

MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ FEBRUARY 2, 2016 ~ 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 Ngoc Quan Ha of Gospel Baptist 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, Tracy Pennartz, Kevin Settle and Don Hutchings. 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. There was non presented.

The minutes of the January 19, 2016 regular meeting were presented for approval. Mayor Sanders announced page 10 had been revised as originally provided to correct "Steve Clark" to "Scott Clark". Pennartz, seconded by Hutchings, moved approval of the minutes as revised. The members 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, and two (2) minutes for comments only.

Item No. 1 was presentation by Girl Scout Diamonds of Arkansas, Oklahoma and Texas.

Mayor Sanders announced that Girl Scouts were not in attendance as of yet; therefore and providing the Board concurs, presentation will proceed upon their arrival.

Note: This presentation did not occur; therefore, such will be rescheduled for a future meeting.

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Item No. 2 was an ordinance rezoning identified property and amending the zoning map (*from Commercial Heavy (C-5) to Residential Multifamily Medium Density (RM-3) by extension located at 1833 North 12th Street*).

Director of Development Services Wally Bailey briefed the Board on the item advising such is per the request of Manuel Navarro. The purpose of the rezoning is to allow the owner to construct a single family home. The Planning Commission held a public hearing on January 12, 2016 with no individual present to speak in opposition; however, one (1) nearby resident was in attendance to merely request clarification of the proposed zoning classification. The Planning Commission approved the rezoning request by a vote of seven (7) in favor and zero (0) opposed.

Settle, seconded by Pennartz, 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.

There being no Director wishing to comment on the item and the motion remaining on the floor, the City Clerk read the ordinance for its readings. The members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 8-16.

Item No. 3 consisted of the following regarding amendments to the Unified Development Ordinance:

- A. Ordinance amending the 2009 Unified Development Ordinance of the City of Fort Smith (*microbreweries in commercial zoning districts*) ♦ *Future Fort Smith item*
- B. Ordinance amending the 2009 Unified Development Ordinance of the City of Fort Smith (*specialty manufacturing*) ♦ *Future Fort Smith item*

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- C. Ordinance amending the 2009 Unified Development Ordinance of the City of Fort Smith (*neighborhood meeting requirements*)

Regarding Item No. 3A, Mr. Bailey briefed the Board on the item advising such is related to the October 2015 request of Mr. Quentin Willard to allow microbrewery/microwinery/microdistillery and specialty manufacturing as permitted use in the Commercial-5 zoning district and as conditional use in Commercial-2, Commercial-3 and Commercial-4 zoning districts. At the November 3, 2015 regular meeting of the Board of Directors, the Board amended the request and approved microbrewery, et. al. as conditional use in the Commercial-5 zoning district and as permitted use in Commercial-6, Industrial-1, Industrial-2 and Industrial-3 zoning districts. Planning staff has researched how other cities classify said types of uses and what zones such are permitted. Since the November 3, 2015, the Planning staff and Planning Commission have reviewed additional requests. At the January 12, 2016 Planning Commission meeting, the proposed ordinance was recommended to be presented to the Board for consideration. A petition has been submitted by multiple residents to allow microbreweries in all commercial districts as a permitted use. The proposed ordinance is more restrictive than the State requirement regarding microbreweries as the proposed limits the production to 15,000 barrels whereby the State allows up to 60,000 barrels, and a building size of no more than 10,000 square feet. There are no distance requirements associated with microbreweries with regard to churches and schools.

For additional purposes, he noted initial discussion regarding the microbrewery land use led to a significant discussion regarding the existing zoning of property along a portion of the North 9th Street corridor, specifically in the area of North 9th and "H" Street. A

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neighborhood meeting was held on November 23, 2015 for the purpose of discussing property owners efforts to submit a neighborhood rezoning application. Said application has not yet been received; however, on January 26, 2016, Planning staff met with a group of ten (10) property owners that represent multiple tracts of land within the subject area currently zoned Commercial-5 and Transitional. Those in attendance indicated they would like to see the area be zoned residential, not commercial. Planning staff is continuing efforts to make contact with as many property owners as possible and will provide a report on the matter in the next couple of weeks.

