

MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ FEBRUARY 19, 2013 ~ 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 Sister Maria DeAngeli of Saint Scholastica Monestary, 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, Pam Weber, Kevin Settle and Phillip H. Merry, Jr. The Vice-Mayor declared a quorum present.

The Vice-Mayor 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 February 5, 2013 regular meeting were presented for approval. Weber, seconded by Lorenz, moved approval of the minutes as written. The members all voting aye, the 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.

Item No. 1 was an ordinance amending Section 14-27 and adding Section 14-33 to the Fort Smith Municipal Code to authorize urban deer hunts within the city limits under specified conditions ~ *Settle/Lau placed on agenda at the January 8, 2013 study session / 1st reading - January 15, 2013 regular meeting / 2nd reading as amended - February 5, 2013 regular meeting ~ ** Third and Final Reading ***

City Administrator Ray Gosack merely advised the item is to accomplish the third and final reading of the ordinance, as amended at the February 5, 2013 regular meeting.

February 19, 2013 Regular Meeting

The following individuals were present to address the Board:

- Michael Langham
Barling, Arkansas

Re: Spoke in opposition to the proposed ordinance citing safety concerns relative to firearms being utilized within the city limits.

Administrator Gosack clarified the Urban Deer Hunt Program does not permit the use of firearms advising only specifically identified archery equipment may be used.

- Jim Winn
Fort Smith, Arkansas

Re: Spoke in favor the item; however, he spoke in opposition to the disallowance of crossbows. He alleged such is discriminatory against the elderly and disabled; therefore, requested the Board amend the ordinance to allow the use of such.

Chief Lindsey clarified crossbows may be authorized for disabled individuals; however, such will be determined on a case-by-case basis during the permitting process.

Director Weber spoke in opposition to the item citing safety concerns. She urged the Board to consider that, upon approval, the City will allow a deer stand to be located 150 feet from a residence, but may soon also require digital billboard be at least 350 feet from a residence.

Director Merry conveyed his intent to vote against the item citing great concern for the safety of nearby residents. Because the concern regarding overpopulation of deer originated in the Chaffee Crossing area, he recommended the urban deer hunt be permitted only in the Chaffee Crossing area.

The City Clerk read the ordinance, as amended on second reading, in its entirety

February 19, 2013 Regular Meeting

for its third and final reading. Upon completion of such, Vice-Mayor Settle declared the ordinance adopted and the ordinance was given No. 8-13.

Item No. 2 was an ordinance amending identified sections and repealing Section 4-115 (a)(5) of the Fort Smith Municipal Code to authorize certain changes and additional regulations pertaining to domestic animals ~ *Lau/Merry placed on agenda at the February 12, 2013 study session ~*

Administrator Gosack briefed the Board on the item as discussed at the February 12, 2013 study session. The proposed ordinance provides various amendments to the existing animal ordinance including the definition of "secure enclosure", requirement for proof of age for the purchase of an animal, and clarification the transporting of animals in an open air vehicle is applicable to public streets. It has also been discovered that Section 5 of the proposed ordinance creates a conflict with the fine schedule for running at large violations. In order to address the matter, the ordinance has been revised to remove Section 5; therefore, the motion to adopt should include "as revised."

Good, seconded by Lorenz, moved adoption of the ordinance as revised to remove Section 5. 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 Vice-Mayor declared the motion carried. Weber, seconded by Lorenz, moved adoption of Section 8 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 No. 9-13.

February 19, 2013 Regular Meeting

Item No. 3 was an ordinance declaring an exceptional situation requiring the waiving of competitive bidding and authorizing execution of a contract between the Sebastian County Humane Society and the City of Fort Smith, Arkansas

Police Chief Lindsey briefed the Board on the item advising such authorizes a three (3) year contract with the Sebastian County Humane Society (SCHS). Such identifies the SCHS as the City's animal impoundment facility, provides for use of office space for Animal Control Officers at the SCHS location on Kelley Highway and includes enhanced animal care guidelines, which coincide with many of the guidelines of the Humane Society of the United States. The proposed contract provides for an incremental cost increase each year. Since the amount will reach the threshold in which competitive bidding is required, the proposed ordinance also authorizes said requirement of competitive bidding be waived. The purpose is because staff research failed to identify other organizations to accommodate the City's needs. At the request of the SCHS, the contract has also been revised to include language that the SCHS will provide a monthly report concerning animals accepted from Fort Smith residents and Animal Control Officers. Due to such, the motion to adopt the ordinance should include acceptance of the revised contract.

