items before a vote is taken. The proposed amendment specifies the sequence for considering matters before the Board, which is provided as follows:

- ▶ Presentation of the agenda item and any background information by staff.
- ▶ The mayor invites public comment relevant to the agenda item, and the section specifies the sequence and time limits regarding public comment.
- ▶ The mayor asks the Board for a motion.
- ▶ After a motion is made and seconded, the Board conducts its own discussion.
- ▶ After Board discussion, a vote on the motion is taken.

Pennartz, 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.

There was no Board discussion; therefore, the motion remaining on the floor and the members all voting affirmatively, the Mayor declared the motion carried. Hutchings, seconded by Catsavis, 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 with ordinance given Ordinance No. 5-16.

Item No. 2 was a resolution accepting an offer to purchase City-owned property and authorizing execution of all necessary documentation pertaining to such transaction (*Belle Grove Center, former Girls, Inc. property*).

Administrator Dingman briefed the Board on the item advising on January 11, 2016,

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the City received an unsolicited offer from Northwest Development Holdings, LLC to purchase City-owned property at 622 North 7th Street (the former Girls, Inc. facility) for \$110,000. The offer is good through 3:00 p.m. on January 25, 2016. The city attorney advises that while there is a prescribed process for the City to designate excess property and solicit sealed bids, such process is not required in the event the City receives an unsolicited offer to purchase City-owned property. Upon consideration of the offer, the Board may either accept the offer, reject it, or make a counter-offer. The proposed resolution accepts the offer as presented; however, the Board maintains the ability to amend the resolution accordingly. Pertinent information related to this topic includes the following:

- ▶ The City purchased this property in January 2013 for \$107,500 after the former owner had marketed the property for several years. Soon thereafter the city invested \$4,860 in roof and drainage repairs bringing total cash investment in the property to \$112,360.
- ▶ The City subsequently engaged MAHG Architects (at a cost of \$25,225) to propose a development plan for the property and provide a general estimate for construction cost to develop it into a community center. When the proposed plan was delivered in February 2014, the construction cost estimate was over \$1.5 million. Due to the estimated cost and in deference to other projects, the Parks and Recreation Commission, through its Capital Improvement Plan, recommended deferring any further investment in this project at least until 2021/22.
- ▶ The City continues to carry the utilities (very minimal) and grounds maintenance costs for the property.

Northwest Development Holdings, LLC, represented by Rodney Ghan, intends to renovate and lease the property to the Future School of Fort Smith public charter high school. The offer is contingent upon receiving approval from the Belle Grove Historic

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District to allow temporary modular classrooms on the property during renovation/construction; and, a conditional use from the City for operating a school on the property. The Future School of Fort Smith was discussed by the Board as part of the August 13, 2015 special study session held jointly with the Parks and Recreation Commission. Proceeds from the sale of this property would go back to the Parks and Recreation CIP Fund and be made available for other parks capital projects.

The following individuals were present to address the Board:

- Rodney H. Ghan
Fort Smith, Arkansas

Re: Spoke in favor of the item advising the intent of the proposed purchase and lease to the Future School of Fort Smith is "*not to make money*", but merely to help get the school in the building. The School anticipates to average one hundred and fifty (150) students the first year with an additional one hundred and fifty (150) students the second and the same increase the third year. Due to required renovations to the structure, a 9,800 square ft. modular building is proposed to house the students until the renovations are complete, which will require Planning Commission approval.

Directors Good and Catsavis questioned the time students are anticipated to remain in the modular building, the lease term, and if adequate parking is available.

Director Pennartz inquired if Northwest Development Holdings would submit a bid in the event the City opts to move forward with competitive bidding. She spoke in favor of initiating the bidding process; however, she conceded the City should at least make a counter-offer to recoup the City's fiscal investment in the property.

Mr. Ghan addressed each inquiry advising the School anticipates utilizing the modular building for approximately sixty (60) months, which will allow adequate time to complete the required renovations to

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the structure. An initial three (3) year lease is proposed; however, such will be definitively determined at a later date to whatever term the School feels is most suitable to their needs. There is currently adequate space available for parking; therefore, he conveyed much confidence such is not a concern. If the City opts to solicit sealed bids, Mr. Ghan advised the proposed buyer will most likely regroup and discuss the matter with the Future School of Fort Smith before moving forward.

