MINUTES OF BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ DECEMBER 4, 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 Pastor Oscar Nolasco of Hispanic Church of Christ, 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 H. Merry, Jr. 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 none presented.

The minutes of the November 20, 2012 regular meeting were presented for approval. Settle, seconded by Catsavis, moved approval of the minutes as written. The members present all voting aye, the Mayor declared the motion carried.

Mayor Sanders recognized Ms. Deanna Rice, Executive Director of Sebastian Retired Citizen Association, Inc. (SRCA). On behalf of the following senior centers, she wished a Merry Christmas to the Mayor and Board, and the following individuals presented personal holiday greetings and Christmas cards from each senior center (Item No. 1):

- Becky Grist - Beckman Senior Center
- Don Chitwood - Midtown Senior Activity Center
- Cindy Gartrell - Fort Smith Senior Activity Center
- Marsha Stroud - Ray Baker Senior Activity Center

Item No. 2 was an ordinance amending the Master Land Use Plan map and rezoning identified property and amending the zoning map *(Master Land Use Plan - General Commercial to Residential Detached; Rezoning - Commercial Heavy (C-5) and Commercial*

Heavy Special (C-5-SPL) to Residential Single-Family Medium High Density (RS-3) by extension located at 8750 South 36th Terrace) ~ Tabled at the November 6, 2012 regular meeting ~

Director of Development Services Wally Bailey briefed the Board on the item advising such is per the request of Pat Mickle, agent for Stephen's Production Company. The purpose of the requests is to facilitate the development of a 108 lot single family subdivision. The Planning Commission held a public hearing on October 9, 2012 with no individual present to speak in opposition. The Planning Commission approved both the Master Land Use Plan amendment and rezoning by a vote of eight (8) in favor, zero (0) opposed and one (1) abstention (Griffin).

Director Settle questioned if the nearby Commercial-5 zone will be retained and if a transitional zoning is foreseen in the future.

Mr. Bailey advised the property is also owned by Stephen's Production Company and will be retained as Commercial-5. Staff has received no indication a zone change will be requested in the future.

Settle, 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. 88-12.

Item No. 3 was an ordinance rezoning identified property and amending the zoning map *(from Industrial Light (I-1) to Residential Single-Family Duplex High Density (RSD-4) by classification located at 2910-3026 North 6th Street and 2718-2722 North 27th Street)*

December 4, 2012 Regular Meeting

Mayor Sanders announced the applicant has requested consideration of the ordinance be tabled to the December 18, 2012 regular meeting.

Settle, seconded by Weber, moved to table consideration of the ordinance to the December 18, 2012 regular meeting. The members present all voting affirmatively, the Mayor declared the motion carried.

Item No. 4 was an ordinance amending the 2012 Operating Budget.

Director of Finance Kara Bushkuhl briefed the Board on the item and reviewed the various amendments to the 2012 Budget.

Director Catsavis questioned the purpose for the $400,000 appropriation to the Sanitation Department.

Ms. Bushkuhl advised the majority of the appropriation was to replace and repair equipment that was destroyed by fire.

Weber, seconded by Settle, 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. 89-12.

Mayor Sanders announced this was the time and place set for a public hearing regarding the fiscal year 2013 Operating Budget and to provide other matters relating thereto. Notice of the public hearing had been duly published as required by law. Following the public hearing, consideration of an ordinance authorizing same would be given (Item No. 5).

Director of Finance Kara Bushkuhl briefed the Board on the item and presented a brief overview of the proposed 2013 Budget as discussed at the budget review hearings, which were held on November 13 and 15. She further noted that the schedule on page 59 contained an error regarding the addition of expenditures in the Street Maintenance Fund; however, such has been revised and distributed to each member of the Board.

There being no individual present to address the Board, Mayor Sanders closed the public hearing.

Settle, seconded by Good, 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. 90-12.

Item No. 6 was an ordinance establishing salaries and benefits and related procedures for City employees

Director of Human Resources Richard Jones briefed the Board on the item advising such authorizes the salaries and benefits for uniformed and non-uniform employees for 2013. The proposed ordinance is essentially the same as previous years; however, such contains a 1.9% cost of living increase for all city employees, reinstates full merit increases and reduces the overtime threshold for the Police Department.

Director Settle questioned if the ordinance contains the same information as presented at the budget review meetings whereby Mr. Jones responded "yes".

Hutchings, seconded by Tyler, 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. 91-12.

