

MINUTES OF BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ AUGUST 7, 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 Bill Painter of Fort Smith Seventh-Day Adventist Church, 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 Mayor announced that a Town Hall meeting will be held following adjournment advising those wishing to address the Board during said meeting must sign-in and advised the sign-in sheet is located at the back of the room.

The minutes of the July 17, 2012 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 an ordinance changing meeting date of the August 21, 2012 Board of Directors regular meeting ~ *Mayor Sanders requested at the July 17, 2012 regular meeting ~*

Mayor Sanders briefed the Board on the item advising such merely reschedules the Tuesday, August 21, 2012 meeting to Thursday, August 23, 2012. The proposed rescheduled meeting will take place at the same time and location, 6:00 p.m. at the Fort Smith Public School Service Center. The House Armed Services Readiness Subcommittee

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Chairman Randy Forbes will hold a “Defending our Defenders” listening session regarding the importance of the 188th Fighter Wing to the Fort Smith region the evening of August 21st at the convention center; therefore, the proposed ordinance will allow members of the Board of Directors to attend said event.

Hutchings, seconded by Weber, 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. Prior to the City Clerk reading the ordinance for its readings, Director Settle urged all residents of Fort Smith to attend the “Defending the Defenders” listening session to show support of the 188th Fighter Wing.

The motion remaining on the floor, the City Clerk read the ordinance for its readings and the members all voting affirmatively, the Mayor declared the motion carried. Settle, seconded by Hutchings, moved adoption of Section 2 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. 55-12.

Item No. 2 was an ordinance amending the 2009 Unified Development Ordinance of the city of Fort Smith (*Appendix A Use Matrix*)

Director of Development Services Wally Bailey briefed the Board on the item advising the proposed amendment will allow the operation of a thrift store and furniture or home furnishings (used) within the Industrial Light (I-1) zoning district, which is currently prohibited. Such is comparable to the following uses already permitted in the I-1 zoning classification: 1) Furniture repair and upholstery shop; 2) Appliance repair (small); and, 3) Appliance repair (large). The Planning Commission held a public hearing on July 10, 2012 with no individual present to speak in opposition. The Planning Commission approved the proposed UDO amendment by a vote of seven (7) in favor and zero (0) opposed.

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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 all voting affirmatively, the Mayor declared the motion carried. Hutchings, 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. 56-12.

Item No. 3 was an ordinance rezoning identified property and amending the zoning map *(from Commercial Regional (C-4) to Residential Multi-Family Medium Density (RM-3) by extension located at 4808 and 4810 Wirsing Avenue)*

Mr. Bailey briefed the Board on the item advising such is per the request of Jose M. Uribe, owner/agent. The purpose of the request is to facilitate the addition of a bedroom and bathroom at 4808 Wirsing Avenue whereby said improvements are not allowed within the current zoning district. The land use of the area is primarily single-family dwellings authorized as non-conforming use in a commercial district and the proposed zoning of RM-3 is by extension of the adjacent zoning classification. A neighborhood meeting was held on June 18, 2012 with no neighboring property owners in attendance. The Planning Commission held a public hearing on July 10, 2012 with no individual present to speak in opposition to the request. The Planning Commission approved the request by a vote of seven (7) in favor and zero (0) opposed.

Director Settle conceded the land use is primarily single-family dwellings; however, he questioned if existing structures are anticipated to be developed into multi-family residential structures.

Mr. Bailey noted the applicant merely wishes to improve an existing single-family

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dwellings in the area and no multi-family development is anticipated.

Merry, 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. 57-12.

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 Low Density Residential to General Commercial; Rezoning - from Extraterritorial Jurisdiction Open-1 (ETJ O-1) to Commercial Heavy (C-5) by extension located at 7300 South Zero Street and 6618 Softball Lane*)

Administrator Gosack briefed the Board on the item advising the rezoning is to accommodate the aquatics center at Ben Geren Regional Park; however, the companion item to annex the property into the corporate limits of city will not be presented for consideration until the September 4, 2012 regular meeting. Staff prefers to address both matters at the same time; therefore, he recommended the recommended the proposed ordinance be tabled to the September 4, 2012 regular meeting.

Settle, seconded by Tyler, moved to table consideration of Item No. 4 to the September 4, 2012 regular meeting. The members all voting affirmatively, the Mayor declared the motion carried.

Item No. 5 was an ordinance rezoning identified property and amending the zoning map (*from Not Zoned to Industrial Light (I-1) by classification located at 8101 Flagstone Road - Old Dominion Freight Line Project at Chaffee Crossing*)

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Mr. Bailey briefed the Board on the item advising such is per the request of Randy Coleman, agent. The purpose of the request is to allow for the construction of a freight terminal distribution facility on Flagstone Road at Chaffee Crossing (Old Dominion Freight Lines). A neighborhood meeting was held on Tuesday, June 26, 2012 with no neighboring property owners in attendance. The Planning Commission held a public hearing on July 10, 2012 with no individual present to speak in opposition. The Planning Commission approved the rezoning request by a vote of seven (7) in favor and zero (0) opposed.

Merry, seconded by Weber, 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. 58-12.

