

## **MINUTES OF BOARD OF DIRECTORS REGULAR MEETING**

**TUESDAY ~ MARCH 1, 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 and Kevin Settle; absent - Philip Merry. 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.

Mayor Sanders recognized the following members of Boy Scout Troop 380, who were in attendance to earn their "Communications Merit Badge" and "Citizenship in the Community Merit Badge":

- ▶ Tyler Simpson
- ▶ Patrick Simpson
- ▶ Carlson Ketcham
- ▶ Ian Bellisario
- ▶ Andrew McClure

Boy Scout Troop 380 Assistant Scoutmasters Matt Ketcham and Phillip McClure were also in attendance and recognized as well.

The minutes of the February 15, 2011 regular meeting, and the February 22 and 24, 2011 special meetings were presented for approval. Settle, seconded by Tyler, moved approval of the minutes as written. The members present all voting aye, the Mayor declared the motion carried.

Item No. 1 was an ordinance rezoning identified property and amending the zoning

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map (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 / Tabled at the February 3, 2011 regular meeting~*

City Administrator Ray Gosack advised the applicant and surrounding Riley Farm property owners have agreed to further discuss existing differences regarding the proposed rezoning; therefore, in order to allow continued negotiation, both parties request the matter be tabled to the April 5, 2011 regular meeting.

Tyler, seconded by Catsavis, moved to table consideration of the ordinance to the April 5, 2011 regular meeting. The members present all voting affirmatively, the Mayor declared the motion carried.

Item No. 2 was an ordinance rezoning identified property and amending the zoning map (Not Zoned to Commercial-3 by classification located at 8400 Zero Street).

Director of Development Services Wally Bailey briefed the Board on the item advising such is per the request of County Judge David Hudson, agent for Sebastian County. The subject location is the former National Guard Armory property, which was annexed into the City of Fort Smith in April 2009 and acquired by Sebastian County in 2010. The City of Fort Smith Police Department (FSPD) currently utilizes a portion of the structure as a communications facility and training site. The purpose of the rezoning is to allow Sebastian County to utilize the principal structure as an emergency management and public safety facility, and the smaller building for storage of seized and/or wrecked vehicles and equipment. The Planning Commission held a public hearing on February 8, 2011 with no individual present to speak in opposition; however, Mr. Chuck Fawcett addressed the

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Commission relative to concerns regarding landscaping and inquired if a buffer will exist between the subject location and adjacent residential subdivision. Concern was also expressed with the potential for use of the location as a firing range for the FSPD. Both concerns were addressed via assurance that honeysuckle will be planted to provide a "green wall" as a buffer along the property line and the facility will not be utilized as firing range by the FSPD. The Planning Commission unanimously amended the original rezoning request to make approval subject to the following:

- ◆ An indoor firing range is not a permitted use within the recommended C-3 zoning district.
- ◆ Landscaping and screening shall be required along the eastern and southern property lines.
- ◆ Approval of the landscaping plan submitted by Guest Reddick Architects dated February 4, 2011.
- ◆ All seized and wrecked vehicles stored at this location must be completely screened from view from adjacent properties and public rights-of-way.

The Planning Commission approved the rezoning request as amended by a vote of eight (8) in favor and zero (0) opposed.

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. The City Clerk read the ordinance for its readings and the members present all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given No. 15-11.

Item No. 3 was an ordinance rezoning identified property and amending the zoning map (Commercial-5 to RS-3 by classification located at 1205 Brazil Avenue).

Mr. Bailey briefed the Board on the item advising such is per the request of Ron

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Bartel. The purpose of the rezoning is to allow the owner to make an addition to the single family home on the subject property. The existing zoning classification does not permit single family homes; therefore, the use is considered non-conforming and cannot be expanded. The Planning Commission held a public hearing on February 8, 2011 with no individual present to speak in opposition. The Planning Commission approved the request by a vote of eight (8) in favor and zero (0) opposed.

Good, seconded by Hutchings, 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 present all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given No. 16-11.

Item No. 4 was an ordinance amending the 2009 Unified Development Ordinance of the City of Fort Smith (Landscaping & Parking Lot Screening).

