MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ JULY 9, 2013 ~ 6:00 P.M.

FORT SMITH PUBLIC SCHOOLS SERVICE CENTER

The meeting was called to order by Vice-Mayor Kevin Settle, presiding. Invocation was given by Pastor Michael Franklin of Rye Hill Baptist 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 Philip H. Merry, Jr. The Vice-Mayor declared a quorum present.

Vice-Mayor Settle 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 June 18, 2013 regular meeting were presented for approval. Lau, seconded by Good, moved approval of the minutes as written. The members all voting aye, the Vice-Mayor declared the motion carried.

With regard to the time limit policy for persons wishing to address the Board, the Vice-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.

Item No. 1 was an ordinance amending the 2009 Unified Development Ordinance of the City of Fort Smith *(correct verbiage for clarification).*

City Administrator Ray Gosack briefed the Board on the item advising the proposed amendments merely provide clarification on the location of district boundaries relative to streets, alleys and railroads. Such reflects past practice of mapping zoning boundary lines. The Planning Commission held a public hearing on June 11, 2013 with no individual present to speak in opposition. The Planning Commission approved the proposed amendments by a vote of seven (7) in favor and zero (0) opposed.

Good, 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 Vice-Mayor declared the motion carried. Lorenz, seconded by Weber, moved adoption of Section 2 the emergency clause. The members all voting affirmatively, the Vice-Mayor declared the motion carried and the ordinance and emergency clause were adopted and given No. 27-13.

Item No. 2 was an ordinance ordering the owners of a certain dilapidated and substandard structure to demolish same, authorizing the City Administrator to cause the demolition of such structure to occur, and for other purposes *(4301 Wirsing Avenue).*

Administrator Gosack briefed the Board advising the property has maintained no water service since 2003 and has been vacant and uninhabitable for several years. The structure has been determined to be unsafe and detrimental to the public welfare; therefore, he recommended approval.

Weber, 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 Vice-Mayor declared the motion carried. Merry, seconded by Lorenz, moved adoption of Section 5 the emergency clause. The members all voting affirmatively, the Vice-Mayor declared the motion carried and the ordinance and emergency clause were adopted and given No. 28-13.

Item No. 3 was an ordinance amending Chapter 25, Article VII, of the Fort Smith Municipal Code to amend Section 25-261 regarding the definitions pertaining to solid waste services ~ *Settle/Good placed on agenda at the June 11, 2013 study session* ~

Director of Sanitation Baridi Nkokheli briefed the Board on the item. Following review of residential solid waste collection routes in October 2012, it was discovered that a number of multiplex properties were allowed to utilize commercial containers (dumpsters) for residential purposes with service provided by the Department of Sanitation or a third party hauler. The Fort Smith Municipal Code specifically prohibits the use of commercial containers in residential areas; therefore, the subject properties must be brought into compliance, which requires removal of the dumpsters. Once removed, appropriate residential collection containers will be distributed. Residential collection containers may not be feasible for some multiplex properties; therefore, he requested the Board grant authority to the Sanitation Department to make such determination. Upon approval, the proposed ordinance establishes a definition for residential use and provides updated definitions for commercial and residential customers.

Director Catsavis questioned how many residential properties were originally determined to be noncompliant and how many remain. If dumpsters are eventually allowed in residential areas, he also inquired if property owners will maintain the option to utilize a third party hauler.

Mr. Nkokheli advised that approximately 100 properties were originally identified; however, only 60 properties currently remain noncompliant. The City of Fort Smith Sanitation Department is the sole provider for residential solid waste collection; therefore, third party haulers would not be permitted to provide the service.

Director Merry noted some properties may warrant an exception to the existing requirement and distributed an e-mail and multiple pictures to the Board of Mari-Lynn Apartments at 1724 South "H" Street. The Sanitation Department has determined that a dumpster would not be permitted at said location and residential collection containers must

be utilized. He expressed concern with such conveying he feels a dumpster in the back of the property would be more aesthetically pleasing to the neighborhood, rather than multiple sanitation containers stored in the front or side of the subject property. He further expressed concern with the rate differential citing affected residents will incur a rate increase due to the change from a commercial to residential rate.

Director Weber also expressed concern with aforementioned rate increase and that no appeal provision is included within the proposed ordinance. In order to address economic development, she also conveyed concern that many residents fail to remove automated carts from the street as required. Due to such, she spoke in favor of tabling the item until all aforementioned concerns are adequately addressed.

There was brief discussion among the Board whereby Administrator Gosack clarified the existing ordinance contains "no flexibility" and does not allow consideration for the most feasible option for residential sanitation collection.