Lorenz, seconded by Lau, moved adoption of Item No. 3A. 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.

Director Settle questioned why the Planning Commission recommends microbreweries be allowed in Commercial-5 zones as a permitted use rather than as a conditional use. He expressed concern with alcoves of commercial zoning being located in residential areas.

Mr. Bailey advised larger businesses such as restaurants, privates clubs, etc. are allowed in Commercial-5 zones and after reviewing regulations of the Alcohol Beverage Control (ABC), it was determined that a microbrewery is no greater use than the existing uses already allowed in the Commercial-5 zoning district.

Director Pennartz questioned if the difference between City of Fort Smith and State of Arkansas regulations is due to the volume of beverage produced. She further inquired if the wastewater being discharged at the facility is a concern.

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Mr. Bailey noted the differences are due to delivery of supplies to and shipping of the product from the subject location, i.e. traffic and its impact on utility facilities. With regard to wastewater discharge, such depends on the amount of discharge going into the City's system. If such over 25,000 gallons of water per day, such would require a wastewater contribution permit under the City's Pre-Treatment Program.

The motion remaining on the floor and the members all voting affirmatively, the Mayor declared the motion carried. Lorenz, seconded by Catsavis, 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 Ordinance No. 9-16.

With regard to Item No. 3B, Mr. Bailey advised Mr. Quentin Willard of the Fort Smith Brewing Company submitted a UDO text amendment request in October 2015 that would allow Microbrewery/Microwinery/Microdistillery and Specialty Manufacturing as a permitted use in the Commercial-5 zoning districts and a conditional use in Commercial-2, Commercial-3, and Commercial-4 zoning districts. The proposed addresses the portion of Mr. Willard's request concerning specialty manufacturing. Specialty Manufacturing is limited in size with little or no impacts to adjoining properties. Many start up or small businesses that are currently considered industrial uses are directed to industrial zones; however, many of the businesses do not require a large building, but require 2,000 to 4,000 square feet which are more available at commercially zoned properties where vacant buildings and tenant spaces exist along commercial corridors. The impact of these small, boutique/light manufacturing uses generate similar land use impacts as a restaurant or other general commercial uses and often the impacts are less. Based on staff research

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and Planning Commission recommendation, the proposed will accomplish the following:

- ▶ Add definition for Specialty Manufacturing as follows:

Specialty Manufacturing shall mean specialty manufacturers with or without a retail front or other special manufacturers with minimal impacts to adjoining properties, including noise, traffic, lighting, odors, and hours of operation. Products are primarily assembled by hand. The uses are limited by size to a maximum of 4,000 square feet of gross floor area and shall be operated only within a fully enclosed structure.

- ▶ Allow Specialty Manufacturing as a permitted use in C-4 and C-5 and a conditional use in C-2, C-3 and C-6.

Staff has previously discussed specialty manufacturing with the Central Business Improvement District members and they prefer specialty manufacturing be listed a conditional use in the C-6 district.

Pennartz, seconded by Good, moved adoption of Item No. 3B. 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.

Director Settle questioned why the building size was limited to 4,000 square feet.

Mr. Bailey noted such is because the subject locations are intended to be used for startup spaces with hopes that the business will be successful and then move to a larger facility.

Director Pennartz expressed interest in the concept of a Grayfield Plan and inquired if the City will work with the potential property owners.

Mr. Bailey confirmed that upon development of a Grayfield Plan, staff will certainly work with property owners to help facilitate use of a vacant commercial properties. The matter will be reviewed with the Planning Commission and others to determine the best course of action.

