

**MINUTES OF BOARD OF DIRECTORS REGULAR MEETING**

**THURSDAY ~ FEBRUARY 3, 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 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 announced the regular meeting was originally scheduled for 12:00 Noon, Tuesday February 1, 2011 at the Elm Grove Community Center; however, due to inclement weather, such was postponed to today's date. All appropriate notifications of the change in meeting date, time and location were provided as required.

The Mayor inquired if any Board member had an item of business to present that was not already on the agenda. There was none presented.

The minutes of the January 18, 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.

City Administrator Ray Gosack advised Items No. 1A, 1B, 1C, and Item No. 2 relate to the Middleton Farms annexation. Due to this meeting not being at its regular time and location, staff recommends the items be tabled to the February 15, 2011 regular meeting.

Item No. 1 consisted of the following items:

- A. Resolution approving a pre-annexation agreement with Richard Griffin, Bradley Kidder, Bennie Westphal and Patsy Bateman for the Middleton Farms Subdivision

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- B. Ordinance accepting certain territory into the city of Fort Smith, Arkansas (327 acres)
- C. 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*)

Item No. 2 was an ordinance amending the Master Street Plan of the City of Fort Smith, Arkansas

Hutchings, seconded by Catsavis, moved to table Items No. 1A, 1B, 1C and Item No. 2 to the February 15, 2011 regular meeting. The members all voting affirmatively, the Mayor declared the motion carried.

Items No. 3 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 Light (ETJ I-1) by extension located at 6614, 6315, 6411, 6511, 6601, 6607, 6214, 6706, 6404, 6504; 6637 Old Harrison Lane; and, 12417 and 12525 Highway 71 South*) ~ Appeal of Planning Commission denial ~

Mr. Gosack advised the applicant and surrounding property owners have expressed interest in resolving existing differences regarding the proposed rezoning. In order to allow the interested parties to reach a resolution, staff recommends the item be tabled to the March 1, 2011 regular meeting.

Settle, seconded by Weber, moved to table Item No. 3 to the March 1, 2011 regular meeting. The members all voting affirmatively, the Mayor declared the motion carried.

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Item No. 4 was an ordinance amending Chapter 14 of the Fort Smith Municipal Code to provide regulations for fencing on residential properties.

Director of Development Services Wally Bailey briefed the Board on the item. The City of Fort Smith currently maintains regulation concerning allowable fencing materials for commercial property; however, such does not exist for residential property. Due to multiple citizen complaints regarding aesthetics of certain fencing materials, the proposed ordinance provides for fencing regulations and prohibits the use of non-fencing materials on residential property. "Tarps" was inadvertently omitted from the proposed ordinance; therefore, a revised ordinance was presented to include such. The ordinance will assist with the implementation of Goal 4 of the Comprehensive Plan: "Protect and improve existing neighborhoods."

Director Settle questioned if the ordinance would prohibit construction of a 6 foot wooden fence in a front yard, whereby Mr. Bailey stated, "no".

The following individuals addressed the Board and both spoke in favor of the proposed ordinance citing such would address ongoing fencing issues in their neighborhood:

- Marshall Sharpe  
2912 South 34<sup>th</sup> Street
- Walton Maurras  
2801 Charlotte Lane.

Settle, seconded by Catsavis, moved adoption of the ordinance as revised. 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 6

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. 7-11.

Item No. 5 was an ordinance amending Schedule IV of Ordinance No. 1872 as amended, and repealing all other ordinances or sections of ordinances in conflict herewith (*Speed limits for North Point Phase 1 & 2*).

Street Department Administrative Supervisor Garry Cathcart briefed the Board on the item advising the Fort Smith Housing Authority requested the speed limit in the new North Pointe subdivision, Phase I and II, be reduced from 30 mph to 25 mph. The purpose of the request is due to the area maintaining several short and winding streets, as well as the presence of numerous children in the neighborhood. The Street Department performed a traffic study and concurs with the request; therefore, he recommended approval.

Upon approval, Director Hutchings questioned when the new speed limit will go into effect, and if citations will be issued immediately or a grace period extended.

Police Chief Kevin Lindsey noted that an estimated thirty (30) day grace period could be extended to allow the neighborhood to adjust to the new speed limit before citations are issued.

The City Clerk advised the ordinance does not contain an emergency clause; therefore, the ordinance will go into effect thirty (30) days after passage.

Director Tyler questioned what criteria was used for consideration to lower the speed limit.

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Mr. Cathcart advised the *Manual on Uniform Traffic Control Devices* was utilized and such requires review of various issues such as the type of housing, street alignment, site distances, the number of children present, etc.

Good, 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. 8-11.

Item No. 6 was an ordinance ordering the owners of certain dilapidated and substandard structures to demolish same, authorizing the City Administrator to cause the demolition of such structures to occur, and for other purposes *(2101 North 52<sup>nd</sup> Street, 711 North "N" Street and rear structure, 2712 Irving Street & rear structure)*

Administrator Gosack briefed the Board advising the structures have been identified as being unsafe and detrimental to the public welfare; therefore, he recommended approval.

