

MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ SEPTEMBER 3, 2013 ~ 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 Reverend Tasha Blackburn of 1st Presbyterian Church, followed by the Pledge of Allegiance. On roll call the following members of the Board were present: Directors Keith Lau, Andre' Good, Mike Lorenz, 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 August 20, 2013 regular meeting were presented for approval. Settle, seconded by Lorenz, moved approval of the minutes as written. The members all voting aye, the Mayor declared the motion carried.

Item No. 1 was an ordinance amending the Master Land Use Plan map and rezoning identified property and amending the zoning map (*Master Land Use Plan - from Mixed Use Employment to Commercial Neighborhood; Rezoning - from Residential Estate One (RE-1) to Transitional (T) by extension located at 3700 Cliff Drive*)

Director Lau recused himself from consideration and voting on the item due to a conflict of interest.

Director of Development Wally Bailey briefed the Board on the item advising such is per the request of Greta Wilcher, agent for Mercy Health Fort Smith Communities. The purpose of the requests is to facilitate the construction of a new

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medical facility. A neighborhood meeting was held on Tuesday, July 30, 2013 with ten (10) surrounding property owners in attendance, with Linda George, Cliff Dyer and Sherri Curtis speaking in opposition citing concerns relative to traffic and safety concerns, disruption of wildlife habitat and removal of trees and vegetation, as well as an opposition to approving any variances for this location in order to allow development. The Planning Commission held a public hearing on August 13, 2013 and approved the Master Land Use Plan amendment by a vote seven (7) in favor and zero (0) opposed. The Planning Commission amended the rezoning request to make approval subject to all construction complying with approved development plan and any significant changes to the approved development plan being approved by the Planning Commission. The amended rezoning request was approved by a vote of seven (7) in favor and zero (0) opposed.

The following individuals were present to address the board:

- Linda George
Fort Smith, AR

Re: Spoke in opposition to the above item and presented a document to be attached to the minutes of this meeting.

- Larry Young, representing Mercy Hospital
Rogers, AR

Re: Spoke in favor of item conveying intent to preserve as many trees and vegetation as possible and their desire to be a "good neighbor."

Director Merry commended Mr. Young, as well as Dr. Cole Goodman who was in attendance, regarding their attempts to preserve the trees during the project.

Settle, 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

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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, with the exception of Director Lau who announced recusal from discussion and voting prior to consideration of the item. The Mayor declared the motion carried and the ordinance was adopted and given No. 38-13.

Item No. 2 was ordinance rezoning identified property and amending the zoning map (*from Industrial-2 to a Planned Zoning District (PZD) located at 7200 South 28th Street*)

Mr. Bailey briefed the Board on the item advising such is per the request of Jeff Lee, agent for Tony White. The purpose of the rezoning request is to allow a building addition on the current industrial site for the purpose of retreading truck tires. The Planning Commission held a public hearing on August 13, 2013 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.

Since this is the first PZD request, Director Settle inquired if more request for said zoning classification is anticipated in the future. .

Mr. Bailey confirmed such citing the PZD is growing in popularity and becoming the preferred format over traditional, more specific zoning classifications.

Good, seconded by Lau, 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. 39-13.

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Item No. 3 was an ordinance rezoning identified property and amending the zoning map (*from Unzoned to Residential Single Family Medium High Density (RS-3) by classification located at 7600 Massard Road*)

Mr. Baily briefed the Board on the item advising such is per the request of Kim Hesse, agent for House of Restoration. The purpose of this request is to facilitate the development of a 19,628 square foot church. The Planning Commission held a public hearing on August 13, 2013 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.

Weber, 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. 40-13.

Item No. 4 was an ordinance rezoning identified property and amending the zoning map (*from Extra Territorial Jurisdiction Open-1 (ETJ O-1) to Extra Territorial Jurisdiction Industrial-2 (ETJ I-2) by extension located at 7700 Highway 45*)

Mr. Baily briefed the Board on the item advising such is per the request of Gerdau. The purpose of this request is to allow for the construction of a new scale facility with a new entrance driveway and parking lot. The Planning Commission held a public hearing on August 13, 2013 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.

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Settle, seconded by Lorenz, 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. 41-13.

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

Mr. Bailey briefed the Board on the item advising the proposed amendment is merely to clarify language regarding a "sign credit" as mentioned in the regulations. The Planning Commission held a public hearing on August 13, 2013 with no individual present to speak in opposition. The Planning commission approved the proposed amendments by a vote of seven (7) in favor and zero (0) opposed.

Director Settle requested clarification in regard to the v-type sign.

Mr. Bailey explained such depends on the degree of the "V" as to whether the sign is classified as a single sign.

Lorenz, 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. Weber, seconded by Lorenz 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. 42-13.

