

**MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING**

**TUESDAY ~ MARCH 15, 2011 ~ 6:00 P.M.**

**FORT SMITH PUBLIC SCHOOLS SERVICE CENTER**

The meeting was called to order by Mayor Sandy Sanders, presiding. Invocation was given by Director Don Hutchings, followed by a moment of silence in honor of former mayor Ray Baker, and the Pledge of Allegiance. On roll call the following members of the Board were present: Directors Steve Tyler, Andre' Good, Don Hutchings, George Catsavis, Pam Weber, Kevin Settle and Phillip H. Merry, Jr. The Mayor declared a quorum present.

The 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 March 1, 2011 regular meeting were presented for approval. Settle, seconded by Tyler, moved approval of the minutes as written. The members all voting aye, the Mayor declared the motion carried.

Item No. 1 was a check presentation by Jayne Hughes, Downtown Development Coordinator, and Richard Griffin, Chairman of the Central Business Improvement District (CBID) to the Fort Smith Parks and Recreation Department. The CBID created a supporting fund to cover any loss experienced by the City of Fort Smith to operate The Park at West End; therefore, a check in the amount of \$4,238.93 was presented to Mike Alsup, Director of Parks and Recreation.

Item No. 2 consisted of the following items:

- A. Ordinance amending Chapter 4, Article V of the Fort Smith Municipal Code regulating animals to establish regulations for tethering dogs

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- B. Ordinance amending Chapter 4, Article I of the Fort Smith Municipal Code regulating animals, establishing mandatory registration, spay and neuter regulations, and hobbyist permit for dogs and cats
- C. Ordinance amending Chapter 4, Article I of the Fort Smith Municipal Code to establish an Animal Services Advisory Board
- D. Ordinance amending Chapter 4, Article I, Section 4-1 of the Fort Smith Municipal Code regulating animals

Police Chief Kevin Lindsey briefed the Board on the items as discussed at multiple, recent study sessions advising Item No. 2A restricts residents from tethering a dog to a stationary object as a permanent means of containment.

Item No. 2B requires the annual registration of dogs and cats with a \$5 annual or \$10 lifetime registration fee per animal. Such includes an allowance for persons over the age of 65 to register up to two (2) pets without cost. The proposed ordinance also requires mandatory spay/neuter for dogs and cats; however, such includes certain exemptions for pet owners who wish to maintain the reproductive capability of their animals if they provide documentation from a licensed veterinarian that the animal is unfit for spay/neuter for health reasons; the animal is being trained and used for law enforcement activities, search and rescue operations or services animals; or if they obtain a hobbyist permit. The hobbyist permit, which requires a \$25.00 non-refundable application fee, will allow an animal to remain intact provided the animal is registered with a nationally recognized club or organization and has competed in at least one (1) dog show or sporting competition within the last twelve (12) months. Said permit may also be issued to those who maintain a valid Arkansas hunting license. Upon approval, the ordinance will become effective January 1, 2012.

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Item No. 2C proposes creation of an Animal Services Advisory Board, who will promote collaboration between the City of Fort Smith and private citizens, institutions and agencies interested in animal welfare, foster and assist in the development of animal welfare programs, oversee requests for financial assistance for low-cost spay/neuter, etc. Upon approval, the Animal Services Advisory Board will not be responsible for overseeing the day to day operations of the Animal Control Division of the Fort Smith Police Department.

Item No. 2D merely amends the existing definitions to accommodate approval of Items No. 2A, 2B and 2C.

The following individuals were present to address the Board:

- JoAnn Barton, Executive Director  
Sebastian County Humane Society (SCHS)  
  
Re: Spoke in favor of the proposed ordinances citing approximately 7,000 animals are accepted yearly into the SCHS with 66% coming from Fort Smith. She conveyed much confidence the proposed ordinances will help control the over-population of pets, further public safety and better overall animal welfare in Fort Smith.
  
- Jenny Chaffey  
11000 Maple Park Drive  
  
Re: Spoke in favor of Item No. 2A and advised of the negative effects on dogs as a result of tethering.
  
- Anna Linder  
1122 North 15<sup>th</sup> Street  
  
Re: Conveyed much opposition to prohibiting tethering of dogs advising such is the only option to ensure her dogs do not 'escape' and run at large. She alleged her dogs are well taken care of and welcomed an evaluation of her dogs welfare, and requested her case be addressed individually.