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The motion remaining on the floor, the City Clerk read the ordinance for its readings. The members all voting affirmatively, the Mayor declared the motion carried. Settle, seconded by Pennartz, 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 Ordinance No. 10-16.

With regard to Item No. 3C, Mr. Bailey noted that since adoption of the Unified Development Ordinance in 2009, applicants requesting development approvals from the Planning Commission are required to schedule, invite and host a neighborhood meeting for all property owners within 300 feet of the project to a neighborhood meeting. (This is in addition to the formal public meetings of the Planning Commission). The projects can include development applications for zoning changes, conditional use applications, Master Land Use Plan amendments, and variances. A number of meetings have been held with no one in attendance except for the applicant and city staff. The applicant may have the expense of scheduling and renting a facility for the meeting but to have no one attend. Often the property identified in the application is located where there are no residential neighborhoods contiguous to or near the property identified in the application. Based on experience and the attendance records of the past four (4) years, adding an option that would allow the applicant to request a waiver from the neighborhood meeting requirement is recommended. A waiver from the neighborhood meeting process is already available for variance applications; however, such is not afforded for rezoning applications, Master Land Use Plan amendments and conditional use applications. Another issue with the neighborhood meeting is the timeliness of the meeting. Currently, the UDO requires a fourteen (14) day advance notice of the neighborhood meeting. At times the meetings are

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not held far enough in advance of the Planning Commission meeting to allow the staff to include the neighborhood meeting results in the staff reports. The Planning Commission voted unanimously to recommend the following amendments:

1. Allow applicants to request waivers from neighborhood meetings for rezoning, Master Land Use Plan amendments, and conditional use applications. The Director shall review the request based on the following criteria:
 - A. The project will have little or no impact on surrounding properties.
 - B. The project will have little or no impact on a residential neighborhood.
2. When a neighborhood meeting is waived by the Director, the applicant shall mail letters describing the project to all property owners within 300 feet of the project site in lieu of a neighborhood meeting. At a minimum, the letter shall include the project description, a drawing or map of the project, and contact information. A copy of the letter shall be submitted to the Planning Department and a written summary of any responses from property owners.
3. The requirement for the neighborhood meeting will not be waived for a nonresidential or a multifamily project where the proposal is next to single family developed or zoned property.
4. Instead of a fourteen (14) day notice, the applicant must provide notice to the Planning Department and residents at least seven (7) days prior to the scheduled neighborhood meeting. The neighborhood meeting must be held at least six (6) calendar days prior to the Planning Commission voting meeting.

The Planning Commission or the Board of Directors will still have the ability to table an application and require an applicant to have a neighborhood meeting.

Hutchings, seconded by Lau, moved adoption of Item No. 3C. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption

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and for the readings to occur on the same date. The City Clerk read the ordinance for its readings.

Director Good made note of the aforementioned information regarding a neighborhood meeting associated with the rezoning of the North 9th Street corridor and requested a brief update.

Mr. Bailey reiterated that another meeting will be held in the near future and he will prepare a report to the Board regarding such soon thereafter.

Director Lorenz spoke in favor of the item citing such will save not only actual expenses associated with holding a neighborhood meeting, but City staff time and resources.

Since there were twenty-eight (28) meetings in which no resident attended and only City staff was present, Director Hutchings requested information how much such would have saved the City if said meeting had not been required.

Mr. Bailey confirmed that the proposed does not only address "City" neighborhood meetings, but also neighborhood meetings required by developers. There have been instances where developers have paid to rent a location and refreshments and no individual was present; therefore, such will not only save City resources, but will be a cost savings to developers as well.

Upon approval, Director Pennartz requested confirmation that such will not hinder a residents ability to comment on the subject matters whereby Mr. Bailey confirmed.

The motion remaining on the floor and the members all voting affirmatively, the Mayor declared the motion carried. Hutchings, seconded by Lorenz, moved adoption of Section 3 the emergency clause. The members all voting affirmatively, the Mayor declared

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the motion carried and the ordinance and emergency clause were adopted and given Ordinance No. 11-16.

