

MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ JUNE 5, 2012 ~ 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 Walter Brasher of Life Springs Church, 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 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.

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.

The minutes of the May 15, 2012 regular meeting were presented for approval. Hutchings, seconded by Settle, moved approval of the minutes as written. The members all voting aye, the Mayor declared the motion carried.

Mayor Sanders recognized the following Boy Scouts from Troop 4, who were in attendance to earn their Communication Merit Badge:

- ♦ Bruce Jones
- ♦ Tanner Paschal
- ♦ Brandon Green

Item No. 1 was an ordinance rezoning identified property and amending the zoning map (*from Residential Multi-Family High Density (RM-4) and Residential Single Family Duplex Low/Medium Density (RSD-2) to Transitional (T) by classification at 1915 South 74th Street and 7811 Euper Lane*)

June 5, 2012 Regular Meeting

Director of Development Services Wally Bailey briefed the Board on the item advising such is per the request of Methodist Nursing Home of Fort Smith and Methodist Village Inc. The existing uses on the site include retirement housing and a nursing home facility. Currently, the existing nursing home is a nonconforming land use. The requested Transitional (T) zone is a corrective rezoning, which will allow the nursing home facility to become a conforming use; however, any future expansions of the nursing home facility would require an approved conditional use permit. A neighborhood meeting was held on April 30, 2012 with several property owners in attendance. The Planning Commission held a public hearing on May 8, 2012 with no individual speaking in opposition to the request. The Planning Commission approved the rezoning request by vote of eight (8) in favor and zero (0) opposed.

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 and the ordinance was adopted and given No. 41-12.

Item No. 2 was an ordinance amending the 2009 Unified Development Ordinance of the City of Fort Smith *~June 2012 amendments ~*

Mr. Bailey briefed the Board on the advising such includes two amendments. In regard to Amendment No. 1, currently single family structures that are within Commercial and Industrial zoning districts are nonconforming land uses. As such they cannot obtain building permits for minor additions. The only mechanism to allow the property owner to make minor improvements to their property is for them to rezone their

June 5, 2012 Regular Meeting

individual lots to residential, which can be costly and time consuming. The proposed amendment will allow minor improvements to single family dwellings without a rezoning application. The Planning Commission unanimously approved this recommendation to amend the UDO accordingly.

In May 2000, the UDO was amended to allow casino gaming businesses in Industrial zoning districts. Such businesses cannot be located within 2,640 feet from churches, schools, parks, day care centers, etc.; however, such restrictions were inadvertently not included in the UDO amendment adopted in 2000. Amendment No. 2, which is included in the proposed ordinance as Section 2, will formally identify the location restrictions. The Planning Commission unanimously approved this recommendation. After further review, staff has discovered that additional amendments may be necessary to thoroughly address all regulations regarding casing gaming businesses. Due to such, staff recommends consideration of Amendment No.2 be tabled to allow staff to more thoroughly review all necessary amendments relating to casino gaming businesses.

Settle, seconded by Hutchings, moved to amend the ordinance to exclude Section 2. The members all voting affirmatively, the Mayor declared the motion carried. Settle, seconded by Good, moved adoption of the ordinance as amended. 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 4 the emergency clause. The members all voting affirmatively, the Mayor declared the

June 5, 2012 Regular Meeting

motion carried and the ordinance as amended and emergency clause were adopted and given No. 42-12.

Item No. 3 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 *(1426 Phoenix Avenue - Burnt residential structure only and 609 - 611 South 17th Street)*

Mr. Bailey briefed the Board on the item advising the structures have been determined to be unsafe and detrimental to the public welfare; therefore; he recommended approval.

Director Hutchings inquired if staff received any responses to notifications of the impending demolition.

Mr. Bailey merely advised the property has a potential buyer. The individual is trying to address multiple liens prior to the sale; however, the potential buyer has indicated no objection to the proposed demolition.

Tyler, 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 Weber, 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. 43-12.

Item No. 4 was a resolution directing staff to continue manual collection of the

June 5, 2012 Regular Meeting

residential solid waste from the alleyways of specific neighborhoods; and for other purposes ~Merry/Tyler placed on agenda at the May 29, 2012 study session ~

City Administrator Ray Gosack briefed the Board on the item advising the proposed resolution directs the Department of Sanitation to abandon the 2012 expansion of the residential automated program and continue manual collection of residential solid waste in alleyways to multiple neighborhoods.

The following individuals addressed the Board and spoke in favor of Item No. 4 citing sensitivity of the weight of the sanitation trucks on brick streets, ease of getting refuse to the curb, and potential rate increases.

