

MINUTES OF BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ DECEMBER 7, 2010 ~ 6:00 P.M.

FORT SMITH PUBLIC SCHOOLS SERVICE CENTER

The meeting was called to order by Mayor Ray Baker, presiding. Invocation was given by Director Don Hutchings, followed by the Pledge of Allegiance. On roll call the following members of the Board were present: Directors Steve Tyler, Andre' Good, Don Hutchings, George Catsavis, Gary Campbell, Kevin Settle and Cole Goodman. The Mayor declared a quorum present.

Mayor Baker acknowledged the date as being the anniversary of the attack on Pearl Harbor; therefore, he requested the acknowledgment be so noted for the record.

The Mayor inquired if any Board member had an item of business to present that was not already on the agenda. There was none presented.

The minutes of the November 16, 2010 regular meeting were presented for approval. Hutchings, seconded by Good, moved approval of the minutes as written. The members all voting aye, the Mayor declared the motion carried.

Item No. 1 consisted of the following presentations:

➤ Mayor Baker, the Board, and City Administration presented the "Good Neighbor Awards" along with a red rose and certificate to the following citizens of Fort Smith for helping to make their neighborhoods and the community a better place in which to live:

- David & Zeta Smith
- Mark Anderson
- Larry Loux
- Patty Arnold
- Salvatore Salamone
- Brandon & Kim Cox (*Kim unable to attend*)

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- Bill & Doris Baker *(unable to attend)*
- Laurie Finley *(unable to attend)*
- Tom Blake *(unable to attend)*

➤ Mayor Baker recognized Ms. Deanna Rice, Executive Director of SCRA, Inc. On behalf of the four (4) senior centers in Fort Smith, she wished a Merry Christmas to the Mayor and Board, and introduced the following individuals who presented personal holiday greetings and Christmas cards from each senior center:

- ▶ Marsha Stroud - Ray Baker Senior Activity Center
- ▶ Darcy David - Midtown Senior Center
- ▶ Sondra Carter - Fort Smith Senior Activity Center
- ▶ Becky Grist - Beckman Senior Center

Mayor Baker conveyed much appreciation for the cards and commended the SRCA for the excellent work being done at all the senior centers.

Item No. 2 consisted of the following Items regarding the Metropolitan Planning Organization:

- A. Resolution authorizing withdrawal from the Bi-State Metropolitan Planning Organization; authorizing participation in the dissolution of the organization; declaring an emergency thereof; and for other purposes
- B. Ordinance authorizing the formation of a Metropolitan Planning Organization; authorizing an agreement between the City of Fort Smith and other cities and counties and other entities within the State of Arkansas and within the State of Oklahoma; declaring emergency therefore; and authorizing and prescribing other matters thereto

Acting Administrator Ray Gosack briefed the Board on the items as discussed at the November 16, 2010 study session. Item No. 2A authorizes the dissolution of the Bi-State Metropolitan Planning Organization (MPO). The purpose of the proposed dissolution is due to lack of participation by various members, which has created difficulties with

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obtaining quorums for conducting business. Item No. 2B approves the creation of the Frontier MPO and authorizes the execution of an agreement with sixteen (16) of the most active entities in the four-county area, and that the Fort Smith Regional Airport and the Western Arkansas Regional Intermodal Authority (RITA) be included as members thereby maintaining 18 members. The dissolution of the Bi-State MPO (Item No. 2A) will not be effective until the new Frontier MPO is created. Upon approval, the Frontier MPO will be established until July 1, 2011. In the event enough cities and counties do not agree to the creation of the new Frontier MPO, the existing Bi-State MPO would continue to serve the region.

Campbell, seconded by Tyler, moved adoption of Item No. 2A. The members all voting affirmatively, the Mayor declared the motion carried. Hutchings, seconded by Catsavis, moved adoption of Section 4 the emergency clause. The members all voting affirmatively, the Mayor declared the motion carried and the resolution and emergency clause were adopted and given No. R-205-10.

