



AGENDA

Fort Smith Parks and Recreation Commission
Regular Meeting, October 9, 2019
12:00pm Creekmore Community Center

Approval of minutes from September 11th meeting.

1. Discuss Events at Neighborhood Parks (*requested by Jennen*)
2. Project Updates
3. Public Comments
4. Commission and Staff Comments

City of Fort Smith
Parks and Recreation Commission
Minutes of Meeting
September 11, 2019

The Parks and Recreation Commission met at noon on Wednesday, September 11, 2019, in the Rose Room at the Creekmore Community Center.

Park Commission members present: Madeline Marquette, Chris Raible, Jim Rowland, Lacey Jennen, Susan Pruitt, Andrew Deal, and Nancy Raney.

Park Commission members absent: None

Staff members present: Doug Reinert, Sara Deuster, Linda Woodruff, Jim Mackey, and Amber Plank.

Others: David Harris, James Reddick, Paula Linder, Jennifer Kohnke, Richard Griffin, and Dawn Stovall.

Marquette called the meeting to order at 12:02p.m. Raney made a motion to approve the minutes as written. The motion was seconded by Pruitt and unanimously approved.

1. Election of Chairperson

Raney made a motion to nominate new commissioner, Andrew Deal. The motion was seconded by Jennen. Marquette made a motion to nominate commissioner, Chris Raible. The motion was seconded by Deal. Deal stated he did not feel comfortable taking on this role, as he was newly appointed and this is his first meeting. Marquette noted that since Deal declined the position and no other nominations were made, as called for a vote to approve Raible being the new Chairperson. The motion was unanimously approved.

Raible mentioned per Ordinances the commission was to have a secretary which duties would include taking minutes. Jennen made a motion to nominate Raney. Raney then made a motion to nominate commissioner Rowland. Rowland seconded Jennen's motion to appoint Raney and the motion was unanimously approved.

2. Presentation Regarding Pagoda at Tilles Park

James Reddick and Richard Griffin, representatives of the Southside Rotary Club, were present to discuss a community service project. This project has the potential to be a partnership between their club and the Fort Smith Downtown Rotary Club. The project consists of replacing the entire deteriorated roof of the Pagoda at Tilles Park. Griffin mentioned that the unique structure has been a part of Tilles Park for as long as he could remember. The Park land was conveyed to the City of Fort Smith by C.A. Tilles in 1925. He added that he has queried numerous local historians but has not found any information on the history of the pagoda. The projected is estimated to cost between \$30K and \$40K. Griffin requested the Parks Department reimburse them 50% of the actual cost, but not to exceed \$20K.

Approximately one year ago, Nicodemus Sheet Metal Company provided an estimate to replace the metal roof trim with several different metals. The most expensive and preferred option is copper that was estimated to cost \$38K. Nicodemus Sheet Metal was the original fabricator when the structure was built and a Southside Rotary member is also in the sheet metal fabrication business. He has talked to several retired metal workers and feels like if most was done by volunteer labor, the cost could be reduced to about \$28K. Raney suggested Griffin and Reddick attend a Park Partners meeting and present this to them. Reinert noted this project would be subjected to budget review. If the commission is in support, it would be submitted for review and then presented to the Board of Directors. Deal asked what the building was used for. Reinert said it used to be used for concession stand, adding a police substation was supposed to be housed there. Raible stated he would rather private funding be sought first instead of tax payer money for improvements. Pruitt said she would like to see a purpose of the building with investment. Griffin said the purpose should be for aesthetics reasons. Raible suggested to table the item until after Griffin and Reddick talked to Park Partners and Private Investors. Raney made a motion to table the item until further additional information is presented next month. Marquette seconded the motion and it was unanimously approved.

