MINUTES OF BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ MAY 1, 2012 ~ 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 Pastor Marty Sloan of Harvest Time, followed by 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 Philip H. Merry, Jr. The Mayor declared a quorum present.

Mayor Sanders inquired if any Board member had any item of business to present that was not already on the agenda. None was presented.

The minutes of the April 17, 2012 regular meeting was presented for approval. Settle, seconded by Hutchings, moved approval of the minutes as written. The members present all voting aye, the Mayor declared the motion carried.

With regard to the time limit policy for persons wishing to address the Board, the Mayor communicated that five (5) minutes per side would be granted for controversial items with three (3) minutes for rebuttal per side.

Item No. 1 was recognition of volunteers participating in the Great Arkansas Cleanup, which was held April 21st, whereby Mr. John Pope with Keep Arkansas Beautiful extended much appreciation to Beautify Fort Smith for hosting the cleanup event.

Director Weber advised1.8 tons of trash was collected during the event; therefore, she extended much appreciation to the following individuals for their participation:

- Paula Linder
- Peggy Weidman
- Ken Efurd
- Bryan Merry
- Carolyn Plank
- Alice Reynolds

- Hazel Brown
- Stephanie London
- Suzanne Salsberry
- Suzanne Viguet
- Daniel Cochran
- Wayne Haver
- Kevin Lindsey, Chief of Police
- Sgt. Doug Brooks, Police Department
- Mike Alsup, Director of Parks and Recreation
- Baridi Nkokheli, Director of Sanitation
- Mayor and Mrs. Sandy Sanders
- Board of Directors

Item No. 2 was consideration of an appeal of Planning Commission approval of Conditional Use No. 5-4-12 for a church at 4933 Old Greenwood Road *(appeal filed by Matthew H. Scott, agent for Century Drive Developers, LLC)* ~ WITHDRAWN BY APPELLANT ~

Mayor Sanders announced the requested appeal had been withdrawn by the appellant; therefore, such requires no Board action.

Item No. 3 was an ordinance rezoning identified property and amending the zoning map *(from Residential Multi-Family Medium Density (RM-3) and Commercial Light (C-2) to Residential Single Family Medium / High Density (RS-3) by extension located at 2706, 2708, 2716, 2720, 2800, 2804, 2808, 2812, 2818, 2822, 2900, 2906, 2910-2912, 2914-2916, 2918, 2920, 3000, 3004, 3008, 3020-3022 and 3024-3028 Alabama Avenue; 2704-3020 Hardie Avenue; 2703, 2709, 2715, 2717, 2719, 2801, 2809, 2819, 2901, 3001, 3005, 3015 and 3019 Kinkead Avenue; and 701 Lecta Avenue)*

Director of Development Services Wally Bailey briefed the Board on the item advising such is per the request of Pam Chamblee, agent. The purpose of the rezoning is to prohibit future duplex and multi-family developments. The subject area contains sixty-nine (69) properties. A neighborhood meeting was held on February 23, 2012 with eight

(8) property owners in attendance. The Planning Commission held a public hearing on April 10, 2012 with Ms. Cheryl Arnold speaking in opposition to the request. The Planning Commission approved the rezoning request by a vote of eight (8) in favor and zero (0) opposed.

Tyler, seconded by Good, 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 and the ordinance was adopted and given No. 35-12.

Item No. 4 was an ordinance amending the Master Land Use Plan map and rezoning identified property and amending the zoning map *(Master Land Use Plan from Extraterritorial Jurisdiction Neighborhood Commercial to Extraterritorial Jurisdiction Light Commercial Office and a zone change from Extraterritorial Jurisdiction Open-1 (ETJ O-1) to Extraterritorial Jurisdiction Commercial-3 (ETJ C-3) by classification located at 10301 Highway 45 South)*

Mr. Bailey briefed the Board on the item advising such is per the request of Luis Alvarez. The purpose of the requests is to allow for the existing development to be utilized as a dance hall/nightclub. The subject property was previously utilized as a motorcycle shop, teen club and nightclub; however, the businesses were permitted as conforming uses. The Planning Commission held a public hearing on April 10, 2012 with no individual present to speak in opposition. The Planning Commission approved both the rezoning and Master Land Use Plan amendment by a vote of eight (8) in favor and zero (0) opposed.

Director Settle questioned the purpose of rezoning to a heavy commercial zoning classification.