- David Harris
Fort Smith, Arkansas

Re: Spoke in favor of The Future School stating such is “good for Fort Smith”; however, the City should extend a counter-offer recommending such be the City’s total investment in the property less the architectural design fees, i.e. \$112,360.

Lau, seconded by Lorenz, moved adoption of the resolution.

Director Catsavis inquired of the estimated monthly expense to retain the property and the appraisal amount at the time the City purchased the property.

The former owner was a non-profit organization and received federal funds; therefore, Director Pennartz questioned if the City inherited any federal encumbrances from the previous owner.

Director of Parks and Recreation Doug Reinert advised the estimated expense associated with the property is approximately \$2,000 per month. In 2007, the property was appraised for \$818,000.

Administrator Dingman confirmed the City purchased the property in 2013 free of any encumbrances.

Good offered a motion to amend the resolution reducing the sale price to \$52,000 citing when the property was purchased, the City made a significant investment to improve

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the subject area. The proposed offer allows the City to provide an investment “*unlike any other that the Board can do for public schools*” because such will “*touch people outside of the neighborhood.*” Although monetary investment is important, he feels the aforementioned investment is of greater value.

The motion received no second; therefore, the Mayor declared the motion died for lack of a second.

Director Lau noted that although he voted in favor of purchasing the property in 2013, he conceded that such “*wasn’t a good investment*” for the City and reminded all that the property was on the market for several years prior the City’s purchase. The City has not invested any capital improvement to the property; therefore, he spoke in favor of accepting the offer as submitted and close on the property as soon as possible.

Since the city attorney has indicated seal bids are not required, Director Hutchings spoke in favor of moving forward with consideration of the offer.

The main motion remaining on the floor, the members voted as follows: ayes - Lau, Good, Lorenz, Settle and Hutchings; nays - Catsavis and Pennartz. The Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-5-16.

Item No. 3 was an ordinance amending Chapter 3 of the Fort Smith Municipal Code to establish fees for dispensary permits for alcoholic beverages and for permits for serving mixed drinks and other alcoholic beverages and for other purposes.

Director of Finance Jennifer Walker briefed the Board on the item advising such merely updates language regarding permit fees for the sale of alcoholic beverages and adds class codes related to microbrewery businesses, which is not currently included in the Fort Smith Municipal Code. Without such class code, new microbrewery businesses

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located in Fort Smith will be assigned alcohol permit codes that do not align with Arkansas alcohol permit codes. Additionally, a list of alcohol permit fee amounts is being added to the ordinance to improve accessibility to permit information for the business community. Currently, businesses must contact the Business Licensing and Collections Office to determine the appropriate fee for their subject business. The Finance Department will review the ordinance annually (in January) to address any changes in fees or code structures. The proposed ordinance does not incorporate any fee increase; therefore, all current alcohol permit fees remain the same.

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 by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its readings.

Director Hutchings requested confirmation the proposed maintains no fee increase whereby Mrs. Walker responded, *"that's correct."*

Director Catsavis questioned the current alcohol permit fee.

Ms. Walker noted such vary depending on the type of business and alcohol served (beer, wine, mixed drinks, etc.); however, most restaurants average between \$250 to \$300 per year.

The motion remaining on the floor and the members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 6-16.

Item No. 4 was a resolution authorizing the Mayor to execute an agreement for insurance broker services (*\$28,500.00 / Finance Department / Budgeted - Various Funds*)