Item No. 7 was an ordinance to close the Sidewalk Construction Fund

Mr. Bushkuhl briefed the Board on the item advising the Streets and Traffic Control Department is taking responsibility for the city's sidewalk repairs and construction; therefore, it is not necessary to maintain the Sidewalk Construction Fund. The permit assessments

allocated for sidewalks, which are a part of building permit fees, will now be deposited in the Street Maintenance Fund.

The following individual was present to address the Board:

- Pastor Lorenzo Lee
  Fort Smith, Arkansas

  Re: Requested construction of sidewalks on North "O" Street citing such is his third request. He alleged such has not been accomplished because the City does not expend monies on the north side of the city.

  Director Good clarified sidewalks have not been constructed because property owners have not provided the necessary easements, which is a requirement for sidewalk construction.

Director Catsavis requested confirmation that a separate accounting will be still be available for the Sidewalk Program whereby Ms. Bushkuhl confirmed such.

Director Weber requested a brief explanation of the Sidewalk Program, specifically how many miles of sidewalk are constructed annually.

Director of Operations Greg Riley advised the City has typically repaired and constructed approximately one (1) mile of sidewalk per year; however, with the creation of a dedicated sidewalk crew, he feels such can be increased to two (2) miles of sidewalk annually. A second sidewalk crew is anticipated for 2013 and is hopeful to add another the following year. Such would ensure completion of approximately six (6) to ten (10) miles of sidewalk per year beginning in 2014.

Tyler, seconded by Catsavis, 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. 92-12.

December 4, 2012 Regular Meeting

Item No. 8 was an ordinance amending designated provisions of Chapter 2, Article V of the Fort Smith Municipal Code concerning the City Administrator's authority *~ Tyler/Good placed on agenda at the November 27, 2012 study session ~*

Administrator Gosack briefed the Board on the item as discussed at the November 27, 2012 study session. The proposed ordinance addresses various types of purchasing authorizations; however, the most significant changes relate to the current requirement for Board approval of all purchases over $40,000 and for all partial payments greater than $500,000 whereby, upon approval, the aforementioned limits will be increased to $75,000 for purchases and $750,000 for partial payments.

The following individual was present to address the Board:

- David Harris
  Fort Smith, Arkansas

  Re: Spoke in opposition to the item. He expressed concern that such moves the City away from utilizing competitive bidding citing the citizens would be more comfortable with the existing limits.

  Administrator Gosack noted the proposed amendments will not change the existing process, but merely the threshold when competitive bidding will be required.

Director Weber requested confirmation that the proposed ordinance merely addresses the amounts that the Board must approve whereby Administrator Gosack responded "yes".

Director Good spoke in favor of the item advising such conveys a good sense of trust towards staff; however, he questioned if adequate checks and balances are in place.

Administrator Gosack advised the purchasing system maintains multiple checks and balances, even when Board approval is not required. He confirmed that all existing procedures with regard to review and approval of purchases remain in tact and noted that with

larger amounts, additional approval by multiple supervisory staff is required; therefore, the level of scrutiny for the purchase is increased as well.

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. Catsavis, seconded by Good, moved adoption of Section 6 the emergency clause. The members present all voting affirmatively, the Mayor declared the motion carried and the ordinance and emergency clause were adopted and given No. 93-12.

Item No. 9 was an ordinance amending Section 2-182 of the Fort Smith Municipal Code regarding professional services *~ Tyler/Good placed on agenda at the November 27, 2012 study session ~*

Administrator Gosack briefed the Board on the item, which was also discussed at the November 27, 2012 study session. The proposed ordinance includes land acquisitions and appraisal services to the City's list of professional services. Upon approval, such will allow the City to select firms to perform said services based on qualifications rather than cost. The State of Arkansas specifically identifies professional services in which municipalities may select firms based on qualifications; however, the State also allows municipalities to include additional services upon approval by 2/3 majority of the governing body. Due to such, approval requires five (5) affirmative votes to ensure passage of the ordinance.

Director Weber expressed concern that approval of the item will set a detrimental precedent citing inclusion of the subject services will not result in a cost savings to the City.

Weber, seconded by Catsavis, moved to table consideration of the ordinance pending

discussion at a future study session. The members present all voting affirmatively, the Mayor declared the motion carried.

Due to adoption of with adoption of Item No. 8 and tabling of Item No. 9, Ms. Bushkuhl clarified that contracts for land acquisitions and appraisal services over $40,000 will still require Board approval.