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- Chris Ashworth, DVM  
3400 Glen Flora Way

Re: Spoke in opposition to Item No. 2B as presented and recommended the ordinance more clearly identify how the fees will be utilized. He also expressed concern with regard to Freedom of Information Act (FOIA) requests citing the potential risk for the availability of a pet owners *personal information*.

- Dora Gulley  
6411 Fresno Street

Re: Conveyed opposition to mandatory spay/neuter citing it should be the right of the pet owner and a not a requirement of the City.

Director Good inquired as to why the current 'leash law' does not address existing issues and questioned if the proposed ordinances will be "tough to enforce".

Chief Lindsey advised enforcement of the leash law is difficult to prosecute due to the inability to witness an alleged violation, but such does not address over-population. With regard to enforcement and upon approval of the proposed ordinances, the Police Department will enforce as best they can.

Director Settle expressed concern with multiple issues conveyed by the above noted individuals and noted he has received numerous calls alleging the ordinances will not be effective. He recommended possible amendments to the existing Municipal Code regarding the leash law and vicious animals, and further recommended the proposed ordinances either be tabled for additional review or defeated in their entirety.

Directors Merry and Weber both spoke in favor of the proposed ordinances citing such is a proactive approach to ensure responsible pet ownership and to assure the proper welfare of all dogs and cats in the City of Fort Smith.

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Weber, seconded by Merry, moved adoption of Item No. 2A as amended to correct a grammatical error on the time a trolley system may be utilized (6:00 a.m. to 8:00 p.m.). 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 voted as follows: ayes - Tyler, Good, Catsavis, Weber and Merry; nays - Hutchings and Settle. The Mayor declared the motion carried and the ordinance was adopted and given No. 20-11.

Weber, seconded by Good, moved adoption of Item No. 2B. 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 voted as follows: ayes - Tyler, Good, Weber and Merry; nays - Hutchings, Catsavis and Settle. The Mayor declared the motion carried, but did not receive five (5) affirmative votes required for passage on its first reading; therefore, he entertained a motion solely to suspend the rule to allow the three (3) full readings to be by caption and for the readings to occur on the same date. Weber, seconded by Merry, moved to suspend 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 members voted as follows: ayes - Tyler, Good, Weber and Merry; nays - Hutchings, Catsavis and Settle. The Mayor advised the motion did not obtain the five (5) affirmative votes required to suspend the readings; therefore, the City Clerk read the ordinance in its entirety for its first reading. Mayor Sanders announced the ordinance would be placed on the April 5, 2011 regular meeting agenda for its second reading.

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Tyler, seconded by Merry, moved adoption of Item No. 2C. 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 voted as follows: ayes - Tyler, Good, Catsavis, Weber and Merry; nays - Hutchings and Settle. The Mayor declared the motion carried and the ordinance was adopted and given No. 21-11.

Weber, seconded by Good, moved adoption of Item No. 2D. 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 voted as follows: ayes - Tyler, Good, Weber and Merry; nays - Hutchings, Catsavis and Settle. The Mayor declared the motion carried, but did not receive five (5) affirmative votes required for passage on its first reading; therefore, he entertained a motion solely to suspend the readings to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. Merry, seconded by Tyler, moved to suspend 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 members voted as follows: ayes - Tyler, Good, Weber and Merry; nays - Hutchings, Catsavis and Settle. The Mayor advised the motion did not obtain the five (5) affirmative votes for passage on its first reading; therefore, the City Clerk read the ordinance in its entirety for its first reading. Mayor Sanders announced the ordinance would be placed on the April 5, 2011 regular meeting agenda for its second reading.

Item No. 3 was an ordinance ordering the owners of certain dilapidated and

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substandard structures to demolish same, authorizing the City Administrator to cause the demolition of such structures to occur, and for other purposes (912 North 13<sup>th</sup> Street)

City Administrator Ray Gosack briefed the Board on the item advising the structure has been determined to be unsafe and detrimental to the public welfare; therefore, he recommended approval.

Director Settle inquired if demolition can be expedited on the structure.

Administrator Gosack advised the bidding process must be followed which allows approximately thirty (30) days for the owner to demolition the structure.

Building Official Jimmie Deer advised the property owner, Mr. Danny Hearne, has indicated his desire to demolish the structure, rather than the City; however, Mr. Deer recommended approval of the ordinance to ensure demolition occurs in a timely manner.

The following individual was present to address the Board:

- Danny Hearne  
1203 North 14<sup>th</sup> Street

Re: Advised of his intent to demolish the structure and alleged he's already hired a contractor, who has indicated demolition will be initiated within a few days.