Item No. 4 was an ordinance authorizing the Mayor to execute an agreement for certain services for inhabitants of the city of Fort Smith ~ *Fort Smith Museum of History agreement tabled at the January 19, 2016 regular meeting* ~

Acting Administrator Dingman briefed the Board on the item as presented at the January 19, 2016 regular meeting in which the ordinance was tabled pending further review. The subject funding for the Fort Smith Museum of History (FSMH) was approved by the Board in conjunction with the 2016 Budget providing for reimbursement of utilities costs up to \$20,000 for the calendar year 2016. Prior to disbursing, the City attorney has advised that an agreement be executed with the organization which states the services to be provided in 2016. The agreement requires the organization's books and records to be open to the public and allow review of financial statements and records by the City as necessary during the year.

The following individuals were present to address the Board:

- Leisa Gamlich, FSMH Executive Director
Fort Smith, Arkansas

Re: Extended much appreciation to the Board for its past support of the FSMH and provided a brief history of the organization and its value to the city of Fort Smith. She read an affidavit from 1982 whereby several ladies signed stating the City of Fort Smith agreed to provide utility costs for the facility. The \$20,000 does not cover the actual utility costs, but FSMH has completed multiple efforts of energy efficiency whereby such as resulted in decreased utility costs.

- Stephen Young, FSMH Board of Trustees President
Fort Smith, Arkansas

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Re: Spoke in favor of the ordinance citing if funding is not approved, such will be detrimental to the FSMH and will require several existing programs to be cut.

- Phil White
Fort Smith, Arkansas

Re: Advised the FSMH is not a charitable, non-profit organization, but an educational institution. Such contains the history of Fort Smith, which has been and will continue to be an asset to the many school children who are brought to the FSMH. He simply urged the Board to approve the proposed ordinance.

- Drew Linder, FSMH Board of Trustees Treasurer and Past President
Fort Smith, Arkansas

Re: Provided FSMH attendance statistics and expressed concern with the possibility of lost funding with no advance notice. He further noted that if the funding is not approved, such "*will be tragic*" when in 2017, the city will be celebrating its bicentennial.

Settle, seconded by Lorenz, moved adoption of the ordinance.

Director Lau inquired if the contract noted by Ms. Gamlich is "valid" and if the City of Fort Smith owns the property.

Mr. Dingman noted the proposed agreement includes language that such "*supercedes prior agreements.*" With regard to ownership, the City of Fort Smith does not own the FSMH property.

Director Pennartz inquired of the average charge of admission, the FSMH annual budget and the number of FSMH personnel. She further commented that being new to the Board, she was unaware of the vast history of the FSMH funding; however, she felt the inquiry regarding such funding was warranted especially due to the recent and ongoing City of Fort Smith budgetary concerns citing the Board fiduciary responsibility. Regardless, she

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noted agreement that such is “based on history” and not associated with the recently omitted non-profit funding.

Mr. Linder advised that in order to meet budget shortfalls, the admission charge was recently raised from \$5.00 to \$7.00. The FSMH maintains an approximate annual budget of \$225,000. The FSMH maintains five (5) staff, i.e. one (1) full time and four (4) part-time, and numerous volunteers.

Director Hutchings spoke in favor the proposed item citing the Board should honor the agreement of the past.

The motion remaining on the floor and the members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 12-16

Item No. 5 was an ordinance amending the 2016 Budget.

