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City board pulls item on air conditioning

Hot Springs bypasses tenant concerns by [David Showers](#) | August 6, 2023 at 1:00 a.m.



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A crowd gathers Tuesday in front of the door to Hot Springs Board of Directors chambers at City Hall. - Photo by Courtney Edwards of The Sentinel-Record

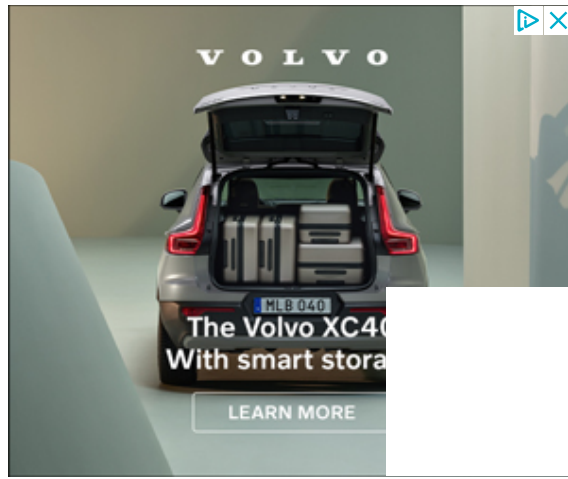
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HOT SPRINGS -- A vote to pull an ordinance establishing maximum temperature standards for tenant-occupied dwellings from the agenda of Tuesday night's Hot Springs Board of Directors business meeting preempted citizens who had planned to speak to the issue, a maneuver District 2 City Director Phyllis Beard said was orchestrated prior to the meeting and in violation of the state's open meetings statute.

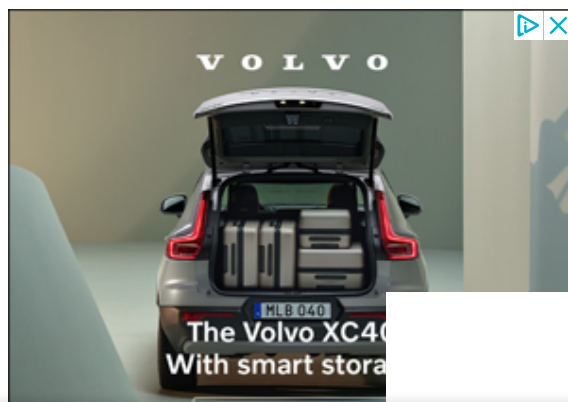
Mayor Pat McCabe told the board "unintended consequences" that could result from the board's adoption of the ordinance had come to light prior to the meeting.

"Those unintended consequences were not necessarily realized by us a week ago during the agenda meeting," he told the board at the start of Tuesday's meeting. "I'm really kind of looking for some guidance from board members regarding the possibility of pulling that from the agenda tonight to allow the city staff, elected officials, landlords, tenants to gather together to determine an approach that may limit the unintended consequences."

Beard was the lone board member to oppose District 4 Director Dudley Webb's motion to pull the item from the agenda, telling The Sentinel-Record on Wednesday the decision had been preordained.

"From my understanding, city officials, including the mayor and board of directors, met with members of the landlord association," she said. "For some reason, I was not invited to the meeting."

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Beard told McCabe and City Manager Bill Burrough the vote appeared to have been scripted outside of board chambers, according to an email from her that Burrough shared Wednesday. He responded to the allegation and other questions Beard had about the vote in an email to the full board Wednesday afternoon.

He shared the responses after the newspaper asked McCabe for comment on Tuesday night's meeting.

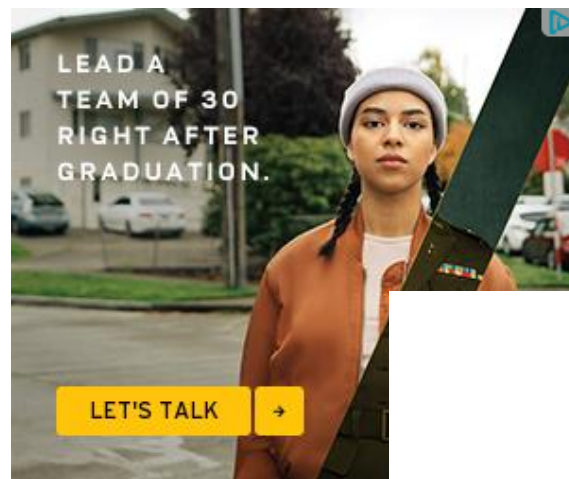
"The Mayor mentioned that you had an inquiry regarding last night's meeting," he said in an email. "I am sending what I sent to the board members that should address your inquiry as well."

