MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ AUGUST 2, 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 - Director Phillip H. Merry, Jr. The Mayor declared a quorum present.

Mayor Sanders urged all those who wish to address the Board of Directors during the meeting to promptly complete a speakers card and submit to the City Clerk.

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. Two (2) minutes will be allotted for consent agenda items and for those participating in the citizens forum.

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 July 19, 2011 regular meeting and July 28, 2011 special meeting were presented for approval. Good, seconded by Weber, 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 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*

August 2, 2011 Regular Meeting

71 South) ~ Appeal of Planning Commission denial / Tabled at February 3 and March 1, 2011 regular meetings / Tabled for 4 months at the April 5, 2011 regular meeting ~

Director of Development Services Wally Bailey briefed the Board on the item advising such is per the request of the Southridge Industrial Park property owners. The purpose is to correct the zoning to coincide with development of the area. Opposition to the rezoning was previously conveyed by the adjacent Riley Farm property owners; however, both parties reached an agreement at the April 5, 2011 regular meeting whereby the item was tabled for four (4) months to allow further discussion and review for possible annexation of the subject area. Annexation will require any future development to adhere to all city codes. Prior to filing of the annexation petition, City staff analyzed the impacts of annexation relative to providing general services and infrastructure. Such resulted in an estimated cost of $172,500 for water system improvements and in order to address existing drainage concerns of the proposed development, $80,000 to $100,000 for ditch construction. The Southridge property owners have offered to contribute $40,000 towards the water system improvement cost. If the Board so desires to accept the option for annexation, he recommended the ordinance be tabled for three (3) or four (4) months to allow filing of the annexation petition. Upon acceptance of the annexation, the City is accepting the $40,000 contribution for water system improvements, as well as the financial obligation for other infrastructure improvements. The property must also be properly zoned; therefore, an ordinance to rezone the property will be presented at the same time as the ordinance accepting annexation. If the Board chooses not to accept the option for annexation, the proposed ordinance with the original rezoning request is presented for

consideration.

The following individuals were present to address the Board:

- David Harris
  Fort Smith, Arkansas

  Re: Spoke in opposition to annexation citing the City simply cannot afford to bear the financial burden for the necessary improvements.

- Dennis Shaeffer, President
  Riley Farm Property Owners Association
  Fort Smith, Arkansas

  Re: Encouraged the Board to accept the option to annex the property. If the Board so desires otherwise, he recommended consideration of the original rezoning request be delayed for two (2) weeks to allow the property owners to further review the issue.

- David Edwards, Director
  Riley Farm Property Owners Association

  Re: Spoke in favor of annexation and conveyed much appreciation to the Board of Directors for their consideration of the item.

Directors Tyler and Good inquired if the option for annexation will benefit anyone other than the Southridge Industrial Park property owners, and if such provides the most protection for the property owners in Riley Farms.

Mr. Bailey noted all surrounding residents will benefit from annexation as such will ensure compliance with all city codes for future development, property maintenance standards, police and fire protection, etc.

Director Settle spoke in favor of postponing consideration of the item for three (3) or four (4) months to allow annexation of the property citing such is a "great opportunity".

Director Good spoke in opposition to annexation citing such will place an undue budgetary burden on the City of Fort Smith; therefore, he recommended consideration of the rezoning request as originally presented.

If the Board opts to consider annexation, Mayor Sanders expressed concern that such will set a detrimental precedent. He fears such will create a potential challenge for the City of Fort Smith to contribute tax dollars to provide infrastructure for future, private developments.

Settle, seconded by Tyler, moved to table consideration of the ordinance for three (3) or four (4) months to allow annexation of the subject property to proceed as proposed. The members present voted as follows: ayes - Tyler, Weber and Settle; nays - Good, Hutchings and Catsavis. The Mayor declared the motion defeated.

Good, seconded by Catsavis, 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 vote and as requested by Mr. Shaeffer, Director Settle offered a substitute motion to table consideration of the ordinance for two (2) weeks to allow the Riley Farm Property Owners Association to further review the proposed rezoning. The motion was seconded by Good and the members present all voting affirmatively, the Mayor declared the motion carried.