Mr. Bailey advised such is due to the property's location and land use; however, the most significant reason is due to the adjoining roadway being classified as an arterial street.

Good, seconded by Merry, 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 voted as follows: ayes - Tyler, Good, Catsavis, Weber, Settle and Merry; nays - Hutchings. The Mayor declared the motion carried and the ordinance was adopted and given No. 36-12.

Item No. 5 was an ordinance amending the 2009 Unified Development Ordinance of the City of Fort Smith *(various amendments)*

Mr. Bailey briefed the Board on the item advising such includes three (3) amendments that permits a guest or pool house to maintain a small kitchen, allow an appeal process for ETJ conditional uses, and provides that a dance hall/nightclub may be a permitted or conditional use in any zoning district. The Planning Commission held a public hearing on April 10, 2012 with no individual present to speak in opposition to the proposed amendments. The Planning Commission approved each by votes of eight (8) in favor and zero (0) opposed.

Director Settle questioned if a family member may permanently reside in a guest house since a small kitchen would now be permitted.

Mr. Bailey clarified that structures designated a guest house may only be utilized on a temporary basis, not as a permanent place of residence.

Weber, seconded by Merry, 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. Catsavis, seconded by Settle, moved adoption of Section 3 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. 37-12.

Item No. 6 was an ordinance repealing and replacing Section 25-268(b) of the Fort Smith Municipal Code *(placement and removal of trash containers) ~ Settle/Hutchings placed on agenda at the April 24, 2012 study session ~*

Deputy Administrator Jeff Dingman briefed the Board on the item advising such was requested at the April 24, 2012 study session. Currently, residents with curbside sanitation pickup are required to remove their sanitation containers from the street right-of-way after collection. The Fort Smith Municipal Code specifically excluded the requirement for those with alleyway sanitation pickup. It's been observed that waste deposited in the alleyways between collection days is prone to scattering about the alleyways before being collected; therefore, the proposed ordinance now requires that household with alleyway refuse collection may no longer leave their waste/recycle cans in the alleyway between collection dates.

The following individuals were present to address the Board:

- David Harris
  Fort Smith, Arkansas

  Re: Spoke in opposition to the item citing most alleyways are properly maintained, and free of trash and debris.

- John McIntosh
  Fort Smith, Arkansas

  Re: Advised most alleys in his neighborhood are also clean and free of debris. He further alleged an ordinance is already in place to address the condition of alleyways.

- Rosemary Wingfield
  Fort Smith, Arkansas

  Re: Noted concurrence with the comments of Mr. McIntosh and alleged the proposed ordinance is merely being presented as *"retaliation"* for the Board's recent decision to return Park Hill East to manual/alleyway collection.

There was much discussion among the Board whereby Director of Sanitation Baridi Nkokheli clarified that permanent 'docking' locations will be allowed to remain in the alleyway. With regard to enforcement of the proposed measure, Director of Development Services Wally Bailey advised of inadequate personnel to enforce; however, he clarified that a warning notice would certainly be rendered upon receipt of an initial complaint of sanitation receptacles remaining in the public right-of-way.

Several Directors spoke in favor of the ordinance citing the proposed ordinance merely requires all residents of the city to adhere to the same regulation.

Director Tyler advised of his intent to vote against the proposed ordinance citing many neighborhoods were specifically designed for alleyway sanitation collection. He further noted and encouraged residents to report any violation of trash in alleyways to the Neighborhood Services for enforcement.

Good, seconded by Settle, 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 voted as follows: ayes - Good, Hutchings, Weber and Settle; nays - Tyler, Catsavis and Merry. The Mayor announced the motion did not obtain the five (5) affirmative votes required 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 May 15, 2012 regular meeting agenda for its second reading.

Item No. 7 was a resolution renaming the Anniversary Rose Garden the Mayor Ray Baker Rose Garden.

Director of Parks and Recreation Mike Alsup briefed the Board on the item advising such is per the request of the Board of Directors and the Fort Smith Rose Society. Former Mayor Ray Baker was instrumental in the acquisition and development of the Anniversary Rose Garden in 1997, and initiated the designation of the rose as the City's official flower. In accordance with the City's naming policy, the Parks and Recreation Commission provided opportunity for public input, and held two (2) public meetings with no opposition being received; therefore, such is recommended for Board approval.

Director Weber extended much appreciation to the Fort Smith Rose Society for all they do and numerous volunteer hours to maintain the garden.