Tyler, seconded by Catsavis, 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 Mayor declared the motion carried. Settle, seconded by Weber, moved adoption of Section 5 the emergency clause. The members all voting affirmatively, the Mayor declared the motion carried and the ordinance and emergency clause were adopted and given No. 22-11.

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The Consent Agenda (Item No. 4) was introduced for consideration, the items being as follows:

- A. Resolution authorizing a time extension for the construction of Street Overlays/Reconstruction, Project No. 10-03-A
- B. Resolution accepting completion of and authorizing final payment for the construction of Street Overlays/Reconstruction, Project No. 10-03-A (\$17,527.58)
- C. Resolution supporting the application of Mitsubishi Power Systems, Inc. to become a foreign trade zone subzone
- D. Resolution authorizing the purchase of a concrete mixer truck (\$132,575.91)
- E. Ordinance declaring an exceptional situation and waiving the requirements for competitive bidding for the "LED" signal lens replacement and maintenance, and authorizing the Mayor to execute agreement with the Arkansas State Highway and Transportation Department (\$184,685.00)
- F. Resolution authorizing the execution of a Memorandum of Understanding between the City of Fort Smith, Arkansas and the City of Charleston, Arkansas concerning mobile data support
- G. Resolution authorizing the Mayor to enter into a Memorandum of Understanding with the United States Department of Energy, National Nuclear Security Administration and Office of Secure Transportation for the use of Fort Smith Transit property at 6821 Jenny Lind to conduct drive training using semi-tractor trailers
- H. Ordinance declaring an exceptional situation and waiving the requirements for competitive bidding for the lease purchase of radio communication equipment and authorizing the Mayor and City Administrator to negotiate and execute all necessary lease documents regarding said agreement
- I. Resolution authorizing partial payment to Crossland Heavy Contractors, Inc. for construction of the Lake Fort Smith Water Treatment Plan - Contract 3 (\$1,048,524.38)

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- J. Resolution authorizing the Mayor to execute Authorization Number Two with Camp Dresser & McKee, Inc. for providing engineering services associated with the Mill Creek Wastewater Pump Station Wet Weather Improvements (\$459,100.00)
- K. Resolution authorizing the City Administrator to accept offer made by property owner for the acquisition of real property interests for the Lake Fort Smith Water Supply (\$165,000.00)

Regarding Item No. 4E, Mayor Sanders advised the item had been withdrawn and will not be considered.

With regard to Item No. 4H, Director of Sanitation Baridi Nkokheli advised that although the ordinance was not affected, the associated agreement had been revised.

Regarding Item No. 4D, Director Catsavis questioned if a larger truck would be more efficient and if the current truck could be refurbished for continued use.

Director of Operations Bob Wright advised the current size truck is sufficient and advised it would be financially unfeasible to refurbish the existing truck.

With regard to Item No. 4G, Director Good requested a brief explanation.

Director of Transit Ken Savage advised the Office of Secure Transportation (OST), a division of the Department of Energy, contacted him with the proposed use of the transit facility for drive training purposes. The transit property is ideal for OST because of its secure and remote location. The City will also benefit from the proposed agreement as the course may be used to train City bus drivers, as well as satisfy two (2) grant management requirements.

Regarding Item No. 4H, Director Merry questioned the cost of the equipment and inquired as to why the requirement for competitive bidding was waived.

Administrator Gosack advised the requirement for competitive bidding is requested

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so the radio system will be compatible with the current public safety radio communications system and the Arkansas Wireless Information Network. This allows for interoperability between City departments and outside agencies, which is found to be critical during disaster response. The estimated cost is \$603,000.00 for a 36 month period.

Director Catsavis inquired how the Sanitation Department currently communicates.

Mr. Nkokheli advised they currently utilize one (1) radio channel for five (5) groups, which has proven to pose multiple problems. Another reason to convert to the proposed system is because the Federal Communication Commission has advised the existing system will be inoperable after January 1, 2013.

Hutchings, seconded by Settle, moved approval of all consent agenda items. The members all voting affirmatively, with the exception of Director Catsavis voting "no" on Item No. 4H, the Mayor declared the motion carried and the ordinances and resolutions were adopted with the ordinances numbered 23-11 and 24-11, and the resolutions numbered R-48-11 through R-55-11 respectively.