Hutchings, seconded by Settle, moved adoption of Item No. 2B. 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. Settle, seconded by Campbell, moved adoption of Section 7 the emergency clause. The members all voting affirmatively, the Mayor declared the motion carried and the ordinance and emergency clause were adopted and given No. 63-10.

Item No. 3 was an ordinance rezoning identified property and amending the zoning

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map (Industrial Light (I-1) to Residential Single Family High Density (RS-4) by classification / 5007,5015, 5019, 5023, 5025, 5029 South 34th Street and 3400 Tulsa Street)

Director of Development Services Wally Bailey briefed the Board on the item advising such is per the request of the City of Fort Smith. The purpose of the rezoning is to allow the zoning to accurately reflect how the area has developed and to allow for property owners in the vicinity to alter or expand their use. The Planning Commission held a public hearing on November 9, 2010 with no individual present to speak in opposition. The property at 3321 Utica Street was originally included; however, the property owner requested such be removed. Due to such, the Planning Commission approved the rezoning request as amended to approve the removal of the property located at 3321 Utica Street by a vote of eight (8) in favor and zero (0) opposed.

Director Hutchings inquired as to why the property owners of 3321 Utica Street wished to be removed from the rezoning.

Mr. Bailey advised the owners purchased the vacant property with the intent to utilize the area with some type of light industrial use in the future. The owner has even initiated a replat of the property to accommodate such.

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 No. 64-10.

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Item No. 4 was an ordinance amending the 2010 Budget

Director of Finance Kara Bushkuhl briefed the Board on the item and reviewed the various amendments to the 2010 Budget as discussed at the Budget review meetings in November. The amendments are noted as follows:

- ▶ \$50,000 each from the General Fund and Sanitation Operating Fund to provide for the cleanup program for neighborhood services.
- ▶ \$28,740 from the four operating funds to provide for a portion of the severance pay to the former administrator.
- ▶ The additional reserves for workers' compensation claims during 2010 have caused a deficit balance in the Workers' Compensation Fund; therefore, up to \$400,000 will be transferred from the Employee Health and Wellness Fund to address a deficit. The City expects to receive an excess insurance reimbursement from a 1990 claim prior to the end of 2010; therefore, if the reimbursement is received by the end of the year, the transfer will be reduced to the amount necessary to cover the deficit.

Campbell, seconded by Hutchings, moved adoption of the ordinance. The members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given No. 65-10.

Mayor Baker announced that this was the time and place set for a public hearing to adopt the fiscal year 2011 Operating Budget and to provide other matters relating thereto. Notice of the public hearing had been duly published as required by law. Following the public hearing, consideration of an ordinance authorizing same would be given (Item No. 5).

Ms. Bushkuhl briefed the Board on the item advising all amendments suggested at

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the budget review hearings (November 7, 8 and 15) are included within the proposed budget, and reviewed said adjustments. Also, other items not previously included within the proposed budget are the inclusion of revenue adjustments for the water and sewer rate increases, and the revenue and expense relating to acceptance of the COPS grant (*Consent Agenda Item No. 11C*).

The following individuals were present to address the Board, whereby each expressed much appreciation to the City for the financial contributions included within the 2011 Budget to their respective organizations:

- Cindy Crawford, Hannah House
- John Jeter, Fort Smith Symphony

There being no other individuals present to address the Board, Mayor Baker closed the public hearing.

Regarding Public Transit, Director Good noted that a memo indicates additional preventative maintenance could result in an estimated \$20,000 cost savings; therefore, he requested a brief explanation.

Director of Transit Ken Savage confirmed that preventative maintenance measures is a current practice; however, measures such as reducing inventory and critiquing certain services will be addressed in 2011 to realize a greater benefit in the coming year.

Director Hutchings requested clarification that the proposed budget includes funding to outside agencies and employee step increases.

Ms. Bushkuhl confirmed both and further clarified that salary step increases are only for those employees whose salary is below the midpoint of their respective pay grade.

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Director Good questioned what mechanism is in place to assure employees who qualify for such will only receive one step increase.