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 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 Tyler, 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. 9-11.

The Consent Agenda (Item No. 7) was introduced for consideration, the items being as follows:

- A. Resolution setting public hearing date on petition to vacate an alley located in Fitzgerald Addition, Block "Z" between Lots 2-5 and Lots 8-10, an addition to the City of Fort Smith, Arkansas
- B. Resolution accepting bid for the purchase of a front load refuse truck and body ~ *Sanitation Department* ~ (\$225,944.00)
- C. Resolution authorizing acquisition of real property interests for the Zero Street Outfall Phase II Sewer Improvements Project (\$6,577.00)
- D. Resolution accepting the bid for purchase of real property and authorizing the Mayor to execute a deed conveying real property interests in connection with the Lake Fort Smith Water Supply Project (\$125,010.00)
- E. Resolution accepting the project as complete and authorizing final payment to Bauman Instrument Corporation for the Wastewater SCADA System Replacement (\$28,624.00)
- F. Resolution authorizing Change Order Number One with Forsgren, Inc. for the Highway 45 and Zero Water and Sewer Relocation (\$114,949.36)

Regarding Item No. 7C, Administrator Gosack advised a settlement has been reached with the property owners of Tract No. LA 1-1. In order to finalize the settlement, he recommended the resolution be amended to remove said tract.

Director Catsavis requested a brief explanation of the requested amendment.

Director of Utilities Steve Park simply noted that the City of Fort Smith and the property owners have reached a settlement for acquisition of the tract, which differs from the amount included within the proposed resolution. Upon adoption of the resolution as amended, a new resolution authorizing the negotiated settlement amount will be presented to the Board for approval at the February 15, 2011 regular meeting.

Regarding Item No. 7F, Director Settle requested a brief explanation of the proposed change order and questioned if the Arkansas Highway and Transportation Department (AHTD) will reimburse the City of Fort Smith for the additional cost.

Mr. Parke advised AHTD improvements to Highway 45 from Phoenix Avenue to Zero Street required relocation of the City's water and sewer facilities. During construction of the utility relocation, an existing valve vault was discovered that would conflict with road construction. Such vault was not discovered previously due to inaccurate utility relocation records and the fact that the vault was paved over with asphalt. In order to address the issue, the vault must be relocated out of the road widening area and a new water line laid across Highway 45 to connect with the new valve and valve vault. With regard to reimbursement, the utility relocation agreement with the AHTD clearly states the City of Fort Smith maintains responsibility for relocation costs; therefore, a request for reimbursement is not an option.

Hutchings, seconded by Catsavis, moved approval of all consent agenda items. The motion also included an amendment to Item No. 7C to remove Tract No. LA 1-1. The members all voting affirmatively, the Mayor declared the motion carried and the resolutions were adopted and numbered R-21-11 through R-26-11 respectively.

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

► Mayor Sanders

- Re:
1. Announced formal recognition to Alyse Eady for being first runner up in the 2011 Miss America pageant will be held at 11:30 a.m., Saturday, February 5, 2011 at the Glass Pavilion.
  2. Reminded all The Park at West End is open and encouraged citizens to "enjoy their Saturday at the park".

► **Director Weber**

- Re:
1. **Advised the movie *True Grit* has received several Oscar nominations and commented such well publicizes Fort Smith.**
  2. **Extended good luck to Brett Goode, a Fort Smith native, who will be playing for the Green Bay Packers in the Superbowl Sunday, February 6, 2011.**
  3. **Noted Dr. John Holcomb, a graduate of Southside High School, is leading the recovery team for Congresswoman Gabrielle Giffords, who was recently shot in Phoenix, Arizona.**

► **Director Merry**

- Re:
1. **Extended appreciation to the Street Department for keeping city roads in operable condition during the recent inclement weather.**
  2. **Requested an item be placed on the February 8, 2011 study session to discuss City Administrator authority for personnel action.**

**Mayor Sanders noted the February 8, 2011 study session agenda already consists of multiple items for discussion and recommended such be scheduled for the next available study session.**

**Director Merry insisted such be addressed at the February 8, 2011 study session and offered a motion requesting same. Two (2) members of the Board of Directors must authorize agenda item placement; therefore, Director Catsavis seconded the motion.**

**Administrator Gosack advised he is scheduled to be out of the office on Friday, February 4; therefore, information regarding the above noted agenda item may not be available until Monday, February 7.**

► Director Catsavis

Re: Requested clarification that upcoming consideration of the lease agreement with the Advertising and Promotion Commission is subject only to enactment of the 1% prepared food tax whereby Mr. Gosack confirmed.

► Administrator Ray Gosack

Re: Announced Thursday, February 10, 2011 will be *City of Fort Smith Night* at the University of Arkansas Fort Smith Lions basketball game. Booths will be set up with representatives from various City departments. A booth will also be available for members of the Board of Directors who wish to participate as well. The event will begin at 5:30 p.m.

Mayor Sanders opened the Citizens Forum with no individual present to address the Board.

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

**APPROVED:**

  
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**MAYOR**

**ATTEST:**

  
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**CITY CLERK**