3. Review FY20-FY24 Parks CIP

Reinert presented the Capital Improvement Plan for 2020-2024, noting the sales tax will end in 2022 which could reflect a large change if it is not renewed. Pruitt questioned how much the plan has changed from 2018-2019 since the Marshall's Museum property was purchased for \$160K. Pruitt asked where the money came from since it was not budgeted. Deuster stated it was taken from trails, primarily Maybranch since the project is not at the construction point. The money was shifted back for 2020 to ensure no projects were hindered. One of the main changes since last year is moving up the bathhouse at Creekmore Park Pool to start next year with planning and design. However, construction would not start until 2021. Deal asked if these improvements would bring back the swim meets that were lost. Reinert said with the new bathhouse it could increase revenues. Marquette made a motion to approve the proposed CIP. Jennen seconded the motion and it unanimously approved.

4. Public Comments

Dawn Stovall was present to give a report on the Western Arkansas Tennis Association. They recently hosted a tournament fundraiser for Western Arkansas Ballet with 90 entrants from Northwest Arkansas, Little Rock, and Jonesboro. They also offered an 8 and under division.

Jennifer Khonke with 64.6 Downtown asked if it had been studied or budget on how much money is lost from the swim meets. Pruitt noted Ian Bullock, Pool Manager, had already compiled all of that data. Khonke also mentioned with long term goals from a sustainable funding standpoint as far as new buildings, long term maintenance and landscaping.

David Harris commented on the sales tax conversation stating the city historically has renewal of sales taxes at least one year before the expiration. If they are defeated, they cannot bring them back for at least six months. He added they can vote on the issue up to three times prior to the expiration.

Stovall mentioned maintenance issues involving Court 4 and Court 8. She noted they are starting to peel up.

5. Commission and Staff Comments

Jennen inquired when the tax is up for renewal and how it would be advertised as it ends in October 2022. Reinert replied as public servants, the Parks Staff cannot promote or oppose any ballot question. He added that he is currently unaware of how it would be presented back to the public.

The meeting was adjourned at 1:13 p.m.

Chris Raible, Chairman

Amber Plank, Records Coordinator

Sec. 18-81. - Permits for public assembly or special events in city parks.

(a) *Definitions.*

Appeal shall have the meaning set forth in subsection (l).

Applicant means the person or entity that seeks the issuance of a permit.

Application means a written application for a permit on a form prescribed for such purpose.

City means "The City of Fort Smith" acting through its parks and recreation department.

City property herein means all city parks, plazas and public spaces that have been constructed or maintained under the administration of the parks and recreation department. The term "city property" herein shall not include city facilities or grounds not under the auspices of the parks and recreation department.

Permit means a written authorization issued by the parks and recreation department for the staging or production of a public assembly or special event on city property under stated terms and conditions.

Permittee means the person or entity to whom a permit is issued.

Permit denial means a written notice from the director of the parks and recreation department or his or her designee informing an applicant that the applicant's application for a permit has been denied. (See subsection (j) below.)

Permit revocation means a written notice from the director of the parks and recreation department or his or her designee informing a permittee that the permit has been revoked. (See subsection (k) below.)

Public assembly means a demonstration, a meeting or gathering, a rally or protest event, a political rally or event, speechmaking, marching, the holding of vigils or religious services, and all other like forms of conduct on city property, the primary purposes of which is expressive activity or the communication or expression of views or grievances, that (1) is engaged in by more than fifty (50) persons and the conduct of which has the effect, intent, or propensity to draw a crowd of onlookers, or (2) will occur on or in any city property administered by the parks and recreation department without compliance with the normal and customary regulations or controls governing such places. The term "public assembly" shall not mean the casual use of city property or "special event."

Public assembly or special event sponsor means the person or entity that is responsible for the staging or production of a public assembly or special event.

Special event means a public spectator event or attraction, concert, sports event, pageant, ceremony or similar event that is open to the public and reasonably calculated to attract fifty (50) or more persons.

(b) *Permit requirement for a public assembly or special event.* No person or entity shall conduct or hold a public assembly or special event on city property without first obtaining a permit from the director of the parks and recreation department or his or her designee.

(c) *Application for permit.*

(1) The applicant must apply for a permit by filing an application, in person or by U.S. mail, fax, or electronic means with the Parks and Recreation Department at Creekmore Community Center, 3301 South M Street, Fort Smith, Arkansas 72903.