Director of Finance Jennifer Walker briefed the Board on the item advising the proposed budget amendment will reduce the Sanitation Operating budget by \$650,998.00. Per the directive of Interim Director of Sanitation Doug Reinert, an extensive line-item by line-item review of the 2016 Sanitation Operating Budget was conducted by Parks and Recreation staff and such resulted in the proposed 6% reduction. Cost savings are recommended to be transferred to the Sanitation Sinking Fund and held in reserve to replace aging fleet, future expansion of the landfill, expand collections and ensure compliance with Arkansas Department of Environmental Quality (ADEQ) and United States Environmental Protection Agency (EPA) regulations applicable to the landfill. Schedules and reports to support the various reductions have been provided. The largest cost savings will be the elimination of temporary staffing as it was determined that employing additional

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personnel is more cost effective and efficient solution. The Finance Department thorough reviewed the proposal and recommend approval.

Lau, seconded by Good, moved adoption of the ordinance.

Director Catsavis requested clarification the \$650,998.00 savings will support the Sinking Fund deficiencies.

Ms. Walker confirmed the proposed amendment will get the Sinking Fund balance to a level that provides for the much-needed replacement of equipment.

Director Lau conveyed much gratitude to Director of Parks and Recreation / Acting Director of Sanitation Doug Reinert for initiating the review, which has resulted in the proposed cost savings. He further inquired if the process used in such review could be utilized in all the departments budget review to better identify cost savings.

Mrs. Walker also commended Mr. Reinert and his staff for taking on the bulk of the work in the review process. With regard to performing the subject analysis on other departments, there are some major challenges with the current financial reporting system that make it very difficult to accommodate such especially if performed on a regular basis. Due to such, since the City is currently in the process of selection and ultimate transition to a new financial reporting system, she recommended the requested analysis be performed once the new system is in place.

Directors Pennartz, Good, Lorenz and Settle also conveyed much appreciation to Mr. Reinert for his efforts.

Mr. Reinert addressed the Board and specifically identified multiple Parks and Recreation personnel that assisted in the review. He further expressed much appreciation to several employees of the Sanitation Department, who was very accommodating and

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“done a great job” at answering all of his questions.

The motion remaining on the floor and the members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 13-16.

Item No. 6 was a resolution accepting the bid of and authorizing the Mayor to execute a contract with Forsgren, Inc. for the Wheeler Avenue Sanitary Sewer Replacement (*\$582,357.00 / Utilities Department / Budgeted - 2015 Revenue Bonds*) ♦
Future Fort Smith item

Director of Utilities Steve Parke briefed the Board on the item advising such is a result of the sewer line maintenance crews identifying a length of 8-inch diameters sewer main along Wheeler Avenue between Fresno Street and Phoenix Avenue to be in extremely poor condition. The sewer main had been subject to acidic industrial discharges which had severely damaged the pipe and eroded away the bottom portion in some areas. About half of the damaged main is located within the pavement of Wheeler Avenue with other areas having buildings constructed over the main. This project will replace the sewer main and relocate such out of the Wheeler Avenue right-of-way and around the existing structures. Funding for the project is available from the 2015 revenue bonds issued for the continuation of sewer system improvements.

Hutchings, seconded by Good, moved adoption of the resolution.

There being no Director wishing to comment on the item and the members all voting affirmatively, the Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-12-16.

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

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▶ Mayor Sanders

- Re: 1. Noted the convention center, hotels and restaurants were was full this past weekend due to a volleyball competition and such will continue next weekend as well.
2. Reminded all fo the upcoming Ward 1 Neighborhood Meeting scheduled for 6:00 p.m., Tuesday, February 9, Elm Grove Community Center at Martin Luther King Jr. Park.

▶ Director Hutchings

Re: Last week, approximately twenty (20) members of the Grand Avenue Baptist Church went out and painted houses, cleaned yards, cleaned at the Sebastian County Humane Society and built handicap ramps; therefore, he extended much appreciation for their service to the community.

There being no further business to come before the Board, Lau moved that the meeting adjourn. The motion was seconded by Settle, and the members all voting aye, the Mayor declared the motion carried and the meeting stood adjourned at 7:19 p.m.

APPROVED:

MAYOR

ATTEST:


CITY CLERK