Item No. 2 was an ordinance amending the Master Land Use Plan and rezoning identified property and amending the zoning map *(Master Land Use Plan from General Commercial and Residential Detached to Residential Attached; Rezoning from Commercial Light (C-2) and Transitional (T) to Residential Multi-Family High Density (RM-4) by*

extension located at 1112 South 17th Street)

Mr. Bailey briefed the Board on the item advising such is per the request of Mark Evens, agent for Jeff Fenwick. The purpose of the proposed amendments is to allow the owner to construct four (4), two (2) bedroom apartments. A neighborhood meeting was held on July 7, 2011 with no neighboring property owners in attendance. The Planning Commission held a public hearing on July 12, 2011 with no individual present to speak in opposition; however, concern was expressed regarding a comment by the Utility Department whereby the residential water pressure may have an impact on the fire sprinkler design. The matter will be addressed during final review of the development plan and if staff determines the water pressure is not adequate, the developer will be required to make necessary adjustments prior to issuance of any building permit. The Planning Commission amended the Master Land Use Plan request to make approval subject to approval of the rezoning and development plan. The amended Master Land Use Plan was then approved by a vote of eight (8) in favor and zero (0) opposed. The Planning Commission also amended the rezoning request to make approval subject to the following:

- Approval of the Master Land Use Plan amendment and development plan
- Any change to the development plan will require a new review by the Planning Commission

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

Tyler, 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. 58-11.

Item No. 3 was an ordinance rezoning identified property and amending the zoning map *(from Unzoned to Industrial Light (I-1) by classification located at 9001 Chad Colley Boulevard)*

Mr. Bailey briefed the Board on the item advising such is per the request of Randy Coleman, agent for Fort Chaffee Redevelopment Authority (FCRA). The purpose of the rezoning request is to facilitate the development of mini-storage units. The FCRA has authorized the sale of the property and is supportive of the proposed rezoning. The Planning Commission held a public hearing on July 12, 2011 with no individual present to speak in opposition. The Planning Commission amended the rezoning request to make approval subject to the condition that a development plan must be submitted for Planning Commission consideration prior to the issuance of any building permits. The Planning Commission approved the amended request by a vote of eight (8) in favor and zero (0) opposed.

Director Settle conveyed his intent to vote in favor of the item; however, he expressed concern with the placement of mini-storage units along two (2) major roadways.

Mr. Randy Coleman, agent, simply noted the proposed mini-storages will be located approximately 300 feet off the street and eventually behind the proposed commercial development. He conveyed much assurance such will be constructed "a level above any other" and very nice in appearance.

Settle, seconded by Catsavis, 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. 59-11.

Item No. 4 was an ordinance rezoning identified property and amending the zoning map *(from Commerical-5-SPL to Residential Multi-Family Medium Density (RM-3) by extension located at 6300 Massard Road)*

Mr. Bailey briefed the Board on the item advising such is per the request of Pat Mickle, agent for ERC Land Development Group, Inc. The purpose of the rezoning request is to facilitate the construction of a 44-unit apartment complex. A neighborhood meeting was held on June 23, 2011 with no surrounding property owners in attendance. The Planning Commission held a public hearing on July 12, 2011 with no individual present to speak in opposition. The Planning Commission amended the rezoning request to make approval subject to approval of a development plan, and approved the amended request by a vote of eight (8) in favor and zero (0) opposed.

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 present all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given No. 60-11.