The following individuals were present to address the Board:

- Cheryl Gilmore
Fort Smith, Arkansas

Re: Read a prepared statement and requested the following:

- ▶ Removal of the phrase "when feasible" from the contract relating to compliance with Humane Society of the United States guidelines.

February 19, 2013 Regular Meeting

- ▶ The increased fees be used to spay female animals rather than such being used for housing and euthanasia costs.
 - ▶ Feasibility study be performed regarding a city-operated impoundment facility.
- Tessa Freeman
Fort Smith, Arkansas
- Re: Also read prepared statement alleging euthanasia numbers are too high at the Sebastian County Humane Society; therefore, in order to address overpopulation, she urged the City to promote and require residents to spay/neuter their animals.

Director Good noted the City operated an impoundment facility many years ago and inquired when such was last considered.

Police Chief Lindsey advised the matter was briefly discussed during negotiation of the proposed contract; however, the last thorough review was conducted in either 2007 or 2008. He expressed concern that if the City pursued the matter, staffing costs would be the major point of concern.

Administrator Gosack further noted a major benefit of utilizing the SCHS is their ability to provide adoption services. If the City operated such a facility, he expressed concern the rate of adoption would decline from what is currently being provided.

Director Merry extended much appreciation to the SCHS for their service and conveyed much confidence the City has accomplished its efforts to encourage residents to spay/neuter their pets by including incentives for such.

Vice-Mayor Settle also conveyed much appreciation to the SCHS, City staff and the Animal Services Advisory Board for their service.

February 19, 2013 Regular Meeting

Lorenz, seconded by Good, moved adoption of the ordinance. The motion included acceptance of the revised agreement as noted above. The members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given No. 10-13.

Item No. 4 was an ordinance establishing prices and fees for grave spaces and services at Oak Cemetery.

Director of Parks and Recreation Mike Alsup briefed the Board on the item advising the proposed ordinance is in response to the Board of Directors discussion of rates during the 2012 budget meeting. The Parks and Recreation Commission reviewed existing rates for park services and recommended no increase for such. The Oak Cemetery Commission however, recommend the proposed increases for the purchase of grave spaces and opening/closing costs at Oak Cemetery. The existing rates are well below other cemeteries and upon approval, will remain the lowest available rates in Fort Smith. Since 2010, cemetery revenue accounted for an average of forty-three percent (43%) of expenses. Upon approval, it's anticipated the increased revenue will result in recovery of approximately fifty percent (50%) of actual expenses.

There was brief discussion whereby Directors Good, Lorenz and Weber spoke in opposition to the proposed rate increases conveying the cemetery is not a "for profit" service.

Director Lau conveyed no objection to the proposed rate increases citing although such is minimal, the increased revenue stream will at least recoup a greater percentage of expenses.

February 19, 2013 Regular Meeting

Director Lau 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 motion received no second; therefore, Vice-Mayor Settle declared the motion died for lack of a second.

Item No. 5 was an ordinance amending Section 2-48 of the Fort Smith Municipal Code regarding appointment of members to boards, commissions or committees

Administrator Gosack briefed the Board on the item advising the existing policy includes a provision that citizens may serve on only one (1) board, commission or committee at a time. The policy includes an exception whereby an individual may be considered for multiple appointments when a special or unique qualification for membership exists. Said policy was adopted via a resolution; however, the proposed ordinance merely allows for the provisions for appointment be included within the Fort Smith Municipal Code.

Director Weber questioned the effect such will have on the upcoming appointments to the Comprehensive Plan Steering Committee.

Mr. Gosack reiterated the policy maintains a provision whereby members currently serving on other boards, commissions or committees may serve on another board, commission or committee when a special or unique qualification exists.

Lorenz, seconded by Lau, 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 Vice-Mayor declared the motion carried and the ordinance was adopted and given No. 11-13.