(2) The application must be filled out completely and signed and dated by the applicant. If the public assembly or special event is sponsored or produced by an entity, a person legally authorized to bind the entity must also sign the application.

(3) The application must contain the following information:

a. The name; address; e-mail address, if available; day-time telephone number; and fax number, if available, of the applicant;

b. The name of the person who will be in charge of the public assembly or special event on-site;

- c. The name; address; e-mail address, if available; day-time telephone number; and fax number, if available, of the public assembly or special event sponsor;
 - d. The date, time, duration, and location of the proposed public assembly or special event (including the set up and take down times);
 - e. An estimate of the approximate number of persons who are reasonably expected to attend the public assembly or special event;
 - f. If the public assembly or special event will include a march, a detailed description of the proposed route of the march (with assembling, starting, and ending points) and the proposed starting and ending times for the march;
 - g. A statement of any equipment expected to be used by the applicant or public assembly or special event sponsor;
 - h. A statement of any equipment or facilities that the applicant or public assembly or special event sponsor desires to use from the parks and recreation department;
 - i. If the public assembly or special event is a spontaneous event which has been planned in response to a specific occurrence, such occurrence must be briefly described; and
 - j. A certification that the applicant and public assembly or special event sponsor will comply with all governmental rules and regulations applicable to the public assembly or special event.
 - k. After submission of an application, the applicant must immediately provide the parks and recreation department with any information that will amend, supplement or change any of the information originally provided in the application.
- (d) *Application deadlines for public assembly or special event.*
- (1) Public assembly:
 - a. The application for a permit must be submitted to the parks and recreation department at least five (5) business days prior to the proposed date and time of the public assembly. However, the parks and recreation department will accept applications less than five (5) days prior to the proposed date and time of the public assembly, provided, however, that the proposed public assembly is a spontaneously planned event in response to a recent occurrence (e.g., a march or rally that is timed to coincide with a recent or future political or other announcement, decision, determination, or declaration by a local, state, or federal official).
 - b. Where (1) the applicant has requested the parks and recreation department to provide special or technical services for purposes of assisting in the production or staging of the public assembly, (2) the applicant has requested or requires the rental and use of parks and recreation department owned equipment or facilities for the production or staging of the public assembly, or (3) the applicant intends to erect fixed structures upon city property, e.g., sound stage or canopies, the application for a permit must be submitted to the parks and recreation department at least forty-five (45) days prior to the proposed date and time of the public assembly. Absent extraordinary circumstances, the parks and recreation department will not accept applications meeting the criteria of this subsection beyond this forty-five (45) day deadline.
 - c. An application shall be deemed submitted on the date it is received by the parks and recreation department or, if received on a holiday, after normal business hours, or on a day city offices are otherwise closed, on the next business day.
 - (2) Special event.
 - a. The application for a permit must be submitted to the parks and recreation department at least forty-five (45) days prior to the proposed date and time of the special event. Absent

extraordinary circumstances, the parks and recreation department will not accept applications meeting the criteria of this subsection beyond this forty-five (45) day deadline.