Mayor Sanders opened the Officials Forum with only Administrator Gosack extending congratulations to Mayor Sanders for his appointment to the Arkansas Aeronautics Commission by Arkansas Governor Mike Beebe.

An executive session was held and after reconvening, Mayor Sanders announced the following appointment nominations:

**ADVERTISING AND PROMOTION COMMISSION**

Tom J. Caladera (reappointment)  
Ronnie Townsend (reappointment)  
Terms expire December 21, 2014

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**CIVIL SERVICE COMMISSION**

Sister Judith Marie Keith (reappointment)

Marty Shell

Terms expire March 31, 2017

**ELECTRIC CODE APPEALS BOARD**

Frank Glidewell (reappointment)

Tommy Hill

Terms expire March 31, 2016

**PLANNING COMMISSION**

Mike Lorenz (reappointment)

Thomas E. Howard

Vicki Newton

Terms expire April 30, 2014

Hutchings, seconded by Catsavis, moved acceptance of the appointment nominations. The members all voting aye, the Mayor declared the motion carried.

Item No. 5 was the third and final reading of an ordinance amending the Master Land Use Plan map and rezoning identified property and amending the zoning map (Master Land Use Plan - Extra-Territorial Jurisdiction Low Density Residential to Residential Detached, Residential Attached and Commercial Neighborhood; Rezoning - Extra-Territorial Jurisdiction Open-1 (ETJ O-1) to RS-3 by extension; RS-4, RS-5, RM-3, RSD-3 and Commercial-2 by classification / 12905 Rye Hill Road, Middleton Farms)

Prior to initiation of the third and final reading, Director Tyler moved to amend Section 2 to state, "from Extra-Territorial Jurisdiction Open-1 (ETJ O-1) to Open-1".

Director of Development Services Wally Bailey advised Open-1 would have been acceptable prior to annexation of the subject property; however, since the area was recently annexed, the appropriate zoning should be "Unzoned".

Due to such, Tyler amended his motion to reflect same. The motion received no

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second; therefore, Mayor Sanders announced the motion died for lack of a second.

Tyler, seconded by Hutchings, moved adoption of the ordinance as presented. The members voted as follows: ayes - Hutchings, Settle and Merry; nays - Tyler, Good and Catsavis; abstention - Weber. The Mayor declared the motion defeated.

Director Settle requested a brief explanation of future action regarding the Middleton Farms development.

Mr. Bailey advised that if the applicant so desires, the same request may be presented to the Planning Commission for reconsideration in six (6) months; however, if the applicant chooses to amend their original request, the matter may be presented to the Planning Commission at any time.

Mayor Sanders opened the Citizens Forum with the following individuals present to address the Board:

- ▶ David Harris  
2025 South "V" Street

Re: Alleged a Memorandum of Understanding between the City of Fort Smith and the University of Arkansas Fort Smith was signed by the City Administrator citing such should have been signed by the Mayor.

- ▶ James Wright  
8331 Howard Hill Road

Re: Expressed much appreciation for the action taken on Item No. 5 and conveyed assurance that a compromise can be reached with the developer, if they so desire.

Directors Hutchings and Catsavis inquired if contact has been made with the developer whereby Mr. Wright affirmed such, but alleged they were unwilling to compromise with the surrounding property owners.

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- ▶ Brandon Woodrome  
7319 Rye Hill Road East

Re: Expressed discontent with City staff regarding multiple issues relative to development of property and obtaining up-to-date utility locations.

- ▶ Eric Arthur  
815 North "B" Street

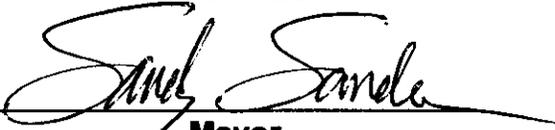
Re: Reiterated the discontent conveyed by Mr. Woodrome alleging he has also had difficulty in obtaining adequate locations of sewer lines.

- ▶ Suzy Stosberg  
127 May Avenue

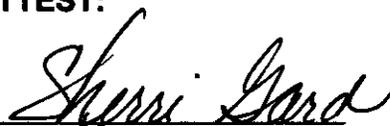
Re: Commented on the condition of the property at North 17<sup>th</sup> and "E" Streets and recommended the Board drive by to view such.

There being no further business to come before the Board, Tyler moved that the meeting adjourn. The motion was seconded by Catsavis and the members all voting affirmatively, the Mayor declared the motion carried and the meeting stood adjourned.

**APPROVED:**

  
Mayor

**ATTEST:**

  
City Clerk