Weber, seconded by Lorenz, moved to place an item on a future study session to discuss possible inclusion of an appeal process and requirements regarding storage location of containers. Placement of an item on an upcoming agenda requires concurrence of two (2) directors; therefore, Vice-Mayor Settle announced such will be placed on a future study session agenda.

Good, seconded by Lorenz, moved adoption of ordinance as presented. 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 voted as follows: ayes - Lau, Good, Lorenz and Settle; nays - Catsavis, Weber and Merry. The Vice-Mayor declared the motion carried, but did not obtain five (5) affirmative votes required for passage on its first reading.

Due to such, the City Clerk read the ordinance in its entirety for its first reading. Vice-Mayor Settle announced the ordinance will be placed on the July 16, 2013 regular meeting agenda for its second reading.

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) *(Answer Fort Smith, Inc.)*

Administrator Gosack 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 Answer Fort Smith, Inc., who plans to expand its inbound call center facility located at 5805 Highway 271 South. Such is an investment of $1.7 million and will create 150 new jobs. 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. Participation requires approval from the governing body; therefore, he recommended approval of the proposed resolution.

Lau, seconded by Weber, moved adoption of the resolution. The members all voting affirmatively, the Vice-Mayor declared the motion carried. Catsavis, seconded by Merry, moved adoption of Section 3 the emergency clause. The members all voting affirmatively, the Vice-Mayor declared the motion carried and the resolution was adopted and given No. R-101-13.

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

A. Resolution to accept the bids and authorize contract for the construction of Traffic Signal Improvements, Project No. 13-09-A *($238,492.50 / Engineering Department / Budgeted - Sales Tax Program Fund)*

B. Resolution accepting bid for the purchase of a vacuum jet cleaner truck *($351,579.00 / Utility Department / Budgeted - Capital Outlay Program)*

C. Resolution authorizing the Mayor to execute a re-plat of City property at Cisterna Villa in connection with the Chaffee Crossing Water Supply Improvements - Pump Station

D. Resolution accepting the bid of and authorizing the Mayor to execute a contract with Nebo Residuals Services, Inc. for the Lake Fort Smith and Lee Creek Water Treatment Plant Residuals Lagoon Cleaning *($450,000.00 / Utility Department / Budgeted - Water and Wastewater General Account)*

E. Resolution authorizing the Mayor to execute Authorization No. 2 to the agreement with Mickle Wagner Coleman, Inc. for engineering services for the Chaffee Crossing Sewer Pump Station and Force Main *($40,326.00 / Utility Department / Budgeted - 2008 Revenue Bonds)*

F. Resolution accepting the bid of and authorizing the Mayor to execute a contract with Forsgren, Inc. for the Chaffee Crossing Area F Sewer Extension *($216,509.10 / Utility Department / Budgeted - 2008 Revenue Bonds)*

Regarding Item No. 5D, Director Catsavis noted that in the past, it was determined to be more financially feasible to contract the work rather than the City purchase the necessary equipment to perform the work in-house. Due to such, he inquired if the determination remains in tact whereby Director of Utilities Steve Parke responded affirmatively.

Lorenz, seconded by Weber, moved adoption of all consent agenda items. The members all voting affirmatively, the Vice-Mayor declared the motion carried and the resolutions were adopted and numbered R-102-13 through R-107-13 respectively.

Vice-Mayor Settle opened the Officials Forum with the following comments offered:

July 9, 2013 Regular Meeting

- Vice-Mayor Settle

  Re: 1. Announced the monthly Town Hall meeting will be held immediately following adjournment; therefore, he urged all who wish to participate to sign in at the City Clerk's desk.

  2. Reminded all that the next regular meeting will be held next week, Tuesday, July 16th.

  3. Regarding the Mayor's Fourth of July Celebration, Mayor Sanders requested he convey the mayor's appreciation to all who made the event such a *"great success"*.

- Administrator Gosack

  Re: Reminded all of upcoming events involving the Board of Directors, which are as follows:

  1. **Ward 3 Meeting**
     Monday, July 15, 6:00 p.m., Fort Smith Senior Activity Center.

  2. **Regular Meeting**
     Tuesday, July 16, 6:00 p.m., Fort Smith Public Schools Service Center.

  3. **Board Retreat**
     Friday and Saturday, July 19 & 20, The Lodge at Mount Magazine, Paris, Arkansas

There being no further business to come before the Board, Lorenz moved that the meeting adjourn. The motion was seconded by Merry and the members all voting aye, the Vice-Mayor declared the motion carried and the meeting stood adjourned at 6:43 p.m.

APPROVED:

MAYOR

ATTEST:

CITY CLERK