Item No. 10 was an ordinance repealing Ordinance No. 86-12 and amending Section 2-26 of the Fort Smith Municipal Code setting the date, time and location for regular meetings of the Board of Directors for 2013.

Administrator Gosack briefed the Board on the item advising the second regular meeting in March, 2013 was set for Monday, March 25; however, the school facility is not available on said date. Due to such, the Board must either determine an alternate location whereby the Rose Room at Creekmore Park Rose Room and Convention Center have been tentatively reserved, or select an alternate date. If the Board chooses to select an alternate location, the meeting cannot be televised.

There was brief discussion whereby the Board opted for Wednesday, March 27 at the school facility to allow the meeting to the televised.

Director Hutchings conveyed much understanding for the recommended date; however, for future instances of same nature, he urged the Board to consider many residents attend church services on Wednesday evenings thereby recommended meetings not be held on said weeknight.

Settle, seconded by Catsavis, moved adoption of the ordinance with the inclusion that the second regular meeting in March be held on Wednesday, March 27. 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 given No. 94-12.

As March 2013 approaches and to accommodate those attending church services, Director Settle recommended the Board be mindful and possibly consider beginning the regular meeting on March 27 at 5:30 p.m.

Item No. 11 was an ordinance amending Section 2-40(a) of the Fort Smith Municipal Code to increase the Mayor's compensation effective January 1, 2015 ~ *Hutchings/Good placed on agenda at the November 27, 2012 study session* ~

Administrator Gosack briefed the Board on the item. The proposed ordinance will increase the mayor's compensation from $10,000 to $20,000 annually effective January 1, 2015. Such does not affect the Mayor's vehicle allowance of $450 per month. Per State law, municipalities set the mayor's salary; however, such cannot be increased during the current mayor's term of office.

The following individual was present to address the Board:

- David Harris
  Fort Smith, Arkansas

  Re: Spoke in opposition to the item citing the mayor's position is primarily ceremonial. He encouraged the Board to consider the proposed increased will be for future mayor's, whether they work forty (40) or ten (10) hours per week.

- Matt Garner
  Fort Smith, Arkansas

  Re: Also spoke in opposition to the item citing now is not the time to double the mayor's salary. If any member of the Board intends to run for mayor in the future, he urged they abstain from voting on the ordinance.

December 4, 2012 Regular Meeting

Director Tyler conveyed his intent to vote against the item because the mayor's position is ceremonial, which he considers to be a voluntary service to the city.

Director Hutchings clarified the proposed increase is intended for the mayoral position, not the person; therefore, he spoke in favor of the item.

Hutchings, seconded by Good, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) full readings of the ordinance to 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 - Good and Hutchings; nays - Tyler, Catsavis, Weber and Settle. The Mayor declared the motion defeated.

Item No. 12 was a resolution accepting bid for uniform rental services *(3 year bid / Various City Departments / Budgeted - General, Street, Water & Sewer, and Sanitation Operating Funds) ~ Tabled at the November 20, 2012 regular meeting ~*

Purchasing Manager Alie Bahsoon briefed the Board on the item advising such is pursuant to the Board's request at the November 20, 2012 regular meeting. The Uniform Committee reviewed the information in order to determine "true" usage and savings to be realized should the City select any of the three (3) potential vendors and the Committee again selected Cintas. City employees also completed a survey on the issue whereby Cintas was determined to be the preferred vendor, who also ranked higher in quality, style and vendor preference.

Uniform Committee Chairperson Nancy Kain also addressed the Board citing the Committee's decision to select Cintas was based on multiple factors, i.e. excellent customer service, professionalism, quality of service, quality of garments, sustain ability and the different style options for female employees.

December 4, 2012 Regular Meeting

The following individual was present to address the Board:

- Shawn Hatcher, Representing Unifirst
  Fort Smith, Arkansas

  Re: Expressed discontent with the City's bid process stating that since Unifirst submitted the lowest bid, they should have been awarded the bid.

- Ryan Scogin, General Manager for Cintas
  Fort Smith, Arkansas

  Re: Expressed appreciation to the City for selecting Cintas. All companies submitted a competitive bid; however, he stated Section 21, Paragraph C of the bid document specifically states, *"The result will not be determined on price alone"* thereby clarifying the matter is not only about cost, but about the best overall value to be provided to the City.

There were multiple comments offered from various members of the Board regarding actual cost, termination provisions and quality of service.