Director of Human Resources Richard Jones advised that all proposed step increases are verified by two (2) separate Human Resources staff members, and then he verifies a third time before an increase is authorized.

Campbell, 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 No. 66-10.

Item No. 6 was an ordinance establishing salaries and benefits and related procedures for City employees

Mr. Jones briefed the Board on the item advising such authorizes the salaries and benefits for uniformed and non-uniform employees for 2011. Such contains no cost of living increase; however, he reiterated that employees whose rate of pay is below the midpoint for their salary range will receive one step increase at the time of their annual evaluation. The ordinance previously presented to the Board contained the incorrect year of 2010 in multiple locations within the ordinance. Due to such, the ordinance was revised to reflect the correct year of 2011 and such revision was presented to each member of the Board prior to the meeting.

Good, seconded by Catsavis, moved adoption of the ordinance as revised to reflect the year 2011. The members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given No. 67-10.

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Items No. 7, 8 and 9 were addressed collectively; therefore, the items were presented as follows:

- Item No. 7: Ordinance amending Ordinance No. 26-07 and Ordinance No. 65-07 for the purpose of establishing rates for water services supplied by the City of Fort Smith and superseding prior rates for such services
- Item No. 8: Introduction of ordinance amending Ordinance No. 25-07 for the purpose of establishing rates for sewer services provided by the City of Fort Smith and superseding prior rates for such services
- Item No. 9: Resolution setting public hearing regarding proposed rates for the sanitary sewer services and authorizing publication of a notice of said public hearing

Director of Utilities Steve Parke briefed the Board advising Item No. 7 establishes rates for water services as discussed during review of the proposed 2011 Utility Department operating budget. The Board concurred that the preferred method to meet the required 110% bond coverage covenant was to reduce operating expenses and increase water and sewer rates by 5%. Upon approval of Item No. 7, such authorizes the aforementioned 5% increase for water rates effective January 1, 2011.

Mr. Parke then formally introduced Item No. 8, the ordinance to establish rates for sewer services provided by the City of Fort Smith. Such authorizes a 5% increase in sewer rates effective January 1, 2011. Arkansas state law requires a public hearing be held prior to consideration of the proposed ordinance and said notice must be published at least 10 days in advance of the public hearing. Item No. 9 accomplishes such and formally sets the public hearing and consideration of the sewer rate ordinance at the December 21, 2010 regular meeting.

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Regarding Item No. 7, Director Hutchings questioned how much of the 2010 budget amendments from operating expenses addressed the \$1.7 million budget deficit whereby Mr. Parke advised approximately \$1.2 million.

Director Good requested confirmation that a mere increase in fixed costs, such as water connection fees, would not be sufficient to meet the 110% bond covenant requirement.

Mr. Parke confirmed an increase in fixed costs alone would not be sufficient to address the bond coverage requirement.

Director Campbell clarified that although the Utility Department budget was drastically reduced to address budget shortfalls, such budget cuts were not from items that affect the quality of water provided by the City of Fort Smith.

Good, seconded by Campbell, moved adoption of Item No. 7. 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 voted as follows: ayes - Tyler, Good, Hutchings, Campbell and Goodman; nays - Catsavis and Settle. The Mayor declared the motion carried. Good, seconded by Campbell, moved adoption of Section 5 the emergency clause. The members voted as follows: ayes - Tyler, Good, Hutchings, Campbell and Goodman; nays - Catsavis and Settle. The Mayor declared the motion carried and the ordinance and emergency clause were adopted and given No. 68-10.

As required by law, Item No. 8 was merely the formal introduction of the ordinance

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establishing sewer rates; therefore, no formal action by the Board of Directors was required.

Campbell, seconded by Good, moved adoption of Item No. 9. The members all voting affirmatively, the Mayor declared the motion carried and the resolution was adopted and given No. R-206-10.

