

MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ JULY 19, 2016 ~ 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 Father Mike Lager of St. John's Episcopal 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 Vice-Mayor declared a quorum present.

Vice-Mayor Settle 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 5, 2016 regular meeting was presented for approval. Hutchings, seconded by Pennartz, moved approval of the minutes as written. The members all voting aye, the Vice-Mayor declared the motion carried.

Vice-Mayor Settle extended much appreciation to Expressions Flowers, LLC for the flower arrangements previously delivered to the meeting room for the Mayor, each member of the Board and City Clerk. Such is in recognition of "Make Someone Smile Week."

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 1K of Ordinance No. 87-15 to clarify sales commission and related procedures for designated employees.

Advertising and Promotion Commission Executive Director Claude Legris briefed the Board on the item advising the proposed is merely a clarification of the incentive pay

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distribution to sales personnel at the Fort Smith Convention Center, as directed by the City of Fort Smith Internal Auditor. The program was instituted in January 2009 and has been included in the annual salary ordinance in each subsequent year. Convention Center sales personnel are entitled to a five-percent (5%) commission in excess of their gross sales (excluding contract labor fees) for the same quarter of the previous year, subject to certain conditions. The Convention Center reorganized sales staff approximately three (3) years ago and adjusted the distribution of the subject incentive pay. Although no specific distribution was included in prior ordinances authorizing same, the proposed language merely clarifies the actual distribution of the five-percent (5%) commission. Upon approval, such will result in no additional financial impact on the operation of the facility.

Hutchings, seconded by Lau, moved approval of the ordinance. Prior to the vote, Director Pennartz questioned how the distribution was determined, who currently serves as the director of sales, how much incentive pay has been paid to date in 2016, and if the five-percent (5%) is a "*sufficient incentive.*"

Mr. Legris addressed each inquiry citing the sales staff previously consisted of two (2) full-time sales directors and one (1) event coordinator. Prior to the reorganization, distribution of the incentive pay was divided equally with two-and-a-half-percent (2.5%) going to the sales directors and same to the event coordinator, which totals the five-percent (5%) incentive previously authorized via ordinance. Due to the aforementioned reorganization, the sales staff was changed to one (1) director of sales, one (1) sales and services manager, and one (1) event coordinator. The proposed amendment clarifies that the director of sales will receive four-percent (4%) of the incentive pay and the event sales

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and services manager will receive the remaining one-percent (1%). Mr. Jeremy Ritchie, who is a long-time employee at the Convention Center, currently serves as the director of sales. To date, no incentive pay has been distributed in 2016. The gross sales of the first two (2) quarters in 2016 have been very close to the same quarters in 2015; however and unfortunately, such has not been in excess. The five-percent (5%) incentive has “*worked very well thus far*” with the total distribution averaging approximately \$1,300 per year.

Director Hutchings expressed much appreciation to Mr. Legris for his service to the Advertising and Promotion Commission and conveyed support for the proposed item.

The motion remaining on the floor and the members all voting affirmatively, the Vice-Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 41-16.

The Consent Agenda (Item No. 2) was introduced for consideration, the items being as follows:

- A. Resolution authorizing partial payment to Forsgren, Inc. for the construction of Jenny Lind Road and Ingersoll Avenue Widening Project, AHTD Job 040471, City of Fort Smith Project No. 07-01-A (*\$841,347.85 / Engineering Department / Budgeted - Sales Tax Program Fund*) ♦ *Future Fort Smith Item*
- B. Resolution to accept the bid and authorize a contract for the construction of Street Overlays/Reconstruction, Project No. 16-03-C (*\$1,672,589.15 / Engineering Department / Budgeted - Sales Tax Program Fund*) ♦ *Future Fort Smith Item*
- C. Resolution to accept the bid and authorize a contract for the construction of Intersection Improvements on R.S. Boreham, Jr. Street at Highway 271, Project No. 16-09-B, upon concurrence from Baldor Electric Company ("Baldor") (*\$353,743.20 / Engineering Department / Budgeted - Sales Tax Program Fund*) ♦ *Future Fort Smith Item*

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- D. Resolution accepting completion of and authorizing final payment to Advanced Workzone Service, LLC for construction of the Blue Lion Bikeway - Sharrows Project (\$34,011.25 / Parks Department / Budgeted - 1/8% Sales and Use Tax)
- E. Resolution authorizing execution of a contract with Owens Corning Sales, Inc. for firefighting assistance on an annual basis
- F. Resolution authorizing settlement of lawsuit against Rockfish Interactive Corporation, et al

Hutchings, seconded by Pennartz, moved adoption of all consent agenda items. Prior to the vote and regarding Item No. 2D, Director Good inquired how much of the project is yet to be completed and questioned if additional signage, other than the sharrows on the roadway, will be placed to identify the Blue Lion Bikeway. He further inquired about the cost for sharrows being included within overlay projects and the potential savings from such.

Director of Parks and Recreation Doug Reinert clarified that Lecta and Blackburn Streets are the only two (2) areas in need of sharrows. Said areas were not included within the proposed contract due to upcoming overlay projects on the aforementioned streets, which are scheduled for the fall of 2016; however, by including the sharrows within the overlay project contracts, such is anticipated to result in a cost savings of approximately \$2,000. With regard to signage, which is the last item to complete the Blue Lion Bikeway project, the signs have been ordered with expected delivery in the very near future.

Since Mr. Reinert was already at the podium, Director Pennartz questioned when construction of the new softball field at Martin Luther King, Jr. Park began, the length of the construction contract and the current status of completion. She further inquired of the City's financial contribution to the project, as well as private and/or corporate donations.

