

MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ FEBRUARY 5, 2013 ~ 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 Tim Sullivan of North Side Pentecostal Church, followed by the Pledge of Allegiance. On roll call the following members of the Board were present: Directors Keith Lau, Andre' Good, Mike Lorenz, George Catsavis, Pam Weber, Kevin Settle and Phillip 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 January 19, 2013 regular meeting were presented for approval, with page 2 revised as follows:

"Upon approval, the proposed ordinance authorizes ~~urban deer hunts in the Chaffee Crossing area provided all regulatory requirements are met.~~ archery urban deer hunts in certain areas of the city of Fort Smith."

Settle, seconded by Lorenz, moved approval of the minutes as revised. The members all voting aye, the Mayor declared the motion carried.

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, and two (2) minutes for comments only.

The Mayor, along with Board and Administration, presented a proclamation declaring February 8, 2013 as General William O. Darby Day to Mrs. Liz Armstrong and Bryan Merry, representatives of the General Darby Legacy Project (Item No. 1).

Item No. 2 was an ordinance amending Section 14-27 and adding Section 14-33 to

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the Fort Smith Municipal Code to authorize urban deer hunts within the city limits under specified conditions ~ *Settle/Lau placed on agenda at the January 8, 2013 study session / 1st reading - January 15, 2013 regular meeting ~ ** Second Reading ***

Police Chief Kevin Lindsey briefed the Board on the item advising such is to accomplish the second reading of the ordinance; however, based upon Board discussion at the January 15, 2013 regular meeting, the following two (2) amendments are recommended:

1. Specifically include schools and day care centers to the list in which hunting may not occur within fifty (50) yards.
2. Requires the chief of police to identify areas of private property to be included in the authorized urban deer hunt area, provided written permission from the property owner is obtained by the hunter.

Director Merry provided a scenario of a deer being shot within an authorized hunting area and the animal runs onto private property; therefore, he questioned how the matter would be addressed.

Chief Lindsey clarified that such is not a violation and noted that the permit requires hunters to track and locate the animal to ensure proper disposal of the carcass.

Director Weber spoke in opposition to the item and conveyed statistical information advising only one-percent (1%) of vehicle crashes are due to deer/vehicle collisions. She expressed safety concerns citing a deer stand could be located 150 feet from a residence. Many of the areas that the urban deer hunt would be allowed, but noted that the areas should be marketed to homebuyers for recreational opportunities such as trails and hiking.

Settle, seconded by Good, moved to amend the ordinance to include the recommended amendments. The motion also included suspending the rule to allow the second and third readings to be by caption and for the readings to occur on the same date.

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The City Clerk read the ordinance for its readings and the members voted as follows: ayes - Lau, Good, Lorenz and Settle; nays - Catsavis, Weber and Merry. The Mayor declared the motion carried and the ordinance stood amended; however, the motion did not obtain five (5) affirmative votes required for passage on its second reading. Due to such, the City Clerk read the ordinance, as amended, in its entirety for its second reading.

Director Merry spoke in favor of allowing the urban deer hunt to occur in only the Fort Chaffee and airport areas, and urged Police Chief Lindsey to consider such when reviewing permit requests.

Mayor Sanders announced the ordinance will be placed on the February 19, 2013 regular meeting agenda for its third and final reading.

Item No. 3 was an ordinance amending the Master Land Use Plan map and rezoning identified property and amending the zoning map (*Master Land Use Plan - Extraterritorial Jurisdiction Neighborhood Commercial to Extraterritorial Jurisdiction Light Commercial Office; Rezoning - Extraterritorial Jurisdiction Open-1 to Extraterritorial Jurisdiction Commercial-3 by classification located at 12901-13035 Highway 71 South*)

Director of Development Services Wally Bailey briefed the Board on the item advising such is per the application of Neal Rogers, agent for John and Margaret Sexton. The purpose of the requests is to enable the owner to sell the property to commercial buyers for construction of an office building. The Planning Commission held a public hearing on January 8, 2013 with no individual present to speak in opposition. The Planning Commission approved the Master Land Use Plan amendment by a vote of five (5) in favor and zero (0) opposed. The Planning Commission also approved the rezoning request by a vote of five (5) in favor and zero (0) opposed subject to the following:

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- ▶ Access shall be limited to the U.S. Highway 71 frontage and not from Howard Hill Road.
- ▶ Development plan approval by the Planning commission prior to any development.

Director Settle questioned if Planning Commission approval is required prior to initiation of any development on the subject property whereby Mr. Bailey responded "yes."

Mr. Bailey further advised the subject area is located within the extraterritorial jurisdiction and is not eligible for annexation because the location is not contiguous to the corporate limits of the city.

Settle, seconded by Lorenz, 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. 7-13.

Item No. 4 was a resolution of the Board of Directors of the City of Fort Smith certifying local government endorsement of business to participate in the Tax Back Program (as authorized by Section 15-4-2706(d) of the Consolidated Incentive Act of 2003) (Umarex USA, Inc.)

Deputy City Administrator Jeff Dingman briefed the Board on the item advising such is per the request from the Arkansas Economic Development Commission and the Fort Smith Regional Chamber of Commerce on behalf of Umarex USA, Inc. Participation in the Tax Back Program allows for new or expanding businesses to request refunds of sales taxes paid on building materials, new equipment and other eligible expenses incurred due to construction and/or expansion, and requires governmental endorsement. Umarex USA, Inc.

