

MINUTES

SPECIAL MEETING OF BOARD OF DIRECTORS

DECEMBER 23, 2008, AT 10:00 A.M.

A special meeting of the Board of Directors was held on Tuesday, December 23, 2008, at 10:00 a.m., in the Board Chambers, City Hall, with Mayor Mike Bush presiding.

Mayor Bush called the meeting to order at 10:00 a.m.

1 Roll Call

Roll call was as follows: Present: Directors Steve Smith, Carroll Weatherford, Rick Ramick, Tom Daniel, and Mike Bush, total 5. Absent: Directors Peggy Maruthur and Elaine Jones, total 2.

2 Approval of Agenda

A motion was made by Director Daniel, duly seconded by Director Ramick, that the agenda be approved; and upon voice vote, the motion unanimously carried.

NEW BUSINESS

3 Proposed Resolution No. R-08-304

A resolution entitled, "A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO GRANT EASEMENTS IN FAVOR OF SPA LODGING, INC.," was taken from the agenda and read by title only.

A motion was made by Director Daniel, duly seconded by Director Ramick, that the resolution be adopted as read.

Upon discussion, Director Daniel questioned if this is coming off Malvern Avenue and going to the back of the Austin Hotel; and City Attorney Brian Albright advised that

is correct. He explained that Parcel A is the outside dining area, Parcel B is the transformer area, and Parcel C is the non-exclusive easement next to the building that will serve both their building and the Municipal Utilities Building parking lot.

Director Weatherford questioned the width of their easement, and Interim City Manager Lance Hudnell advised that it is 25 feet. He added that it is basically reinstatement of an alley that used to be there and was vacated by Ordinance No. 2800.

Director Weatherford pointed out there is a telephone pole sitting in the middle, and Interim City Manager Lance Hudnell explained there is a water meter and telephone pole. He stated city staff explained that to the Austin Hotel pending the Board's direction, pointing out that staff was going to recommend that the property not be disposed of tomorrow. He said the Board needed some time to review that, as well as with the Advertising and Promotion Commission, etc. because the City would like for the Advertising and Promotion Commission to ultimately being the owner of that property. However, in the interim, they can continue to use the drive as it is; but this easement, if and when something happens with the other property and the other property gets reconfigured, then they would have to incur the expense of relocating telephone poles, water meters, etc. He added the alternative was to give them an easement where the existing driveway is and/or through the back of the Convention Center. He commented that the City Attorney had negotiated with them on a five-year deal, but they wanted a permanent easement. However, the City did not want to do a permanent easement through there because it is unknown what the property will look like. He commented it would be better to go back where the old alley used to be so that would not destroy the rest of the property. He added the compensation for this is a right for a telecommunications easement on top of their building, and they are giving the City a 3' x 5' space on top of the building and a 3' x 5' space somewhere inside the building for the provision of electrical power; and they pay for the electrical power.

City Attorney Brian Albright pointed out this is a bonus the City has been needing for a long time, and they probably could have obtained the easement anyway and the City allowed them to build the way they built. He noted there is either a presumed easement or an easement by necessity that they are entitled to get to that loading door.

Director Weatherford pointed out the problem with moving the pole, which will not be cheap. City Attorney Brian Albright commented that he did not know if the large one will have to be moved, but the short one definitely will.

Interim City Manager Lance Hudnell commented this was pointed out to them, but their main issue was that the bank wanted to know, for financing purposes, that they have an easement should they ever need it. He said unless the Board directs him differently, the City is going to continue to allow them to use the existing drive.

Director Weatherford pointed out whoever buys the property, that will be between them.

Interim City Manager Lance Hudnell stated it will be between them, and they will deal with that somewhere down the line. He mentioned the City is not in a hurry to get it sold, and the Advertising and Promotion Commission wants to buy it. He pointed out his concern was if the City sold it to a third party, someday in the future, the Advertising and Promotion Commission might have to buy it back at a premium.

Director Weatherford commented if Doubletree buys this, that piece of property is more valuable to them than it is to the Advertising and Promotion Commission. He said if Doubletree is serious about being here, that is a perfect footprint for a tower for them or something else.

Director Daniel pointed out the way the land lies, being at the top now where the Advertising and Promotion Commission is located, by coming straight on that level straight to the street, it would be perfect to have a parking deck downstairs and upstairs and on level ground going straight across.

Interim City Manager Lance Hudnell stated the process has been slowed down in disposing of the property because the City would rather wait until the new owner of the Austin gets in place. He added the City does not have the signed easement from the Austin at this time, but it does have a note from their attorney that they are in agreement. He pointed out the City will not release its signed easement to them until one is received.

City Attorney Brian Albright advised that the easement the City is being asked to sign today says that it is in consideration of a reciprocal telecommunications easement. He stated if the City does not get their consideration, then the City will not record this easement.

Mayor Bush then called for a vote on the motion to adopt; and upon roll call, the following voted "aye": Directors Smith, Weatherford, Ramick, Daniel, and Bush, total 5. Absent and not voting: Directors Maruthur and Jones, total 2. motion unanimously carried. Whereupon the resolution was declared adopted.

Interim City Manager Lance Hudnell advised that the agenda meeting will be held next Tuesday; and for those Directors who are to be sworn into office (Director Maruthur, Director Keheley, and Director Daniel), that ceremony will be held on Friday, January 2, 2009, at 9 a.m.

4 ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 10:20 a.m., to meet again on Tuesday, January 6, 2009, at 7:00 p.m.

ATTEST: _____

APPROVED: _____

Lance Hudnell, City Clerk

Mike Bush,

Mayor