February 19, 2013 Regular Meeting

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

- A. Resolution by the City of Fort Smith Board of Directors regarding the passage and use of county-wide sales tax proceeds ~ *Weber/Lorenz placed on agenda at the February 12, 2013 study session ~*
- B. Resolution endorsing continuation of the County-Wide Sales Tax ~ *Weber/Lorenz placed on agenda at the February 12, 2013 study session ~*
- C. Resolution accepting the report of the Water and Sewer Operations Efficiency Study ~ *Settle/Lorenz placed on agenda at the February 7, 2013 Joint Meeting with the Water and Sewer Efficiency Study Task Force ~*
- D. Resolution authorizing the Mayor to enter into an agreement with The Western Arkansas Tennis Association for operation of the tennis center at Creekmore Park
- E. Resolution authorizing execution of an agreement between the City of Fort Smith and Arkoma Municipal Authority for the treatment of wastewater
- F. Resolution authorizing execution of an agreement between City of Fort Smith and Arkoma Municipal Authority for the purchase of surplus water
- G. Resolution authorizing Amendment No. 1 to Authorization No. 4 with CDM Smith, Inc. for engineering services for the Mill Creek Wastewater Pump Station Wet Weather Improvements (\$315,300.00 / Utility Department / Budgeted - 2012 Sales and Use Tax Bonds)
- H. Resolution authorizing the City Administrator to accept an offer made by property owner for the acquisition of easements in connection with the Lake Fort Smith 48-Inch Water Transmission Line (\$16,000.00 / Utility Department / Budgeted - 2008 Revenue Bonds)

February 19, 2013 Regular Meeting

- I. Resolution authorizing acquisition of real property interests for the Chaffee Crossing Water Supply Improvements - Geren Road and Massard Road Water Lines (\$8,476.00 / Utility Department / Budgeted - 2012 Sales and Use Tax Bonds)
- J. Resolution authorizing the City Administrator to accept an offer made by property owner for the acquisition of easements in connection with the Chaffee Crossing Water Supply Improvements - Geren Road and Massard Road Water Lines (\$4,028.75 / Utility Department / Budgeted - 2012 Sales and Use Tax Bonds)
- K. Ordinance declaring an exceptional situation, waiving the requirements of competitive bidding and accepting the proposal from Harris Company of Fort Smith for storm drainage improvements along Massard Road (\$15,045.00 / Utility Department / Budgeted - 2012 Sales and Use Tax Bonds)
- L. Resolution authorizing Change Order No. 2 with Axioo Construction, Inc. for the Zero Street Pump Station Wet Weather Improvements - Site Remediation (\$26,788.78 / Utility Department / Budgeted - 2012 Sales and Use Tax Bonds)
- M. Resolution accepting bids for the purchase of refuse trucks (\$936,185.78 / Sanitation Department / Budgeted - Sinking Funds and Capital Outlay)
- N. Resolution approving automobile and property insurance coverage for the City's fleet and buildings for 2013-2014 (\$835,791.00 / Various Departments / Budgeted)

Regarding Item No. 6I, Administrator Gosack advised the resolution authorizes acquisition of multiple properties; however, a settlement has now been reached for Tract 9 - ERC Land Development Group, LLC. Due to such, he requested the resolution be amended to remove Tract 9.

With regard to Item No. 6C, Vice-Mayor Settle extended much appreciation to Internal Auditor Mitzi Kimbrough and the Water and Sewer Efficiency Study Task Force for their work.

February 19, 2013 Regular Meeting

Regarding Item No. 6D, Director Catsavis questioned if past complaints regarding minimal public availability of tennis courts has been addressed and who actually maintains the tennis center courts and facility.

Mr. Alsup conveyed assurance the complaint regarding the availability of tennis courts for immediate public use has been addressed. The Western Arkansas Tennis Association (WATA) now requires a two (2) hour advance notice for reservations and also posts tennis court availability on their website. In the past year, only one (1) instance occurred when all courts were reserved and unavailable for immediate use by the public; however, the individual had to wait only ten (10) minutes to utilize a court. With regard to maintenance, WATA oversees the day-to-day operations; however, the City is responsible for necessary repairs at the facility.