- b. An application shall be deemed submitted on the date it is received by the parks and recreation department or, if received on a holiday, after normal business hours, or on a day city offices are otherwise closed, on the next business day.
- (e) *Deposits for public assembly or special event.* Prior to issuance of a permit, a deposit in the amount of five hundred dollars (\$500.00) shall be required to cover costs of any damage to the facility such as restoration, rehabilitation, and cleanup of the area used, as well as other costs resulting from the public assembly or special event. It is the applicant's responsibility to return the property to the condition it was in prior to the event. The applicant agrees to reimburse the city for clean up and restoration that exceeds five hundred dollars (\$500.00).
- (f) *Order of processing.* The parks and recreation department will process applications for a permit in the order that they are received. The parks and recreation department will allocate the use of a particular city property or a part thereof among competing applicants in the order of receipt of fully executed applications together with the required application fee. The parks and recreation department will have priority use of the requested city property where the proposed public assembly or special event conflicts or interferes with a previously scheduled event or with an annual or otherwise regularly-held event or ceremony that is sponsored by or on behalf of the parks and recreation department.
- (g) *Grounds for denial of application for permit.*
 - (1) The parks and recreation department will approve an application and grant a permit unless there is a sufficient basis for denial of the application.
 - (2) To the extent permitted by law, the parks and recreation department may deny an application for permit if the applicant or person or entity on whose behalf the application for permit was made has on prior occasions made material misrepresentations regarding the nature or scope of an event or activity previously permitted or has violated the terms of prior permits issued to or on behalf of the applicant. An application for permit may also be denied on any one (1) of the following grounds:
 - a. The application for a permit (including any required attachments and submissions) is not fully completed and executed;
 - b. The application for a permit contains a material falsehood or misrepresentation;
 - c. The applicant has not tendered any required deposit;
 - d. The proposed public assembly or special event conflicts or interferes with a previously scheduled, annual, or otherwise regularly-held event or ceremony that is sponsored by or on behalf of the parks and recreation department or any other person or entity at the same city property for the same date and time;
 - e. A fully executed prior application for a permit for the same city property and for the same date and time has been received, and a permit has been or will be granted to a different applicant authorizing uses or activities which do not reasonably permit multiple occupancy of the particular city property or part thereof;
 - f. The property sought to be used for the public assembly or special event is closed or partially closed for construction, renovations, or other reasons, and use of the city property may reasonably pose a threat to the safety of participants or may reasonably pose an adverse impact upon the natural environment of the city property;
 - g. The public assembly or special event will substantially or unnecessarily interfere with traffic in the area contiguous to the activity, and will unreasonably disrupt movement or circulation of vehicular or pedestrian traffic, unless there are readily available at the time of the proposed public assembly or special event sufficient city resources to mitigate any interference or disruption;

- h. There are unavailable at the time of the public assembly or special event a sufficient number of police officers to police and protect participants in the public assembly or special event and non-participants from traffic related hazards in light of the other demands for police protection at the time of the proposed public assembly or special event or the public assembly or special event will otherwise place an undue burden on other personnel resources of the city;
 - i. The parks and recreation department has revoked a permit which was previously issued to the applicant or has revoked a permit for a public assembly or special event that was previously sponsored by the public assembly or special event sponsor;
 - j. The size of the city property cannot safely and reasonably accommodate the expected number of participants in the public assembly or special event without an unduly adverse impact upon the landscape, planting, or natural environment of the city property;
 - k. The public assembly or special event and the concentration of persons, vehicles or things at the assembly or event and disbanding areas is reasonably expected to have an unduly adverse impact on the public health or safety of the applicant, other users of the city property, city employees, or the public (e.g., the public assembly will unreasonably interfere with the movement or service capabilities of police vehicles, fire fighting equipment, or emergency medical or ambulance services);
 - l. The public assembly or special event will unreasonably interfere with customary functions and uses of, and ingress and egress to and from, buildings that are immediately adjacent to the city property;
 - m. The applicant, or the person or entity on whose behalf the application for a permit was made, has on prior occasions damaged city property and has not paid in full for such damage;
 - n. The applicant, or the person or entity on whose behalf the application for a permit was made, has not reimbursed the parks and recreation department for requested parks and recreation department personnel or equipment or facilities utilized in connection with a previously issued permit;
 - o. The applicant has not complied or cannot comply with applicable licensure requirements, ordinances, or regulations of the city concerning the sale or offering for sale of any goods or services, including the requirement to obtain a city business privilege license;
 - p. The public assembly or special event is prohibited by law, including but not limited to, applicable city ordinances and regulations;
 - q. The city property requested is a non-public forum that has not been opened for expressive activity to the general public; or
 - r. The application is sought for an event that is more appropriately covered by the parks and recreation department's special events policy or an event that does not satisfy the definition of "public assembly."
- (h) *Action of application; amendment or revision of applications.*
- (1) In the case of applications submitted for public assembly under the deadline set forth in subsection (d)(1) above, the director of the parks and recreation department or his or her designee will grant or deny the application within two (2) business days after receipt of the application.
 - (2) In the case of applications submitted under the deadline set forth in subsection (d)(1)b. above, the director of the parks and recreation department or his or her designee will grant or deny the application within thirty (30) days of receipt of the application.
 - (3) Any amendment or revision of an application for a permit for either a public assembly or special event will for purposes of determining the priority of the application, relate back to the original