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Mr. Reinert advised construction was initiated in April 2016. The construction contract identified a completion date within ninety (90) days, and only the placement of sod is currently necessary to complete the project. Due to such, he conveyed much assurance the fields will be play-ready for the upcoming Grizzly season. With regard to funding, the City of Fort Smith received a \$150,000 grant for the project. The project also received a \$100,000 corporation donation. All other remaining costs were covered by additional corporate, as well as private donations and in-kind services.

Director Pennartz offered much appreciation to all who contributed to the project citing such is a beautiful addition to Martin Luther King Jr. Park.

With regard to Item No. 2F, Director Catsavis questioned if the proposed settlement is "*the best way to go*" and spoke in opposition to the item stating, "*the City seems to all the time get the short end of the stick*" in such matters.

City Attorney Jerry Canfield advised the outcome of any litigation proceeding is never certain; however, the City feels strongly that Rockfish Interactive Corporation failed to deliver a product as required by agreements entered into in September 2009. Due to the strict Consent Decree requirements, which include enhanced information systems, the importance of integrating software is of the utmost importance. Because of the extended time and multiple attempts to resolve the legal dispute with no success, the parties mediated the matter on July 15, 2016 whereby the proposed agreement was reached. The terms of the tentative settlement agreement are as follows:

- ▶ The Defendants will pay the City \$35,000.00;
- ▶ The City is relieved of any further payment obligations or other liability under the agreements; and,

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- ▶ The Defendants will deliver to the City the program in its current state, together with the source code associated therewith.

City Administrator Carl Geffken provided a brief explanation citing the issue has been ongoing for seven (7) years. With the Consent Decree and forthcoming selection and implementation of a new Enterprise Resource Planning (ERP) System, the matter was in need of resolution. Since the proposed settlement includes the City being provided the source code and if such will appropriately integrate with the forthcoming ERP System, the City will certainly utilize the product; however and again, due to the time and potential legal expense to move forward with litigation, he recommended approval of the proposed item to resolve the issue and allow the Utility Department to move forward.

The motion remaining on the floor, the members voted affirmatively on all items with the exception of Item No. 2F whereby Director Catsavis voted “no.” The Vice-Mayor declared the motion carried and the resolutions were adopted and given Resolution No. R-101-16 through R-106-16 respectively.

Vice-Mayor Settle opened the Officials Forum with the following wishing to comment:

- ▶ Vice-Mayor Settle
Re: Noted the absence of Mayor Sandy Sanders advising the Mayor extends his sincere regret for being unable to be in attendance.
- ▶ Director Catsavis
Re: Acknowledged the nationwide issue of violence towards police officers citing many police departments have announced their decision to have two (2) officers per patrol car. He recommended the matter be discussed and the City consider same.

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Administrator Geffken advised such recommendation should be considered by the new police chief, when appointed; however, he fears such would send a “*bad message*.” With the existing budgetary constraints and potential for future budget cuts, the proposed is currently financially unfeasible. He noted the “Peace Walk for Sandy” on Wednesday, July 13th citing such prompted very good discussions whereby the Fort Smith community “*came together in unity*” and the event was a great success. He conveyed his opinion that such was the direct result of the participation and support expressed by the Fort Smith Police Department; therefore, he extended much appreciation to Acting Police Chief Mark Hallum for his oversight of the subject march, as well as his and other Fort Smith police officers attendance at the vigil held at Martin Luther King Jr. Park on Sunday, July 17th.

▶ Director Good

- Re:
1. Extended appreciation to Administrator Geffken for his comments regarding the aforementioned march and vigil recently held, as well as the attendance of Acting Chief Hallum and other Fort Smith police officers at said events.
 2. Regarding the request of Director Catsavis, he conveyed understanding that the request for an extra police officer per car is intended to provide added protection for other police officers; however, he clarified their duty is to also protect citizens. Regardless, he spoke in favor of community policing citing his appreciation for the Fort Smith police officers being present at many of the community events.

▶ Administrator Geffken

- Re:
1. Advised the Gateway Planning Committee is in town this week regarding the Propel Downtown Forward initiative citing he anticipates “*good things to come*” from such.

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2. Conveyed congratulations to the Police Department Communications Division citing they performed flawlessly in handling the numerous calls associated with issues from last week's storm.
3. Advised the process is moving forward to fill the positions of Police Chief, Director of Human Resources and Director of Utilities citing the application deadline is Friday, July 22, 2016. He also provided the below breakdown of applications received as of late last week:

POSITION	APPLICATIONS	
	RECEIVED	TIER A
Police Chief	30	16
Dir. of Human Resources	31	11
Dir. of Utilities	8	undetermined

4. Extended congratulations to newly appointed Fire Chief Phil Christensen.

The Board entered into executive session at approximately 6:25 p.m. and after reconvening, Vice-Mayor Settle announced the following appointment nominations:

MECHANICAL BOARD OF ADJUSTMENTS AND APPEALS

Ron B. Smith (reappointment)
Term expires July 31, 2021

PARKS AND RECREATION COMMISSION

Jim Rowland
Nancy Raney
Terms expire August 31, 2021

TRANSIT ADVISORY COMMISSION

Barbara Houston-Blatchford
Term expires July 15, 2019

Hutchings, seconded by Lorenz, moved acceptance of the above noted nominations. The members all voting affirmatively, the Vice-Mayor declared the motion carried.

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There being no further business to come before the Board, Catsavis moved that the meeting adjourn. The motion was seconded by Pennartz and the members all voting aye, the Vice-Mayor declared the motion carried and the meeting stood adjourned at 6:31 p.m.

APPROVED:


MAYOR

ATTEST:


CITY CLERK