Director Settle also commented *"how fitting"* the proposed name change is to honor the former mayor, who loved to throw rose petals on residents being recognized for various accomplishments.

Weber, seconded by Hutchings, moved adoption of the resolution. The members all voting affirmatively, the Mayor declared the motion carried and the resolution was adopted and given No. R-94-12.

Director Weber announced that the Parks and Recreation Department and the Fort Smith Rose Society have scheduled a formal celebration of the renaming for 11:00 a.m. on October 6.

Mayor Sanders recognized Zach Ludlow, Boy Scout Troop 2, who was in attendance to earn his Citizenship Badge.

The Consent Agenda (Item No. 8) was introduced for consideration, the items being as follows:

A. Resolution to accept the bids and authorize contracts for the construction of Rice Carden Levee Improvements, Project No. 06-06-A *($1,235,811.75 / Engineering Department / Budgeted - Sales Tax Program Fund)*

B. Resolution to accept the bids and authorize contracts for the construction of Street Overlays / Reconstruction, Project No. 12-03-A *($2,778,877.20 / Engineering Department / Budgeted - Sales Tax Program Fund)*

C. Resolution authorizing the Mayor to execute a lease agreement with the Fort Smith Farmers Market Committee

D. 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

E. Resolution authorizing the execution of a memorandum of understanding between the City of Fort Smith, Arkansas and the City of Greenwood, Arkansas, concerning mobile data support

F. Resolution authorizing the execution of a non-residential solid waste collection and disposal permit and agreement with Big Iron Customs, LLC Resolution

Regarding Item No. 8A, the following individual was present to address the Baord:

- David Harris
  Fort Smith, Arkansas

  Re: Merely stated, *"levies are to drainage, what alleys are to streets."*

Hutchings, seconded by Weber, moved adoption of all consent agenda items. The members all voting affirmatively, the Mayor declared the motion carried and the resolutions were adopted and numbered R-95-12 through R-100-12 respectively.

Mayor Sanders opened the Officials Forum with the following comments offered:

- Mayor Sanders

  Re: 1. Announced the on-site visit relative to CALEA accreditation is "looking favorable"; therefore, he extended much appreciation to Police Chief Kevin Lindsey and the Police Department for their efforts to ensure a favorable review.

  2. Regarding the upcoming Old Fort Days Rodeo, the Fort Smith Jaycee's have requested all, especially those in the downtown area, to "dress western" the week of May 28.

  3. Announced May 19 is "National Kids to Parks Day", which is to empower kids to discover and enjoy parks in their community and an event to support the First Lady's *Let's Move!* campaign. From 10 a.m. to 2 p.m. on said date, Creekmore Park will have hot dogs and entertainment; therefore, he encouraged all to attend.

- Director Merry

  Re: 1. Announced the Bass Reeves Statue dedication ceremony is Saturday, May 26 at Pendergraft Park and encouraged all to attend.

  2. Expressed much appreciation to Sam Sicard, Kelly Underwood, Garrett Lewis and various churches for the "Step Up, Speak Out" event held on April 28 at the University of Arkansas Fort Smith campus. The event was to increase awareness of child abuse in observance of April being Child Abuse Awareness Month.

- Director Catsavis

  Re: Requested the ordinance regarding sign regulations on Phoenix Avenue *(recently tabled pending Planning*

Commission review) be presented at the next regular meeting for consideration. Placement requires two (2) Directors; therefore, Director Settle offered a second and the matter was placed on the May 15, 2012 regular meeting agenda.

- Director Good

  Re: Extended much appreciation to Director of Sanitation Baridi Nkokheli for hosting multiple meetings to address citizen concerns relative to automated sanitation collection.

- Director Settle

  Re: Commented that the City must adapt to change for the betterment of the community citing such affects future development; therefore, he extended much appreciation to Mr. Nkokheli for his efforts to improve efficiency of the Sanitation Department by encouraging citywide automated sanitation service, as well as his efforts to address citizen concerns regarding same.

Mayor Sanders announced that after adjournment, the first informal town hall meeting will be held; therefore, he encouraged all those wishing to address the Board during such to sign the sign-in sheet at the back of the room.

There being no further business to come before the Board, Settle moved that the meeting adjourn. The motion was seconded by Tyler and the members all voting aye, the Mayor declared the motion carried, and the meeting stood adjourned at 6:54 p.m.

APPROVED:

Sandy Sanders

MAYOR

ATTEST:

Terri Ford

CITY CLERK