- John McIntosh
Fort Smith, AR
- E.A. Mayo
Fort Smith, AR
- Shandrah Bremner
Fort Smith, AR

The following individuals also addressed the Board speaking in opposition to the item citing automated collection is more efficient and cost effective. Mr. Culberson also advised of his intent to file an initiative petition for the issue of citywide automated residential collection be placed on the general election ballot.

- Joel Culberson
Fort Smith, AR
- Belinda McNeu
Fort Smith, AR

There was very lengthy discussion regarding the cleanliness of alleyways, previous survey results, potential sanitation rate increases and overall efficiency of the automated program.

June 5, 2012 Regular Meeting

Tyler, seconded by Catsavis moved adoption of the resolution the members voted as follows: ayes – Tyler, Catsavis, Weber and Merry; nays – Good, Hutchings and Settle. The Mayor declared the motion carried and the resolution was adopted and given No. R-109-12.

Item No. 5 consisted of the following items regarding River Valley Sports Complex at Chaffee Crossing:

- A. Ordinance appropriating funds for 8-field softball tournament complex at Chaffee Crossing
- B. Resolution directing the City Administrator to sign and submit an application to the Assistant Secretary of Defense - Reserve Affairs for the Arkansas Army National Guard to perform clearing, grading and earth work for a softball complex at Chaffee Crossing *~Weber/Merry placed on agenda at the May 29, 2012 study session ~*

Administrator Gosack briefed the Board on the items as discussed at the May 29, 2012 study session. The resolution authorizes the submittal of an application, including the release and hold harmless agreement, for Innovative Readiness Training Request for Military Assistance to the Assistant Secretary of Defense – Reserve Affairs. The organizers of the sports complex have obtained a tentative commitment from the Governor and Arkansas Army National Guard to provide the clearing, grading and earth work for the 8-field softball complex at Chaffee Crossing project at no cost. The ordinance identifies the \$1.6 million in future funds the city has appropriated to meet the requirement of the application. Fund availability will begin in June of 2013 and final funds available in June of 2014. Approval of such will commit the city to the project.

The following individuals were present to address the Board:

- Kent Blochberger
Fort Smith, AR

Re: Alleged the proposal does not address the total cost of the project and he

June 5, 2012 Regular Meeting

questioned if agreements are in place for construction and operation of the project. He further expressed concern that the city is being rushed into a decision without all of the pertinent details needed for the future success of the venture.

- Bob Newbold
Fort Smith, AR

Re: Reiterated Mr. Blochbergers concerns, and expressed concern with how this action will affect the two (2) promised softball fields at Ben Geren.

There was much discussion among the Board whereby Director Settle affirmed the two (2) softball fields at Ben Geren are still on track as promised.

Administrator Gosack advised as stated in his staff report from the May 29, 2012 study session that in order to provide the public funds for the project the city will need to solicit proposals for the construction of the facility, and approve a contract with the selected entity for construction and operation of the completed facility.

Mayor Sanders inquired about the changes to the business plan regarding the increased cost.

Mr. Lee Webb, representing the River Valley Sports Complex, advised changes in the business plan merely increases the complex to eight (8) fields rather than the originally proposed four (4) fields.

Director Catsavis inquired whom is responsible for upkeep of the fields if something unforeseen prohibits the complex from being built on schedule.

If construction of the fields is delayed, Mr. Webb advised the area must be stabilized and confirmed that funds from a private donor are in place to accomplish such.

Good, seconded by Merry, moved adoption of Item No. 5A. The members all voting affirmatively, the Mayor declared the motion carried and the ordinance was

June 5, 2012 Regular Meeting

adopted and given No. 44-12.

Merry, seconded by Good, moved adoption of Item No. 5B. The members all voting affirmatively, the Mayor declared the motion carried and the resolution was adopted and given No. R-110-12.

The Consent Agenda (Item No. 6) was introduced for consideration, the items being as follows:

- A. Ordinance authorizing the Mayor to execute an agreement with the Fort Smith Tigers Softball Program (*\$1,919.96 / Mayor / Not Budgeted - 4100 - 219*)
- B. Ordinance to abandon a public utility easement located in 7110 Group Addition, an addition to the City of Fort Smith, Sebastian County, Arkansas
- C. Resolution authorizing a time extension and assessing liquidated damages for the construction of Street Overlays/Reconstruction Project No. 11-03-A
- D. Resolution accepting completion of and authorizing final payment for the construction of Street Overlays/Reconstruction Project No. 11-03-A (*\$19,116.56 / Engineering Department / Budgeted - Sales Tax Program Fund*)
- E. Resolution authorizing an amendment to the engineering services agreement for the design of Jenny Lind Road and Ingersoll Avenue Project No. 07-01-A, AHTD Job No. 040471 (*\$2,582.39 / Engineering Department / Budgeted - Sales Tax Program Fund*)
- F. Resolution authorizing an amendment to the engineering services agreement for the design of the Arkansas River Levee Repair, Project No. 06-06-A (*\$35,515.00 / Engineering Department / Budgeted - Sales Tax Program Fund*)
- G. Resolution authorizing an agreement with the Lutheran Duval Neighborhood Association, Inc. to maintain a neighborhood park at 623 North 13th Street