Item No. 5 was an ordinance amending portions of Chapter 25 of the Fort Smith

Municipal Code, establishing charges for water and sanitary sewer connections, establishing fees for industrial user permits and vacuum truck discharge permits to the utility systems of the City of Fort Smith, establishing a permit procedure for certain connections to the utility systems of the City, prohibiting unauthorized use of utility easements and rights-of-way; repealing ordinances in conflict herewith and for other purposes ~ *Tabled for 60 days at the May 17, 2011 regular meeting* ~

Director of Utilities Steve Parke briefed the Board on the item advising an ordinance authorizing adjustments for water and sewer connection fees and various permits was presented at the May 17, 2011 regular meeting; however, such was tabled for sixty (60) days to allow discussion with the Fort Smith Home Builders Association (FSHBA). A meeting was held on June 1, 2011 whereby the FSHBA conveyed no objection to the total proposed increases; however, the FSHBA recommended the total adjustments become effective incrementally. The proposed ordinance authorizes the aforementioned recommendation in three (3) equal portions with effective dates of October 1, 2011; July 1, 2012; and, January 1, 2013.

The following individual was present to address the Board:

- David Edwards, Member
  Fort Smith Home Builders Association

  Re: Extended much appreciation to the Board and staff for listening to concerns of the FSHBA; therefore, he recommended approval of the proposed ordinance.

Tyler, 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 present all voting affirmatively, the Mayor declared the motion carried. Hutchings, seconded by Weber, moved approval of Section 7 the emergency clause. The members present all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given No. 61-11.

Item No. 6 was an ordinance closing the Solid Waste Bond Fund.

Director of Finance Kara Bushkuhl briefed the Board on the item advising the 2002 Solid Waste Bonds were redeemed June 1, 2011. Due to such, all solid waste bonds have been paid and the Sanitation Fund has no long-term, outstanding debt; therefore, the proposed ordinance simply provides for the closure of the Solid Waste Bond Fund. Said fund maintains a closing balance of $6,220 which will be transferred to the Sanitation Sinking/Landfill Construction Fund.

The following individual was present to address the Board:

- David Harris
  Fort Smith, Arkansas

  Re: Since the solid waste bonds have been paid in full and there is no outstanding debt, he questioned if such would result in a reduction in sanitation fees.

  City Administrator Ray Gosack simply stated such "is possible".

Settle, seconded by Weber, moved adoption of the ordinance. The members present all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given No. 62-11.

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

A. Resolution of the Board of Directors of the City of Fort Smith adopting updated application and new percentage allocations for outside agency funding categories

B. Resolution to accept the bids and authorize a contract for the construction of the 2011 Sidewalk Program, Project No. 11-20-A *($388,159.20 / Engineering Department / Budgeted - Sidewalk Program Fund)*

C. Resolution expressing the willingness of the City of Fort Smith to utilize federal-aid enhancement funds for the Fort Smith Towson Avenue Streetscape Project

D. Resolution authorizing execution of Amendment Number One to contract for administrative services *($1,710.00 / Community Development Department; Not budgeted – Funding from IKE-2 Grant)*

E. Resolution authorizing the purchase of a sewer rodding truck *($134,976.00 / Utilities Department; Budgeted – Water & Sewer Operating Fund)*

F. Resolution authorizing the purchase of protective body armor vests *(not to exceed $51,030.00 / Police Department; Budgeted – General Fund ~ to be reimbursed by Department of Justice Grant "The Bulletproof Vest Partnership")*

G. Resolution approving the fluoridation of Fort Smith's water supply and authorizing the submittal of a grant application to Delta Dental of Arkansas Foundation, Inc.

H. Resolution authorizing the Mayor to execute an agreement with Morrison Shipley Engineers, Inc. for the design of the Pump Station 19 Force Main Replacement *($150,000.00 / Utilities Department; Budgeted – 2009 Sales Tax Bonds)*

I. Resolution authorizing the City Administrator to accept offer made by property owner for the acquisition of real property interest for the Lake Fort Smith Water Supply Project *($115,000.00 / Utilities Department; Budgeted – Capital Improvement Program Fund)*

Regarding Item No. 7B, Director Tyler simply inquired if additional funds remain

available whereby Director of Engineering Stan Snodgrass responded "no".

With regard to Item No. C, the following individual was present to address the Board:

- David Harris
  Fort Smith, Arkansas

  Re: Noted that 80% of the project will be funded with federal-aid monies; therefore, he inquired about the remaining 20%.