Mr. Bailey briefed the Board on the item advising the proposed amendments include certain provisions regarding landscaping and parking lot screening next to street rights-of-way. The Planning Commission held a special work session on January 26, 2011 with invitations forwarded to 166 stakeholders, i.e. architects, engineers, developers and contractors. Approximately forty (40) individuals attended the work session whereby many suggestions were offered and several are included within the proposed amendments. The Planning Commission held a special voting session on February 15, 2011 and voted unanimously to recommend the proposed amendments to the Board of the Directors for approval.

Director Settle questioned if the ordinance requires screening for 'approved' auto

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body repair businesses whereby Mr. Bailey advised such only addresses properties utilized for auto sales.

If an existing business wishes to expand, Director Catsavis questioned if such will require the business to include landscaping on at least ten feet (10 ft.) between the street and parking lot.

Mr. Bailey confirmed such; however, if the business feels the landscaping requirement is not feasible, they may request a variance from the Board of Zoning Adjustment.

Settle, seconded by Tyler, 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 present voted as follows: ayes - Tyler, Good, Hutchings, Weber and Settle; nays - Catsavis. The Mayor declared the motion carried. Hutchings, seconded by Settle, moved adoption of Section 3 the emergency clause. The members present voted as follows: ayes - Tyler, Good, Hutchings, Weber and Settle; nays - Catsavis. The Mayor declared the motion carried and the ordinance and emergency clause were adopted and given No. 17-11.

The Consent Agenda (Item No. 5) was introduced for consideration, the items being as follows:

- A. Resolution granting a temporary revocable license for the placement of an overhead conveyor tunnel across a public right-of-way and two support columns within a public right-of-way and authorizing the Mayor to execute agreement (*Baldor Electric Company, 5711 R.S. Boreham, Jr. Street*)
- B. Resolution accepting completion of and authorizing final payment for the construction of the Town Branch Storm Sewer and Manhole Cleaning, Project No. 10-06-C (\$187,743.93)

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- C. Resolution to accept the bids and authorize a contract for the construction of Drainage Improvements, Phase II, Project No. 10-06-D (\$539,048.60)
- D. Resolution authorizing the Mayor to execute a non-exclusive fiber optics network franchise agreement with Windstream KDL, Inc.
- E. Resolution authorizing the purchase of four (4) tandem axle dump trucks ~ Utility Department ~ (\$388,790.80)
- F. Ordinance authorizing the purchase of fifty-eight (58) mobile data terminal laptops, and fifty-eight (58) vehicle mounting brackets, as well as the software and licenses, and related equipment from Dell for use by the Fort Smith Police Department in the River Valley Mobile Data Project and appropriating funds for the authorized purchase (\$509,879.84)
- G. 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 (\$3,250.00)
- H. Ordinance authorizing the appropriation of funds from the unobligated balance of the Water and Sewer Fund, accepting the bid of and authorizing a contract with Goodwin & Goodwin, Inc. for the South 5<sup>th</sup> Street Water Line Replacement (\$165,000.00)
- I. Resolution regarding a Water and Sewer Operations Efficiency Study

Mayor Sanders announced that a revision had been made to Item No. 5F, which merely contained a typographical error in the amount.

Regarding Item No. 5B, Director Settle requested a brief explanation of the project citing the public should be made aware the City has initiated the first step to address drainage issues in the area.

Director of Engineering Stan Snodgrass provided a brief summary of the project advising the area is located within the Carnell/Town Branch drainage system, which is in

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dire need of a major improvement project to address ongoing flooding issues. Unfortunately, adequate funding is unavailable for the major project; therefore, a significant study was conducted in 2010 to determine if options exist to reduce the frequency of flooding. The study identified multiple recommendations and the proposed resolution authorizes the final payment for accomplishing one (1) of the recommendations. A second is scheduled for completion in 2012. He forewarned that the area will still flood during heavy rain events and reiterated the project was designed merely to “reduce the frequency of flooding” until the major drainage improvement project can be completed.

In order to determine if the project has made a difference, Director Tyler questioned if a significant rain event has occurred since completion whereby Mr. Snodgrass responded “not yet”.

With regard to Item No. 5E, Director Settle questioned the necessity of purchasing four (4) vehicles at once, especially due to budget constraints, and recommended one (1) vehicle be purchased per year over the next four (4) years.