filing thereof; but the time within which the parks and recreation department will grant or deny the application for a permit will be computed from the date of amendment or revision.

(i) *Notice of action; issuance of permit.*

- (1) The parks and recreation department will immediately provide the applicant notice of the grant or denial of the application for a permit in accordance with the written instructions of the applicant in the application.
- (2) Upon approval of the application for a permit, the parks and recreation department will issue to the applicant a permit denoting the location of the city property, and the date, time and duration for which the permit is valid. The permit will note thereon any reasonable restrictions, and any other special requirements, that are applicable to the permit.
- (3) The permit will be made available for personal pick up by the applicant, or will be transmitted to the applicant, in accordance with the written instructions of the applicant in the application.
- (4) A permit cannot be transferred or assigned, except that a permit may be assigned or transferred to an entity that is a legal successor to the permittee only after obtaining written permission from the parks and recreation department.

(j) *Denial of application; contents of notice.*

- (1) In the permit denial, the parks and recreation department will expressly set forth all grounds upon which the application for a permit was denied.
- (2) Where feasible and applicable, the permit denial will contain a proposal by the parks and recreation department for measures by which the applicant may cure any identified defects in the application.
- (3) Where the grounds for the permit denial are those identified in subsection (g)(2)d., e., f., g., h., j., k. or l. above, the parks and recreation department will offer to the applicant:
 - a. A proposal to hold the public assembly or special event at different city property, if available, for the same date and time, so long as the alternate city property is reasonably similar to the proposed location with comparable public visibility; or
 - b. A proposal to hold the public assembly or special event at the same city property, if available, but on an alternative date or time.
- (4) The parks and recreation department will transmit the permit denial to the applicant in accordance with the written instructions of the applicant in the application or make the permit denial available for personal pick up by the applicant.
- (5) An applicant desiring to accept an alternate proposal made by the parks and recreation department in accordance with subsection (3) above will promptly notify the parks and recreation department in writing of its acceptance.

(k) *Permit revocation.* Upon written notice to a permittee, the parks and recreation department may revoke a permit, where it has been determined that: The permittee does not intend to comply with, cannot comply with, or has violated, any of the conditions or restrictions applicable to the permit, including but not limited to the following:

- (1) Failure of the applicant to obtain any permits or licenses that are legally required by the City of Fort Smith Code or any city ordinances in connection with the public assembly or special event;
- (2) Failure of the applicant to remit any required user fee(s) or deposit(s) for city-owned equipment or facilities; or
- (3) Failure to comply with any conditions applicable to the permit.