Item No. 10 was an ordinance accepting the conveyance of the potable water system from the Fort Chaffee Redevelopment Authority to the City of Fort Smith

Mr. Gosack briefed the Board on the item. The City of Fort Smith and the Fort Chaffee Redevelopment Authority (FCRA) entered into a memorandum of agreement in February 2001. The MOA included and established an interim operating period whereby the City of Fort Smith would operate and maintain the existing water system located within the FCRA properties. Upon completion of the interim operating period, the FCRA agreed to transfer ownership of the water system to the City of Fort Smith. Upon approval, such accomplishes the aforementioned transfer. It is important to note that the City of Fort Smith has been operating and maintaining the FCRA water system since 2001 and the FCRA formally approved the conveyance and bill of sale on November 18, 2010; therefore, he recommended approval.

Settle, seconded by Hutchings, moved adoption of the ordinance. The members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given No. 69-10.

The Consent Agenda (Item No. 11) was introduced for consideration, the items being as follows:

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- A. Resolution approving a contract with Daily & Woods, P.L.L.C. for general legal services for 2011
- B. Resolution approving claim service, specific excess insurance and aggregate excess insurance for City's workers' compensation coverage
- C. A Resolution authorizing the Chief of Police to accept the FY 2010 Community Oriented Policing Services (COPS) Hiring Program Grant
- D. Resolution authorizing Change Order Number Four with Crossland Heavy Contractors, Inc. for construction of the Lake Fort Smith Water Treatment Plant - Contract 3 (\$70,237.00)
- E. Resolution accepting the bid of and authorizing the Mayor to execute a contract with KAJACS Contractors, Inc. for the Zero Street Outfall Sewer Improvements Phase I (\$1,228,652.00)
- F. Resolution authorizing the Mayor to execute Authorization Number Two with Mickle Wagner Coleman, Inc. for engineering services associated with the Zero Street Outfall Sewer Improvements Phase I (\$102,000.00)

Regarding Item No. 11D, Director Catsavis questioned who prepared the design for the project and expressed concern that the proposed change order items were not included within the original design and project specifications.

Mr. Parke advised the design engineer was Burns and McDonnell. The majority of the change order items are required due to unforeseen underground discoveries during construction. Some of the minor costs are improvements that staff requested to be included such as additional valves, etc.

Campbell, seconded by Good, moved approval of all consent agenda items. The members all voting affirmatively, with the exception of Director Catsavis voting "no", the Mayor declared the motion carried and the resolutions were adopted and numbered R-207-

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Mayor declared the motion carried and the resolutions were adopted and numbered R-207-10 through R-212-10 respectively.

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

▶ Mayor Baker

Re: Due to publication in the Times Record and Democratic Gazette, he advised the United States Postal Service (USPS) has again announced their intent to relocate the Fort Smith mail processing services to northwest Arkansas. Such was fought successfully in 2008; however, he conveyed much disappointment that the USPS is again promoting their relocation effort. Due to such, he urged the incoming elected officials and Fort Smith residents to "prepare for battle" and "rally together" to ensure such relocation does not occur.

▶ Director Hutchings

Re: Requested a brief explanation of the recent letter from Cox Communications regarding local broadcast of NBC and Fox networks on local stations.

Mr. Gosack advised that Cox Communications advised the City of ongoing negotiations to broadcast NBC and Fox networks. If no agreement is reached by the end of the year, NBC and/or Fox affiliates will not be broadcast via Cox Communications; however, he conveyed much assurance that a resolution will be achieved.

▶ Acting Administrator Gosack

Re: Expressed much appreciation to the Board for their guidance and leadership during the 2011 budget process.

With regard to the time limit policy for persons wishing to address the Board in Citizens Forum, Mayor Baker communicated that two (2) minutes will be allotted to each person wishing to speak.

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Mayor Baker opened the Citizens Forum with no individual present to address the Board.

There being no further business to come before the Board, Settle moved that the meeting adjourn. The motion was seconded by Catsavis and the members all voting aye, the Mayor declared the motion carried, and the meeting stood adjourned.

APPROVED:


Mayor

ATTEST:



CITY CLERK