The Consent Agenda (Item No. 6) was introduced for consideration, the items being as follows:

- A. Resolution approving a tolling agreement with the United States Department of Justice relating to wet weather sanitary sewer work
- B. Resolution accepting a gift and exchange agreement with a special warranty deed with William H. Hanna for property located at Carol Ann Cross Park
- C. Resolution authorizing the execution of a memorandum of understanding concerning mobile data support between the City of Fort Smith, Arkansas and the City of Hackett, Arkansas
- D. Resolution approving a "Construction Manager at Risk" agreement with Beshears Construction, Inc. for services related to the construction of Fire Station No. 11 and a public access street at 8900 Massard Road at Chaffee Crossing (\$179,500.00 / Fire Department / Budgeted - 2012 Sales Tax Bonds)

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- E. Ordinance authorizing master lease-purchase agreement with General Electric Capital Corporation regarding lease and purchase of a HG6000 horizontal grinder for the landfill and authorizing the Mayor and City Administrator to negotiate and execute all necessary documents regarding said agreement *(\$591,735.00 / Sanitation Department / Not Budgeted)*
- F. Resolution setting public hearing date on petition to vacate a portion of a street right-of-way located in Vantage View Addition as shown on the plat of Southern Hills Addition, additions to the city of Fort Smith, Arkansas
- G. Resolution accepting the bid of and authorizing the Mayor to execute a contract with Land Farmers, Inc. for the Lee Creek Water Treatment Plant Residuals Lagoon Cleaning *(\$74,800.00 / Utility Department / Budgeted - 5604 Operating Funds)*
- H. Resolution authorizing the Mayor to execute an agreement and Authorization No. 1 with Hawkins-Weir Engineers, Inc. for engineering services for the 2011 Sanitary Sewer Improvements, Phase II *(\$150,000.00 / Utility Department / Budgeted - 2012 Sales Tax Bonds)*
- I. Resolution accepting the bid of and authorizing the Mayor to execute a contract with T-G Excavating, Inc. for the 2011 Sanitary Sewer Improvements, Phase II *(\$1,835,311.00 / Utility Department / Budgeted - 2012 Sales Tax Bonds)*
- J. Resolution authorizing the City Administrator to accept an offer made by a property owner for the acquisition of real property interests for the Lift Station 7 & 14 Replacement/Consolidation Project *(\$2,200.00 / Utility Department / Budgeted - 2008 Revenue Bonds)*
- K. Resolution authorizing the City Administrator to accept an offer made by property owners for the acquisition of real property interests for the Zero Street Equalization Basin Project *(\$709,000.00 / Utility Department / Budgeted - 2009 Sales Tax Bonds)*

Mayor Sanders advised Item No. 6B has be removed from consideration and Item No. 6D has been revised to amend language from "Construction Manager at Risk" agreement to "General Contractor Construction Manager" agreement.

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Regarding Item No. 6E, Director Catsavis questioned if insurance will cover some of the \$591,000 replacement cost for the equipment.

Sanitation Department Administrative Superintendent Joe Hopper advised the City received approximately \$189,000 from the insurance settlement and sell of the scrap unit; therefore, said amount will be used to offset the total \$591,000 replacement cost.

With regard to Item No. 6G, Director Settle expressed concern with the difference between the submitted and accepted low bid; therefore, he questioned if such will create a future liability for the City. He further inquired if "land application" is something the City will continue to use.

Director of Utilities Steve Parke cited the company maintains some risk; however, he conveyed confidence the matter will not create a future liability for the City. With regard to "land application", he advised the City intends to utilize such more in the future.

Regarding Item No. 6K, the following individual was present to address the Board:

- David Harris
Fort Smith, Arkansas

Re: The property is an "Arkansas Brownsfield Program" site and requested a brief explanation of such. He inquired of the cost to clean the site and expressed concern that the selected site will create an unwarranted cost to the City, especially when another suitable location nearby would suffice and is not a polluted property.

Administrator Gosack advised the site is considered a "brownsfield" property because such maintains some type of environmental contamination. The City of Fort Smith participates in the Arkansas Brownsfield Program to ensure the environmental contamination is properly addressed.

Mr. Parke elaborated that participation in the Arkansas Brownsfield Program also ensures the City of Fort Smith is immune from liability for any future claim caused from the pollutants on the site. The City will remove all such pollutants to ensure the property is brought to a residential standard or

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the pre-industrial condition. The cost to remediate the site is estimated at \$3 million.

Settle, seconded by Tyler, moved adoption of all consent agenda items with the exception of Item No. 6B, which was removed from consideration. The motion also included adoption of Item No. 6D as revised. The members all voting affirmatively, the Mayor declared the motion carried and the ordinance and resolutions were adopted with the ordinance given No. 59-12 and resolutions numbered R-175-12 through R-183-12 respectively.

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

► Mayor Sanders

- Re: 1. Reminded all of the aforementioned "Defending our Defenders" listening session regarding the importance of the 188th Fighter Wing to the Fort Smith region at 6:00 p.m., August 21, 2012 at the Fort Smith Convention Center and encouraged all residents of the region attend.
2. Due to much interest, the City of Fort Smith will have a Veterans Day Parade on November 3rd. The parade will begin at 10:00 a.m. at Chaffee Crossing. Interested parties may participate by application at Chamber of Commerce in Fort Smith, Van Buren and Greenwood.

There being no further business to come before the Board, Settle moved that the meeting adjourn. The motion was seconded by Hutchings and the members all voting aye, the Mayor declared the motion carried, and the meeting stood adjourned at 6:26 p.m.

APPROVED:


MAYOR

ATTEST:


CITY CLERK