June 5, 2012 Regular Meeting

- H. Resolution authorizing the Mayor to execute an agreement with Windstream Communications, Inc. for use of the city rights-of-way to provide fiber-optic services within the corporate limits of the City of Fort Smith, Arkansas; and for other purposes
- I. Resolution authorizing the execution of a memorandum of understanding between the City of Fort Smith, Arkansas and Sebastian County, Arkansas regarding the 2012 Edward Byrne Memorial Justice Assistance Grant (JAG) Program
- J. Resolution approving an architectural services agreement with Guest Reddick Architects for architectural services related to the design and construction of Fire Station No. 11 and a public access street at 8900 Massard Road (*\$170,500.00 / Fire Department / Budgeted - 2012 Sales Tax Bonds*)
- K. Resolution authorizing acquisition of real property interests for the Sunnymede Basin Neighborhood and Ramsey Tributary Sewer Improvements (*\$3,857.90 / Utility Department / Budgeted - 2009 Sales Tax Bonds*)
- L. Resolution authorizing acquisition of real property interests for the Zero Street Neighborhood Improvements (*\$43.75 / Utility Department / Budgeted - 2012 Sales Tax Bonds*)
- M. Resolution authorizing the Mayor to execute an agreement and Authorization No. 1 with Hawkins-Weir Engineering, Inc. for the design of the Mill Creek Interceptor Improvements – Phase I (*\$200,000.00 / Utility Department / Budgeted - 2012 Sales Tax Bonds*)
- N. Resolution accepting the project as complete and authorizing final payment to Branco Enterprises, Inc. for construction of the Phase II "P" Street Wastewater Treatment Plant Wet Weather Improvements - Schedule 2 (*\$116,754.00 / Utility Department / Budgeted - 2009 Sales Tax Bonds*)
- O. Resolution accepting the project as complete and authorizing final payment to M. Phillips Construction, Inc. for the Sunnymede Basin Neighborhood Sewer Improvements - Phase I (*\$290,036.18 / Utility Department / Budgeted - 2009 Sales Tax Bonds*)

June 5, 2012 Regular Meeting

- P. Resolution accepting the project as complete and authorizing final payment to Goodwin & Goodwin, Inc. for construction of the Lift Station 7 & 14 Replacement/Consolidation (\$92,110.28 / Utility Department / Budgeted - 2008 Revenue Bonds)

Regarding Item No. 6H, the following individual was present to address the

Board:

- ♦ Joe Minor, Construction Manager for Windstream Communications
Tulsa, OK

Re: Merely spoke in favor of the item citing such will allow placement of the fiber-optic cables in city right-of-ways.

Hutchings, seconded by Weber, moved adoption of the consent agenda items.

The members all voting affirmatively, the Mayor declared the motion carried and the resolutions and ordinances were adopted with the ordinances given No. 45-12 and 46-12 and the resolutions numbered R-111-12 through R-124-12 respectively.

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

- Mayor Sanders

Re: 1. Announced the monthly town hall meeting will occur immediately following adjournment and reminded five (5) minutes per person will be allotted for individuals to present matters to the Board.

2. Extended much appreciation to the veterans and people involved who participated in the Memorial Day service at the National Cemetery.

- Director Weber

Re: 1. Merely announced the Goodyear blimp was in Fort Smith and extended a heartfelt welcome.

2. Expressed much appreciation for the Bass Reeves Statue dedication ceremony.

June 5, 2012 Regular Meeting

▪ Director Merry

- Re: 1. Expressed much appreciation to the Mayor, Police and Fire for their presentation and involvement in the Bass Reeves Statue dedication ceremony.
2. Conveyed heartfelt gratitude to Griffin Charitable Organization for the donation of the historic signs, which were recently installed in various locations downtown.

▪ Administrator Gosack

Re: Announced the Park at West End has had increased attendance and doing very well this year so far.

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 all voting aye, the Mayor declared the motion carried and the meeting stood adjourned at 7:38 p.m.

APPROVED:



Mayor

ATTEST:



acting City Clerk