Director Tyler indicated his intent to vote for the proposed ordinance and expressed appreciation for employee involvement; however, he conveyed much hope that future bid processes are accomplished in a manner to ensure all vendors that such is being done with the utmost integrity.

Settle, seconded by Tyler, moved adoption of the resolution. The members present voted as follows: ayes - Tyler, Good, Hutchings and Settle; nays - Catsavis and Weber. The Mayor declared the motion carried and the resolution was adopted and given No. R-251-12.

The Consent Agenda (Item No. 13) was introduced for consideration, the items being as follows:

A. Ordinance to abandon water line easements located in Cavanaugh Meadows, Lot 2, an addition to the City of Fort Smith, Sebastian County, Arkansas

B. Resolution authorizing the Mayor to submit a letter to the Arkansas Energy Office concerning the adoption of the 2011 Arkansas Energy Code ~ Settle/Hutchings placed on agenda at the November 27, 2012 study session ~

C. Resolution approving an agreement with Daily & Woods, P.L.L.C. for general legal services for 2013

D. Resolution approving specific excess insurance and aggregate excess insurance for the City's employee health coverage

E. Resolution approving claim service, specific excess insurance and aggregate excess insurance for City's workers' compensation coverage

F. Resolution supporting legislation to improve sales tax collection information from the Arkansas Department of Finance and Administration

G. Resolution adopting the 2013 Audit Plan

H. Resolution authorizing the Mayor to execute a memorandum of understanding with the National Park Service - Fort Smith National Historic Site to provide police protection on lands within the park's boundaries

I. Resolution accepting the project as complete and authorizing final payment to Goodwin & Goodwin, Inc. for construction of the Highway 71 Interchange 12-Inch Water Line Relocation ($281,446.61 / Utility Department / Budgeted - 2008 Revenue Bonds)

J. Ordinance declaring an exceptional situation waiving the requirements of competitive bidding and authorizing the purchase of equipment from Flowserve for the "P" Street Wastewater Treatment Plant Effluent Pump Station Upgrade ($153,792.32 / Utility Department / Budgeted - 2008 Revenue Bonds)

Catsavis, seconded by Hutchings, moved adoption of all consent agenda items. The members present all voting affirmatively, the Mayor declared the motion carried and the ordinances and resolutions were adopted with the ordinances given 95-12 and 96-12, and resolutions numbered R-252-12 through R-259-12 respectively.

Mayor Sanders announced the monthly Town Hall Meeting will be held immediately following adjournment and encouraged those wishing to address the Board to sign-in at the City Clerk's desk.

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

- Mayor Sanders

  Re: 1. Extended congratulations to Umarex USA for the recent partnership wth Walther Arms, Inc. and future plant expansion, which will create additional job opportunities.

  2. Conveyed appreciation the Parks and Recreation Department upon receiving a grant for placement of amenities at the Dog Park, the Holiday Express at Creekmore Park, and for their hard work in placing all the Christmas lights in various city parks.

- Director Settle

  Re: 1. Extended congratulations to the University of Arkansas Fort Smith Women's Volleyball team citing they *"represented Fort Smith, Arkansas well"* in the region finals recently held in Denver, Colorado.

  2. Announced the University of Arkansas Fort Smith Toy Toss will be held at the UAFS basketball game, 7:00 p.m., Friday, December 7th. Such is an event where those in attendance literally throw toys on the basketball court to gather toys for children in the area; therefore, he invited all to attend and participate.

- Administrator Gosack

  Re: Reminded all of the following upcoming holiday events:

  - Polar Express, Fort Smith Trolley Museum
    4:00 - 9:00 p.m., Friday, December 14

- Holiday Express, Creekmore Park
  5:30 - 8:30 p.m., Monday - Saturday
  December 3 - 22 and December 26 - 29

- Christmas Honors
  - Clint Hill Presentation
    7:00 p.m., Friday, December 7
    Fort Smith Convention Center

  - Laying of Wreaths
    9:00 a.m., Saturday, December 8
    Fort Smith National Cemetery

  - Candlelight Vigil
    5:30 p.m., Monday, December 10
    Fort Smith National Cemetery

There being no further business to come before the Board, Good moved that the meeting adjourn. The motion was seconded by Tyler and the members present all voting aye, the Mayor declared the motion carried, and the meeting stood adjourned at 7:23 p.m.

APPROVED:

MAYOR

ATTEST:

CITY CLERK