  Administrator Gosack advised the remaining 20% will be funded by the City via the Street Sales Tax Fund.

Regarding Item No. 7G, the following individuals were present to address the Board:

- Each of the following individuals spoke in favor of the item with several conveying the many benefits of fluoridated water:

  - Dr. Lynn Mouden
    Arkansas Department of Health - Office of Oral Health

  - Carol Hendricks
    Fort Smith, Arkansas

  - Melissa Masengill, Director of Government Relations
    Delta Dental of Arkansas

  - Dr. Robert Skinner
    Fort Smith, Arkansas

- Scott Stuart
  Fort Smith, Arkansas

  Re: Spoke in opposition to the item citing the voters in Fort Smith have rejected the fluoridation of City water on multiple occasions. He further alleged fluoride is "toxic" and the U.S. Food and Drug Administration has never approved its safety.

Director Catsavis questioned if the proposed fluoridation will increase residents

water billing, if all equipment costs will be covered by the grant offered by Delta Dental of Arkansas, and if the City is required to fluoridate its water supply.

Mr. Parke noted the anticipated increase in water billing is estimated to be so minimal that no rate increase will be sought. With regard to equipment, the grant will cover all costs for equipment to ensure the fluoridation of the City's water supply.

Mr. Gosack noted Act 197 of the 2011 Arkansas General Assembly requires water systems that serve more than 5,000 people to fluoridate their water supplies; however, Act 197 also states that compliance is not required *"...until funds sufficient to pay capital start-up costs for fluoridation equipment for the system have become available from any source other than tax revenue or service revenue regularly collected..."*. If the City does not opt to comply now, grant funds for the required equipment may not be available in the future.

Director Settle clarified the City is merely adhering to the aforementioned Act 197 of 2011 Arkansas General Assembly.

Director Good expressed concern with fluoridation of the City's water supply; however, he conveyed his intent to vote in favor of the item in order to comply with Act 197.

Settle, seconded by Hutchings, moved adoption of all consent agenda items. The members present all voting affirmatively, except on Items No. 7D, 7E and 7G which Director Catsavis voted "no". The Mayor declared the motion carried and the resolutions were adopted and numbered R-140-11 through R-148-11 respectively.

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

- Director Good

  Re: Regarding the structure located at 2801 Royal Scots Way, he noted the owners have completed roof repairs

and initiated compliance for electrical issues. The property is "looking good"; therefore, he conveyed much assurance that the recent reversal of demolition action was the right thing to do.

- Director Weber

  Re: Stated the city of Fort Smith is a "city of neighbors"; therefore, due to the extreme heat, she urged all residents to periodically check on their neighbors, especially those with no air conditioning. She further encouraged all to ensure pets are either kept out of the heat or assure adequate shade and water are available.

- Director Settle

  Re: Advised he and Director Tyler recently volunteered at a boys camp at Lake Fort Smith State Park stating the area is beautiful and the facilities are "fabulous". He further encouraged all to visit the State Park and take advantage of the site.

- Administrator Gosack

  Re:
  1. Reiterated the comments of Director Weber citing the recent temperature of 113 degrees is an all time record for Fort Smith.

  2. Conveyed much assurance that extra precautionary measures are in place to ensure the safety of City employees working in the extreme heat.

  3. Although burning is prohibited in Fort Smith, he urged strict compliance with the regulation as the extreme heat has drastically increased the fire danger throughout the area.

Mayor Sanders then opened the Citizens Forum with the following individual present to address the Board:

- Elizabeth Mayo
  Fort Smith, Arkansas

Re: Regarding the 1% Prepared Food Tax, she expressed concern that such could be increased to 3%.

Director Good clarified any such increase would require Board approval.

There being no further business to come before the Board, Settle moved that the meeting adjourn. The motion was seconded by Good, and the members present all voting aye, the Mayor declared the motion carried and the meeting stood adjourned at 7:07 p.m.

APPROVED:

Mayor

ATTEST:

City Clerk