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plans to expand its facility located at 7700 Chad Colley Boulevard by investing over \$7.8 million and adding 127 new jobs in order to accommodate Walther Arms, Inc. production at the facility.

Director Settle spoke in favor of the item and commented that many citizens inquire about what the City can do to bring jobs to Fort Smith; therefore, he noted the proposed resolution is one of the avenues to accomplish such and encourage job growth and creation.

Lau, seconded by Settle, moved adoption of the resolution. The members all voting affirmatively, the Mayor declared the motion carried. Merry, seconded by Lorenz, moved adoption of Section 3 the emergency clause. The members all voting affirmatively, the Mayor declared the motion carried and the resolution and emergency clause were adopted and given No. R-17-13.

Item No. 5 was a resolution approving an additional priority for the 2013 session of the Arkansas General Assembly.

Administrator Gosack briefed the Board on the item advising such is per the request of the Arkansas Municipal League (AML). In 2012, the Board approved legislative priorities for the 2013 session of the Arkansas General Assembly. Several months thereafter, the city argued the McCutchen Freedom of Information Act (FOIA) case at the Arkansas Supreme Court. One of the points of contention in the case was the absence of a definition of "meeting" in the public meetings section of the FOIA. Open meeting laws in all surrounding states include a definition for a meeting; however, Arkansas does not. During the aforementioned court case, it was questioned if anyone within the state had requested the legislature to address the matter. The Arkansas Municipal League is willing to consider creating a definition and has requested the City initiate the process by naming such as a

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legislative priority. Upon approval, the resolution will be presented to the AML Executive Committee for consideration of inclusion in its legislative package.

The following individual was present to address the Board:

- David Harris

Re: Alleged the current FOIA law is "*fine as is*", but recommended the following definition of a meeting:

"A meeting shall be considered to be any communication by any manner between elected officials of the governing body in which matters which may be voted by the governing body are discussed."

Settle, seconded by Weber, moved adoption of the resolution. The members all voting affirmatively, the Mayor declared the motion carried and the resolution was adopted and given No. R-18-13.

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

- A. Resolution accepting the project as complete and authorizing final payment to T-G Excavating, Inc. for construction of the 2011 Sanitary Sewer Improvements, Phase 1 (*\$206,611.27 / Utility Department / Budgeted - 2012 Sales Tax Bonds*)
- B. Resolution authorizing acquisition of an easement in connection with the Chaffee Crossing Water Supply Improvements - Geren Road and Massard Road Water Line Project (*\$20,790.00 / Utility Department / Budgeted - 2012 Sales Tax Bonds*)
- C. Resolution authorizing Change Order No. 1 with T-G Excavating, Inc. for the Basin 11-1 Collection System Improvements (MC02) (*\$59,385.00 / Utility Department / Budgeted - 2012 Sales Tax Bonds*)

Weber, seconded by Lau, moved adoption of all consent agenda items. The members all voting affirmatively, the Mayor declared the motion carried and the resolutions were adopted and numbered R-19-13 through R-21-13 respectively.

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

▶ **Mayor Sanders**

- Re:
1. Announced the City of Fort Smith was recently recognized as a "Volunteer Community of the Year" by the Arkansas Municipal League.
 2. Reminded all that the Southside High School Shanty Town fundraiser will be held February 9th at the SHS campus to benefit Habitat for Humanity.
 3. Extended appreciation to the Arkansas congressional delegation and staff members for their support of the 188th Fighter Wing to ensure jobs remain in Fort Smith. He also extended much gratitude to all those who lined the streets to welcome the United States Air Force Chief of Staff General Mark Welsh.
 4. Recognized the City of Fort Smith Finance Department upon receiving the "*Certificate of Achievement for Financial Reporting*" for the 27th consecutive year.
 5. Announced the monthly town hall meeting will take place immediately following adjournment; therefore, he requested those wishing to address the Board in the town hall meeting to sign in at the City Clerk's desk.

▶ **Director Settle**

Re: Liquor sales was approved by voters in the city of Barling at the 2012 general election; however, such was recently overturned and disallowed. The matter was proposed to increase revenue for the City of Barling. In order to help Barling increase their revenue, he recommended the City of Fort Smith contact the City of Barling to discuss possible annexation of property near the Interstate 49 corridor. Settle, seconded by Lau, offered a motion to direct Administrator Gosack to initiate discussion of the matter.

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▶ Director Weber

- Re: 1. Announced Beautify Fort Smith will participate in the upcoming City of Fort Smith Spring Cleanup event scheduled for April 20th. She encouraged residents and groups interested in participating to contact her.
2. Advised a Tree Conference was recently held at Creekmore Park; therefore, she extended much appreciation to residents who attended, the City of Fort Smith Parks Department and Tree Commission for their service and participation.

There being no further business to come before the Board, Weber moved that the meeting adjourn. The motion was seconded by Merry, and the members all voting aye, the Mayor declared the motion carried and the meeting stood adjourned at 6:34 p.m.

APPROVED:



VICE - MAYOR

ATTEST:



CITY CLERK