With regard to Item No. 6L, the following individual was present to address the Board:

- David Harris
Fort Smith, Arkansas

Re: Requested the total cost of remediation of the site, including landfill fees.

Director of Utilities Steve Parke advised the total cost was \$3.2 million.

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

- David Harris
Fort Smith, Arkansas

Re: Requested confirmation that the cost of \$268,000 is the cost per truck whereby Administrator Gosack responded "yes".

February 19, 2013 Regular Meeting

Lau, seconded by Merry, moved adoption of all consent agenda items. The motion included adoption of Item No. 6I as amended to remove Tract 9 / ERC Land Development Group, Inc. The members all voting affirmatively, the Vice-Mayor declared the motion carried and ordinance and resolutions were adopted with the ordinance given No. 12-13 and the resolutions numbered R-22-13 through R-34-13 respectively.

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

◆ Vice-Mayor Settle

Re: Announced five (5) new fire trucks were on display prior to the meeting and will also be available for public viewing at the Farmers Market, 201 Garrison Avenue, Saturday, February 22, Noon to 3:00 p.m.

◆ Director Merry

Re: 1. Conveyed much gratitude to the students who attended the recent joint meeting of the City of Fort Smith Board of Directors and Sebastian County Quorum Court held on February 12 regarding the aquatic center at Ben Geren Regional Park.

2. Regarding the aquatic center, he questioned what would occur if the center "broke even" and how such would be addressed.

Administrator Gosack advised the agreement between the City of Fort Smith and Sebastian County could be amended to address the matter.

3. Extended much appreciation to Police Chief Kevin Lindsey for his work on the animal regulations.

◆ Administrator Gosack

Re: Requested the Board call a special meeting for the purpose of holding a executive session to consider

February 19, 2013 Regular Meeting

appointments to the Comprehensive Plan Steering Committee and recommended such be scheduled for 6:15 p.m., Monday, March 11, 2013 at the Creekmore Park Community Center Rose Room.

Director Weber questioned if the Comprehensive Plan Steering Committee will also work on the Vision 2025 Plan.

Mr. Gosack noted it's currently anticipated the Comprehensive Plan Steering Committee will review both plans.

Weber, seconded by Lorenz, moved to call the special meeting as requested. The members all voting aye, the Vice-Mayor declared the motion carried.

The Board convened into executive session and after reconvening, Mayor Sanders announced the following appointment nominations:

ANIMAL SERVICES ADVISORY BOARD

Brook Borengasser

(to fill the unexpired term of Cheryl Gilmore, who resigned)

Term expires April 3, 2014

ARKANSAS FAIR AND EXHIBITION FACILITIES BOARD

Ken Pevehouse *(reappointment)*

Andrew Smith

Terms expire March 7, 2018

CIVIL SERVICE COMMISSION

Orval Smith

Term expires March 31, 2019

FORT SMITH HOUSING AUTHORITY

Richard S. Foti *(reappointment)*

Term expires March 3, 2018

OUTSIDE AGENCY REVIEW PANEL

W. Tyler Lamon

Term expires March 31, 2016

February 19, 2013 Regular Meeting

PARKING AUTHORITY

Stuart Ghan

Term expires December 31, 2017

PLUMBING ADVISORY BOARD

Alan Anderson *(reappointment)*

Term expires February 28, 2017

PORT AUTHORITY

Dustin Collgye

(to fill the unexpired term of Rick Parrish, who resigned)

Term expires July 31, 2013

PROPERTY OWNERS APPEAL BOARD

Joel Culberson

(to fill the unexpired term of Sherry McKinney, who resigned)

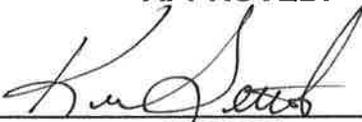
Term expires July 14, 2013

Catsavis, seconded by Merry, moved acceptance of all appointment nominations.

The members all voting aye, the Mayor declared the motion carried.

There being no further business to come before the Board, Merry 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 7:08 p.m.

APPROVED:



MAYOR

ATTEST:



CITY CLERK