Burrough said City Attorney Brian Albright explained the difference between tabling an agenda item and pulling it during a discussion with directors in the board conference room prior to the meeting. Beard was present for the discussion.

"There was no discussion by board members in the conference room related to the [ordinance]," Burrough said, noting the motion to remove the ordinance allowed it to be discussed, whereas tabling it when it came up during new business would have foreclosed any discussion.

"Under our code, if there is a motion and second to table an item, there can be no debate/no discussion, moves straight to a vote," he said.

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Under the proposed ordinance, landlords have to provide cooling capable of maintaining a maximum temperature of 85 degrees. It also listed portable air conditioning units among the appliances landlords must maintain if provided in a rental dwelling unit.

Correspondence the board received called the ordinance a "knee-jerk reaction" and unlikely to have the effect the board intended. It was signed by representatives of the local landlord association, elected officials and the leadership of the local Housing Authority.

The Hot Springs Landlord Association had not responded to the newspaper's request for comment at press

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to be able to provide for an ordinance that has what we want it to have."

Tenants at Greenbriar Apartments assembled at City Hall more than an hour before the meeting, hoping to address the board on a matter bearing directly on their landlord's ability to remove air conditioning from the federally subsidized complex.

Some had told the board at its July 18 business meeting they were being charged for air conditioning and had been given eviction papers after they complained to the city about living conditions at the complex opposite Bank OZK Arena on Convention Boulevard.

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Beard told Burrough the tenants, who are also her District 2 constituents, were disappointed they didn't get to speak at Tuesday's meeting.

"It would have been much more effective had the board given the tenants the floor to speak," she said Wednesday in an email. "The board could have given them the semblance that they were listening to the tenants' concerns instead of caving to the concerns of landlord-special interest groups.

"These are not my sentiments. I am conveying the sentiments of my constituents -- who are veterans, the elderly, people with disabilities and emotionally distraught tenants who approached me after the board of directors meeting asking me about the private meeting."

Michael Cotroneo, the principal of the group that acquired Greenbriar for \$1.83 million last year, has told tenants their air conditioners would be removed if they opted out of a monthly surcharge. A notice he circulated last month said tenants not current on the monthly fee, \$25 for a small unit and \$130 for a larger one, will have their air conditioners removed for the remainder of the year if they don't pay the past-due amount within 30 days. The fees began accruing in January.

"Any ordinance we would approve tonight wouldn't have an impact on what we're trying to achieve until after the cooling season," McCabe told the board.

The ordinance included an emergency clause that would have put the proposed additions to the property maintenance code into immediate effect.

"If we put this off, the air conditioners will be pulled," Beard told the board. "If someone has a heat stroke or some kind of heat-related illness and they die, will the city be responsible for that?"

Burrough's response to the board noted the temporary order Division 1 Circuit Judge Ralph Ohm issued

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"Fortunately, the temporary court order will provide the Greenbriar tenants with some relief until the matter is heard by the court," Burrough said.

But an attorney who filed the motion said the order only applies to tenants named as plaintiffs in the lawsuit alleging fraud, discrimination and breach of contract by Greenbriar ownership.

"Judge Ohm has the power to place a restraining order over tenants named in the lawsuit," Jonathan Green, one of the Center for Arkansas Legal Services attorneys representing the four tenants who are suing ownership. "We couldn't file on behalf of all the tenants. We lack standing, and the court would lack standing to enter that order.

"We tried to rush to get that [temporary restraining order] in place. Our hope was that it would discourage management from removing any of the air conditioners."

Green said he and his colleagues are working to add more tenants to the suit prior to the Aug. 14 hearing on the temporary order and motion to permanently enjoin ownership from removing the air conditioners.



Tenants of Greenbriar Apartments wait for the Hot Springs Board of Directors business meeting to begin Tuesday at City Hall. - Photo by Courtney Edwards of The Sentinel-Record

Print Headline: City board pulls item on air conditioning

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