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Item No. 6 was an ordinance amending the provisions of Article VII of Chapter 6 of the Municipal Code to amend and restate the provisions of the Housing Repair and Rehabilitation Assistance Program of the City of Fort Smith, and for other purposes ~ *Lau / Weber placed on agenda at the August 27, 2013 study session ~*

City Administrator Ray Gosack briefed the board on the item advising the proposed amendments will streamline the program into one process and provide for up to \$15,000 in grant funds to aid in bringing homes up to city codes. Such also provides for a continuous open application process and allows the Housing Assistance Board to make emergency determinations based on medical conditions with the applicant.

Good, seconded by Lorenz, 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 Good 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. 43-13.

Item No. 7 was an ordinance amending Ordinance No. 3345, as amended, to increase the membership of the Central Business Improvement District Commission to eight (8) persons.

Administrator Gosack briefed the board on the item advising such is per the request of the Central Business Improvement District Commission. Since 2010 the Central Business Improvement District (CBID) has significantly increased in size and has seen an increase in projects. With the recent downtown/riverfront development and

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another large increase being anticipated, the Central Business Improvement District Commission is requesting its membership be increased to eight (8) persons.

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. 44-13.

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

- A. Ordinance to abandon a public utility easement located on Eastwood Estates, Lot 1A, an addition to the City of Fort Smith, Sebastian County, Arkansas
- B. Ordinance to abandon public utility easements located on Eastwood Estates, Lots 3A & 6A, an addition of the City of Fort Smith, Sebastian County, Arkansas
- C. Resolution authorizing the acquisition of real property interests for the Jenny Lind Road and Ingersoll Avenue Widening, Project No. 07-01-A (\$131,000.00 / *Engineering Department / Budgeted – Sales Tax Program Fund*)
- D. Resolution approving claim service for the City's employee medical and dental coverages
- E. Resolution accepting bids for the purchase of water and wastewater chemicals for 2013-2014 (*Annual bid / Various Departments / Budgeted – Water & Wastewater and Sanitation Funds*)
- F. Resolution allowing the sale of surplus vehicles and equipment at public auction
- G. Resolution accepting bids for the purchase of fleet trucks (\$804,314.24 / *Utility & Street Departments / Budgeted – General, Water & Wastewater and Street Funds*)

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- H. Resolution accepting the project as complete and authorizing final payment to T-G Excavating, Inc. for construction of the 2011 Sanitary Sewer Improvements – Phase II (\$117,780.73 / *Utility Department / Budgeted – 2012 Sales and Use Tax Bonds*)
- I. Resolution authorizing the Mayor to execute Authorization No. 2 to the agreement with Morrison Shipley Engineers, Inc. for engineering services for the Candlestick Force Main Replacement (Station 19) (\$123,000.00 / *Utility Department / Budgeted – 2012 Sales and Use Tax Bonds*)
- J. Resolution accepting the bid of and authorizing the Mayor to execute a contract with Crawford Construction Company for the Candlestick Force Main Replacement (Station 19) (\$1,190,847.00 / *Utility Department / Budgeted – 2012 Sales and Use Tax Bonds*)
- K. Resolution authorizing the Mayor to execute an agreement for engineering services with Burns & McDonnell for water and wastewater financial planning, cost of services analysis and rate design (\$108,150.00 / *Utility Department / Budgeted – Operating Budget 5501-219*)
- L. Resolution authorizing an offer for the purchase of real property in connection with the Mill Creek Pump Station Wet Weather Improvements (\$86,000.00 / *Utility Department / Budgeted – 2012 Sales and Use Tax Bonds*) ~ Tabled for 30 days at the August 6, 2013 regular meeting ~
- M. Resolution approving a construction manager agreement with Flintco, LLC for services related to the construction of an aquatic facility at Ben Geren Regional Park

Regarding Item No. 8D, Director Settle expressed gratitude to Director of Human Resources Richard Jones and his staff for their work in searching for ways to help the City save money for subject employee benefit.

Regarding Item No. 8L, the following individual was present to address the

Board:

- Steve Beam
Fort Smith, Arkansas

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Re: Expressed his content with the resolution, provided approval does not tie the City into a percentage above appraised value.

- David Harris
Fort Smith, Arkansas

Re: Alleged inconsistency citing that when the Board supports an item, they do not micro-manage and allow staff to oversee the matter; however, when they are against an item, they opt to micro-manage the issue.

Regarding Item No. 8M, the following individual was present to address the Board:

- Sandy Dixon
Fort Smith, Arkansas

Re: Expressed concern with the City utilizing construction manager agreements and not utilizing competitive bidding for city projects.

Director Merry expressed support for utilizing local contractors when given the opportunity and utilizing non-local contractors when in the best interest for the project. He alleged a local contractor exists with much experience, recently with the Clarksville aquatic center; therefore, he encouraged such contractor be considered.

Director Weber expressed her desire to maintain the process of competitive bidding and due to the ongoing investigation of the proposed firm, she conveyed much concern with utilizing firms with dubious integrity.

Director Catsavis concurred with the comments of Directors Merry and Weber reiterating his desire that a local contractor be considered. He further requested confirmation that Flintco, LLC had been recently sold.

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Assistant City Administrator Jeff Dingman confirmed that Flintco, LLC was purchased by a St. Louis based firm, Alberici Constructors, in January 2013; however they still operate under the Flintco, LLC name.