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Administrator Dingman briefed the Board on the item advising during review of the City's auto and property insurance renewal options during the February 10, 2015 study session, the Finance Department was directed by the Board to seek other brokers prior to the next renewal period to determine if the City is getting the best insurance coverage and value. Such was further substantiated at the April 21, 2015 meeting when the Board amended the 2015 Budget for the addition of a Safety & Risk Manager position. It was discussed by the board that the new risk manager, whenever hired, will spearhead the broker services search by virtue of soliciting bid proposals. The newly hired risk manager unfortunately stepped down after nearly completing three (3) weeks in the position. When a new risk manager is hired, settled in the position and have conducted a thorough review of current policies and insurance needs, he/she will serve as the City's "broker"; however, until such time, it is imperative that the City rely on the expertise of a qualified broker that will enable the City to benefit from getting expert advice on insurance coverage that best suits the City's needs, find the proper and necessary coverage to protect they City's assets of nearly \$300,000,000 by comparing prices and product features from numerous potential underwriters and ultimately reduce insurance costs. Regardless, the City moved forward and solicited Requests for Qualifications (RFQ) for broker services. The solicitation was advertised in the Times Record and the Arkansas Democrat Gazette on November 21-23, 2015. Proposals were due December 9, 2015. A three (3) member committee reviewed and scored all proposals on January 8, 2016 and recommend an agreement with BancorpSouth Insurance Services (BXS), which is for broker agency services only. The proposed is a three-year contract with renewal options of two (2) additional two-year terms, renewable one term at a time. Upon approval, staff will immediately begin working with

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BXS to solicit proposals from various insurance carriers and the Arkansas Municipal League for those coverages and will make a recommendation at the February 9, 2016 study session.

Lorenz, seconded by Pennartz, moved adoption of the resolution.

Director Settle noted that the Arkansas Municipal League (AML) was considered to provide insurance coverage in 2015, which it was anticipated such would result in an approximate \$250,000 reduction in the annual premium currently paid by the City. The City opted not to move forward with AML; however, he spoke in favor of tabling the matter and directing staff to request a quote from AML for 2016 with an invitation for Mr. Don Zimmerman, AML Executive Director, to come to a future study session and address the Board.

Mayor Sanders inquired when the existing insurance coverage expires whereby Administrator Dingman advised the renewal date is March 1, 2016.

Director Lau noted a discussion needs to occur so the Board can determine if the City wants to opt for minimum coverage amounts. If the City opts to go with AML, there's no need to consider the proposed resolution. No opposition was conveyed with tabling the matter; however, the aforementioned discussion is necessary.

Director Good concurred with comments of Director Lau.

Mayor Sanders requested staff prepare a comparison of the City's current coverage, the minimum insurance requirements, and what AML can provide.

Settle, seconded by Lau, moved to table consideration of the item pending discussion at the next study session (Tuesday, January 26, 2016) provided Mr. Zimmerman can attend said study session to review insurance services provided by AML.

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Prior to the vote, there was brief discussion regarding broker services and if other entities should be allowed to also submit proposals along with the AML.

City Attorney Canfield addressed the Board clarifying the Board may accept quotes from any entity that wishes to submit such.

Director Pennartz advised the current broker, Brown Hiller & Clark, should be able to provide the requested current and minimum coverage requirements. A previous concern with the AML coverage is that said insurance would not cover anything in the event the City vehicle is outside the boundaries of the State of Arkansas; therefore, she inquired if such is a valid issuance of significance.

Mr. Scott Clark, Brown Hiller & Clark, addressed the Board and advised he's analyzed the AML program. He conceded such is definitely a cost savings to the City; however, he expressed concern the program may contain possible restrictions or limitations that would be a detriment to the City of Fort Smith. If all aspects of the AML program can be vetted and addressed, he conveyed no reservation with selecting AML for the City's insurance coverage. With regard to coverage on vehicles, he noted three (3) areas of concern, i.e. out-of-state coverage; personal use of City vehicles, which would jeopardize immunity; and, if such were tried in a federal court.

The motion remaining on the floor, the members voted as follows: ayes - Lau, Good, Lorenz, Pennartz and Settle; nays - Catsavis and Hutchings. The Mayor declared the motion carried and the item was tabled pending discussion at a future study session.

The Consent Agenda (Item No. 5) was introduced for consideration, the items being as follows:

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- A. Resolution to accept the bid and authorize a contract for the 2014 Drainage Improvements, Phase B1, Project No. 14-06-B1 (\$616,720.00 / *Engineering Department / Budgeted - Sales Tax Program Fund*) ♦ *Future Fort Smith Item*
- B. Resolution to accept completion of and authorize final payment for the construction of railroad crossing repairs at North 27th Street, Project No. 15-10-A (\$108,952.26 / *Engineering Department / Budgeted - Sales Tax Program Fund*) ♦ *Future Fort Smith Item*
- C. Resolution authorizing a change order for the construction of 2014 Street Overlay / Reconstruction, Phase B, Project No. 14-03-B (97 days / \$150,298.25 / *Engineering Department / Budgeted - Sales Tax Program Fund*) ♦ *Future Fort Smith Item*
- D. Resolution accepting completion of and authorizing final payment for the construction of 2014 Street Overlay / Reconstruction, Phase B, Project No. 14-03-B (\$150,434.36 / *Engineering Department / Budgeted - Sales Tax Program Fund*) ♦ *Future Fort Smith Item*
- E. Ordinance authorizing the Mayor to execute agreements for certain services for inhabitants of the city of Fort Smith
- F. Resolution accepting the bid and authorizing the Mayor to execute a contract with Rodebush Construction, Inc. for the construction of the press box and dugouts at Martin Luther King Jr. Park (\$112,750.00 / *Parks Department / Not Budgeted - Arkansas State Parks Outdoor Recreation Grant & Park Partners donation*)
- G. Resolution authorizing the execution of a memorandum of understanding between the City of Fort Smith Police Department and the Office of Secure Transportation, National Nuclear Security Administration, Department of Energy

Good, seconded by Hutchings, moved adoption of all consent agenda items.

Regarding Item No. 5B, Director Hutchings noted he's glad railroad crossing repairs are being initiated, but inquired if additional repairs in other locations are in the foreseeable future.

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Director of Engineering Stan Snodgrass reminded all that railroad crossings are the responsibility of the railroad; however, it's proven difficult to get them to initiate repairs in a timely manner. Due to such, over the past several years the City has incorporated railroad crossing repairs within street improvement projects when such are located within the project area. Four (4) were completed in 2015 with two (2) anticipated in 2016. The Engineering Department has incorporated two (2) per year in subsequent years. With said pattern, it will take over thirty (30) years to complete all crossings currently in need of repair.

With regard to Item No. 5E, Pennartz, seconded by Lau, offered a substitute motion to amend the ordinance to remove and table discussion regarding Section 1 regarding the Fort Smith Museum of History agreement.

Prior to the vote, Director Pennartz expressed concern with the long-standing agreement with the Fort Smith Museum of History citing the principle involved should include all non-profit organizations; therefore, requested discussion regarding same to clarify a policy for all non-profit organizations.

Administrator Dingman advised the subject agreement is required due to a long-standing agreement with the Fort Smith Museum of History, which has been in effect for approximately eighty (80) years and such maintains no termination clause.

Director Settle conveyed no opposition to the proposed funding, but recommended such come from another funding source. Regardless, he requested City Attorney Jerry Canfield address the Board regarding the lack of a termination clause in the aforementioned, long-standing agreement from 1936.

Mr. Canfield advised he has no knowledge or recollection of reviewing the

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aforementioned agreement, which from his understanding has been in place long before he represented the City in 1970; however, he will conduct said review if requested.

The substitute motion remaining the floor (amend Item No. 5E to remove Section 1 and table consideration pending further review) and the members all voting affirmatively with the exception of Director Hutchings, the Mayor declared the motion carried and the ordinance stood amended.

With regard to Item No. 5F, Director Settle extended much appreciation to Director of Parks and Recreation Doug Reinert for the project citing such will really change the park and he's looking forward to utilizing the facility.

The main motion remaining on the floor and the members all voting affirmatively, the Mayor declared the motion carried and the resolutions and ordinance (as amended) was adopted with the ordinance given Ordinance No. 7-16 and the resolutions numbered R-6-16 through R-11-16 respectively.

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

▶ Mayor Sanders

- Re:
1. Extended much appreciation to Bruce Wade and all involved with the Martin Luther King Jr. events.
 2. Noted that Reverend U. C. Washington, who has provided the invocation at several Board meetings, has accepted a church in Little Rock; therefore, much appreciation was conveyed for his service to the city of Fort Smith.

▶ Director Settle

- Re: Extended much gratitude to all who attended the recent nationally televised basketball games at the University of Arkansas Fort Smith (UAFS) citing it's encouraging to see the city's support of the local college.

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- ▶ Director Hutchings

Re: He simply noted that it's cold outside; therefore, he urged all to check on their neighbors and the elderly.

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 Mayor declared the motion carried and the meeting stood adjourned at 6:59 p.m.

APPROVED:


MAYOR

ATTEST:


CITY CLERK