(l) *Procedures for appeal of permit denials and permit revocations.*

- (1) An applicant who is denied a permit, or a permittee whose permit has been revoked, may file a written appeal from such permit denial or permit revocation with the city administrator or his or her designee.
 - (2) The appeal must state succinctly the grounds upon which it is asserted that the permit denial or permit revocation should be modified or reversed. The appeal must be accompanied by copies of the application for a permit, the written permit denial or permit revocation from the parks and recreation department, and any other papers or documentation material to the determination.
 - (3) The city administrator or his or her designee shall promptly affirm, modify, or reverse the permit denial or permit revocation and give notice in writing of the final decision to the applicant. The city administrator or his or her designee's decision shall be the final decision of the city.
- (m) *Permit restrictions and permissions.*
- (1) The parks and recreation department may place reasonable restrictions on the conduct of a public assembly or special event, which restrictions may consider the customary use and nature of the city property, recreational use policies, the size and location of the city property, and the degree to which the public assembly or special event might interfere with the customary uses and adopted recreational use policies for the city property.
 - (2) Applicants of permitted public assemblies or special events have authorization from the parks and recreation department to select food or merchandise vendors that comply with applicable public health codes and city business regulations to provide goods and services at the permitted public assembly. The applicant may prohibit food and merchandise vendors at their discretion within the permitted area during the duration of the permit.
 - (3) Applicants of permitted public assemblies or special events may allow the solicitation of signatures for petitions, gifts, money, or for goods or services within the permitted area during the duration of the permit.
- (n) *Compliance with applicable law.*
- (1) A permittee must comply with all applicable provisions of the City of Fort Smith Municipal Code and all city ordinances, including those provisions concerning food and noise levels. A permittee must obtain, in advance of a public assembly or special event, separate permits for certain activities that are accessory to a public assembly or special event, including, but not limited to, vending of food and goods, special parking facilities, hanging banners, setting up tents, use of fireworks, and serving alcoholic beverages.
 - (2) Failure to obtain any such permits may be a basis for revocation of a permit.
 - (3) The issuance of a permit will not supersede a requirement for the applicant to obtain any other permits required by law.
- (o) *Insurance.*
- (1) The applicant shall procure and maintain a general liability insurance policy of at least three hundred thousand dollars (\$300,000.00) at all times during the applicant's use of city property and shall name "The City of Fort Smith" as an additional insured thereunder.
 - (2) The applicant shall provide the parks and recreation department with a certificate of insurance from the insurer evidencing such coverage prior to the applicant's use of the city property, and within the time prescribed by the parks and recreation department. The certificate shall also provide that the insurer shall give the parks and recreation department reasonable advance notice of insurer's intent to cancel the insurance coverage provided.
- (p) *Indemnity agreement.* Upon submission of an application and the issuance of a permit, each applicant shall be deemed to have agreed to defend, indemnify and hold harmless the city, its elected and appointed officials, agents, and employees, from and against any and all claims against the city, its elected and appointed officials, agents, and employees, and for all damage or losses to city-owned buildings, structures, or other property, which arise from the acts or omissions of the

applicant or persons within or under the direct control or supervision of the applicant (e.g., employees).

(q) *Reimbursement of city equipment and facilities costs.*

- (1) Each public assembly or special event sponsor shall pay any applicable rental fees in advance of the public assembly or special event, for any and all equipment and facilities to be provided by the parks and recreation department for use in connection with the production or staging of the public assembly or special event. A schedule of such equipment and facility rental fees shall be provided to an applicant upon request.
- (2) Following the conclusion of a public assembly or special event, the public assembly or special event sponsor shall pay the parks and/or recreation department for the repair and/or replacement costs (as determined by the parks and recreation department in its sole discretion) of equipment and/or facilities not returned or returned in an unacceptable condition (reasonable wear and tear excepted).

(r) *Reimbursement of city personnel costs.* Each public assembly or special event sponsor shall reimburse the parks and recreation department an amount equal to all applicable personnel costs for services that are specifically requested from the parks and recreation department for the purpose of staging and conducting the public assembly or special event.

(s) *Waiver of insurance requirement.*

- (1) Any requirement for insurance may be waived by the city administrator, or his or her designee, if the requirement will be so financially burdensome that it will preclude the applicant from using city property for the proposed public assembly. A waiver of the insurance requirement contained in subsection (o) shall not be permitted where the public assembly will require equipment, services, or facilities set forth in subsection (d)(1)b. A waiver of the insurance requirement shall not be permitted for special events.
- (2) Fees for city-owned equipment, facilities, and city-provided services that are requested by the applicant cannot be waived pursuant to this subsection.
- (3) Application for a waiver of the insurance requirement shall be made simultaneously with the application and must include an affidavit by the applicant and sufficient financial information about the applicant to enable the city administrator, or his or her designee, to determine whether the insurance requirement will be so financially burdensome that it will preclude the applicant from using the city property for the proposed public assembly.