Director Good expressed his support of utilizing local contractors, as well; however, he conveyed no opposition to selecting an experienced contractor with this type of project.

Mayor Sanders requested confirmation that work such as electrical & plumbing etc. will be by bid thereby providing an opportunity for local contractors to work on the project whereby Mr. Dignman responded "yes."

Director Lau noted that such is not the time for discussion regarding the process of utilizing a construction manager vs. the bidding process. The citizens voted for an aquatic facility advising it's time to move forward with the project for the citizens; however, he conveyed no objection to discussion of construction manager vs. the bidding process for future projects.

Flinto, LLC worked on the aquatic center in Rogers, Arkansas; therefore, Director Settle requested Mr. Gosack provide information regarding such.

Mr. Gosack confirmed that Flintco, LLC was the contractor utilized for the Rogers, Arkansas aquatics center. The City of Rogers Parks Department staff provided a very favorable reference for Flintco, LLC. City of Fort Smith staff not only reviewed the firm's experience, but also reviewed their approach to construction management. It was by unanimous opinion that Flintco, LLC maintains the required experience and the strongest approach regarding construction management. He further noted that state law specifically allows the selection of a construction manager to be based on qualification

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Good, seconded by Lorenz, moved adoption of all consent agenda items. The members voted affirmatively on all items, with the exception of Item No. 8M whereby Director Catsavis, Weber and Merry voted “no”. The Mayor declared the motion carried and the ordinance and resolutions were adopted with the ordinances given No. 45-13 and 46-13, and the resolutions were numbered R-130-13 through R-140-13 respectively.

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

- ◆ Mayor Sanders

- Re:
1. Recognized RSVP as a key organization for volunteerism.
 2. Recognized Brittany Caldwell and Mike Hill with Sweet Bay for the recent event supporting Park Partners that helped to raise interest and funding for our city parks.
 3. North West Arkansas Business Journal annually recognizes 40 people under the age of 40; therefore, noted this year’s recipients from Fort Smith: Dale Brunk with Beall Barkley, Rob Coleman with ERC Properties, Conner Eldridge - US attorney for the Western District of Arkansas, and Maggie Rice Senior Planner for the City of Fort Smith.

- ◆ Director Good

Re: Conveyed much appreciation to the Planning Commission and our other boards and commissions for the time and effort utilized to serve the city of Fort Smith.

- ◆ Director Weber

- Re:
1. Noted the Beautify Fort Smith Commission will be meeting Thursday, September 5, 2013 at 12:00 noon at the Fort Smith Public Library Community Room. Patty Irwin with the Arkansas Forestry Commission will be speaking on how to increase the city’s tree canopy; therefore, she encouraged all to attend.

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2. Announced the annual Fall Cleanup is scheduled for October 19, 2013. Beautify Fort Smith will again be providing trash bags for those who wish to participate and pick up litter in their neighborhoods. Such will be distributed at 8:00 a.m. at Martin Luther King Jr. Park.

◆ Director Merry

- Re:
1. Announced the most recent recipient of the Noble Cause Award was Charolotte Tidwell. The award honors those who are making a difference in their communities through their service whereby Ms. Tidwell was selected due to her work with the Antioch Mission delivering over 6000 meals a month.
 2. Advised preparations for the 2014 Christmas Honors are underway and information regarding such will be announced in the near future.
 3. Offered condolences to the Buswell family regarding the tragic vehicle accident at Chaffee Crossing.

◆ Director Settle

Re: Moved to place a resolution on the September 17, 2013 regular meeting to make improvements at the intersection of Chad Colley Boulevard and Massard Road to increase the safety for citizens. The motion was seconded by Director Merry. The placement requires concurrence of only two (2) directors; therefore, the Mayor announced the item will be placed on the agenda as requested.

Director Lau requested Administrator Gosack provide a brief explanation of the requirements per the Manual on Uniform Traffic Control Devices, and inquired if the traffic flow data would be available by the September 17, 2013 regular meeting.

Administrator Gosack advised the Manual on Uniform Traffic Control Devices is a nationally recognized manual for placing traffic control devices, which ensures uniformity across the country. The manual indicates criteria for traffic control devices and state law requires the city to follow that manual in regards to traffic control device installations. The Street Department staff has started collecting data as of

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September 4th at said intersection; therefore, it's feasible and anticipated that such results will be included in the September 17, 2013 regular meeting board packet.

Mayor Sanders cautioned the Board regarding decision making vs. policy decisions.

♦ Administrator Gosack

Re: Reminded of the follow up strategic planning retreat on September 9, 2013 at the Convention Center. Dinner will be available at 5:30 and the meeting will begin at 5:45.

There being no further business to come before the Board, Lau moved that the meeting adjourn. The motion was seconded by Lorenz, and the members all voting aye, the Mayor declared the motion carried and the meeting stood adjourned at 7:10 p.m.

APPROVED:


Mayor

ATTEST:


City Clerk