Director of Utilities Steve Parke noted the intent was to replace the vehicles on a staggered basis over the past several years; however, budget constraints has not allowed such. The 1999 vehicles are in poor condition and in need of replacement; therefore, he recommended approval of the resolution citing funds were encumbered from the 2010 budget and is currently available for the purchases.

If the resolution is not approved, Director Good questioned how the Utility Department will proceed.

Mr. Parke simply noted the Utility Department will adhere to the direction of the Board.

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Regarding Item No. 5H, Director Good noted that the project was not included as a capital improvement project; therefore, he requested a brief explanation whereby Mr. Parke clarified the project was not included as such was an emergency repair.

Director Settle questioned how long the City has been aware of the water leak.

Mr. Parke noted, unfortunately, the City has been aware of such for several months; however, the project was delayed due to permitting issues with the Arkansas Highway and Transportation Department (AHTD) regarding rerouting of truck traffic to allow the repair.

Mayor Sanders questioned where truck traffic will be redirected whereby Mr. Parke advised three (3) different routes, i.e. South 3<sup>rd</sup> Street, South 6<sup>th</sup> Street, and Wheeler Avenue, have been selected to address truck traffic from the north, south, east and west.

Hutchings, seconded by Good, moved approval of all consent agenda items, including the aforementioned revision to Item No. 5F. The members present all voting affirmatively, with the exception of Directors Catsavis and Settle voting "no" on Item No. 5E, the Mayor declared the motion carried and the ordinances and resolutions were adopted with the ordinances numbered 18-11 and 19-11, and the resolutions numbered R-41-11 through R-47-11 respectively.

Mayor Sanders opened the Officials Forum with no comments offered.

Item No. 6 was the second reading of an 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, RM3, RSD-3 and Commercial-2 by classification / 12905 Rye Hill Road, Middleton Farms).

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Prior to initiation of the second reading, Mayor Sanders announced the ordinance will be placed on the March 15, 2011 regular meeting for its third and final reading.

City Clerk Sherri Gard (assisted by Assistant City Clerk Heather James) read the ordinance in its entirety for its second reading.

**Note:** Before completion of the second reading, Mayor Sanders left the meeting to attend a prior commitment; therefore, Director/Vice-Mayor Settle presided over the remainder of the meeting.

With regard to the time limit policy for persons wishing to address the Board in Citizens Forum, Vice-Mayor Settle communicated that two (2) minutes will be allotted to each person wishing to speak.

Vice-Mayor Settle opened the Citizens Forum with the following individuals present to address the Board:

- Liz Armstrong  
141 North 51<sup>st</sup> Street

Re: Conveyed much opposition to the 1% prepared food tax, which was recently adopted. She alleged prepared food is a very broad description; therefore, she requested the definition.

Administrator Gosack advised the Arkansas Department of Revenue has defined such; however, state law provides some flexibility whereby the Advertising and Promotion Commission may adopt additional rules and regulations, if they so desire.

- Jerry Hamel  
4618 Wheeler

Re: 1. Questioned who drafted the 1% prepared food tax ordinance and, regarding Ms. Armstrong's request, he highly recommended the "definition be very clear".

2. Requested a copy of the City of Fort Smith inclement weather policy.

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Vice-Mayor Settle advised the City's inclement weather policy is available through the Human Resources Department.

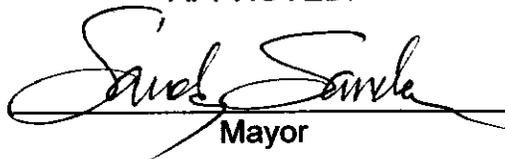
At the request of Director Good, the following individual addressed the Board regarding Item No. 6, which was the second reading of an ordinance to rezone property for Middleton Farms:

- James Wright  
8331 Howard Hill Road

Re: Advised surrounding property owners have submitted several requests to discuss the matter with the developer, who has not responded; therefore, he alleged the developer is unwilling to compromise. Due to such, he urged the Board to re-vote on the ordinance prior to the third and final reading scheduled to occur at the March 15, 2011 regular meeting.

There being no further business to come before the Board, Tyler moved that the meeting adjourn. The motion was seconded by Catsavis and the members present all voting aye, the Vice-Mayor declared the motion carried, and the meeting stood adjourned at 7:27 p.m.

APPROVED:

  
Mayor

ATTEST:

  
City Clerk