

## MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ FEBRUARY 4, 2014 ~ 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 Tim Beasley of Central Christian 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 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 21, 2014 regular meeting were presented for approval. Settle, seconded by Lorenz, moved approval of the minutes as written. The members all voting aye, the Mayor declared the motion carried.

The Mayor recognized Charles Shirley of Boy Scout Troop 2316, who was in attendance to earn his Citizenship in the Community badge.

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.

Item No. 1 was an ordinance amending the Master Land Use Plan map and rezoning identified property and amending the zoning map (*Master Land Use Plan: from General Commercial to Residential Attached / Rezoning: from Commercial Heavy Special (C-5-SPL) to Residential Multi-Family High Density (RM-4) by classification located at 4615 Old Greenwood Road*).

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Director of Development Services Wally Bailey briefed the Board on the item advising such is per the request of Al Prieur, agent for Jeff Fenwick. The purpose of the requests is to allow a multi-family development consisting of two (2), six-unit apartment complexes. A neighborhood meeting was held on November 4, 2013 with no neighboring property owner in attendance. The Planning Commission held a public hearing on January 14, 2014 with no individual present to speak in opposition. The Planning Commission approved the submitted development plan, Master Land Use Plan and rezoning amendments by a vote of eight (8) in favor and zero (0) opposed.

Merry, 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 all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 11-14.

Item No. 2 was an ordinance rezoning identified property and amending the zoning map (*from Transitional (T) to Commercial Light (C-2) by extension located at 3900 & 3920 Rogers Avenue*).

Mr. Bailey briefed the Board on the item advising such is per the request of Briana Rogers, agent for Dario Espina and King Realty Group Partners, LLC. The purpose of the rezoning request is to allow for the operation of a salon and spa in a vacant commercial building. A neighborhood meeting was held on January 3, 2014 with no neighboring property owners in attendance. The Planning Commission held a public hearing on January 14, 2014 with no individual present to speak in opposition. The Planning

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Commission voted unanimously to amend the request to make approval subject to development plan approval by the Planning Commission prior to the issuance of a building permit for any new buildings or any new additions to the existing buildings. The Planning Commission approved the amended rezoning request by a vote of eight (8) in favor and zero (0) opposed.

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 voted as follows: ayes - Good, Lorenz, Catsavis, Weber, Settle and Merry; abstention - Lau. The Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 12-14.

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: from Residential Detached to Residential Attached / Rezoning: from Transitional (T) to Residential Multi-Family Medium Density (RM-3) by extension located at 1412 South 34th Street*).

Mr. Bailey briefed the Board on the item advising such is per the request of Scott Branton, agent for the Cancer Support Foundation. The purpose of the requests is to allow for the development of a gated, multi-family development consisting of five (5) duplexes. A neighborhood meeting was held on January 6, 2014 with no neighboring property owners in attendance; however, the agent indicated he and the developer later met with multiple surrounding property owners, who conveyed support of the proposed development. The

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Planning Commission held a public hearing on January 14, 2014 with no individual present to speak in opposition. The Planning Commission approved the submitted development plan and Master Plan Use Plan amendment by a vote of eight (8) in favor and zero (0) opposed. The Planning Commission voted unanimously to amend the rezoning request to make approval subject to the approved development plan, and approved the amended the rezoning request by a vote of eight (8) 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 ordinances for its readings and the members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 13-14.

Item No. 4 was an ordinance rezoning identified property and amending the zoning map (*from Industrial Light (I-1) to Commercial Heavy (C-5) by classification located at 5400, 5401 & 5451 Phoenix Avenue*).

Mr. Bailey briefed the Board on the item advising such is per the request of Travis Brisendine, agent. The purpose of the request is to allow for the development of a beer, wine and liquor store on the proposed Lot 1 and future commercial development on Lots 2 and 3. The Planning Commission held a public hearing on January 14, 2014 with no individual present to speak in opposition to the request. The Planning Commission approved the development plan by a vote of eight (8) in favor and zero (0) opposed. The Planning Commission unanimously amended the proposed rezoning to make approval subject to the approved development plan for 5401 Phoenix Avenue and approval of a

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development plan deferral for lots located at 5400 and 5451 Phoenix Avenue. The Planning Commission approved the amended rezoning request by a vote of eight (8) in favor and zero (0) opposed. It was also noted that a variance request was considered and approved by the Board of Zoning Adjustment to reduce the ten (10) ft. perimeter landscape strip to five (5) ft. and to delete the requirement for trees and was approved subject to shrubs having a maximum height of two (2) to four (4) ft. and small trees or crepe myrtles with root systems that will not be invasive or destructive to the retaining wall or detention pond.

Catsavis, seconded by Lau, 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 Ordinance No. 14-14.

Item No. 5 was an ordinance rezoning identified property and amending the zoning map (*from Not Zoned to Industrial Light (I-1) by classification located at 8201 & 8205 Veterans Avenue*).

Mr. Bailey briefed the Board on the item advising such is per the request of Mickle-Wagner-Coleman, Inc., agent for Brad and Kristi Albert. The purpose of the rezoning request is to facilitate the development of a contractor's office. A neighborhood meeting was held on January 3, 2014 with no neighboring property owners in attendance. The Planning Commission held a public hearing on January 14, 2014 with no individual present to speak in opposition. The Planning Commission approved the development plan and

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rezoning, subject to the approved development, by a vote of eight (8) in favor and zero (0) opposed.

Lorenz, 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 all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 15-14.

Item No. 6 was a resolution authorizing the Mayor to enter into a lease agreement with Smith Communications, LLC for a tower and wireless communications facility at Carol Ann Cross Park.

Director of Parks and Recreation Mike Alsup briefed the Board on the item citing such authorizes the placement of a communication and cell tower in Carol Ann Cross Park. The proposed lease agreement specifically identifies the site location, lease payments, the style of tower, etc. and stipulates that lease payments shall be placed in a dedicated account to be utilized for capital improvements in Carol Ann Cross Park. The area surrounding the park has poor cellular service, which affects surrounding residents, EMS services transporting patients, and others driving through the area or visiting the park. The neighborhood meeting, Parks and Recreation Commission and Planning Commission meetings were well attended by the public. Most comments regarding the matter were favorable; however, several expressed concern and opposition to the originally selected location, the aesthetics of the exterior antennae and cabling, and some were opposed to a tower would be located within a city park. The concerns with regard to the location were

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addressed by selecting an alternate location, which is the currently proposed site; however, Methodist Health and Rehab retains their opposition to merely the proposed location citing such is due to the effect the tower will have on Methodist residents' view of the park. A letter was submitted conveying no objection to the tower, but merely the site location and requested such be located closer to South 74<sup>th</sup> Street. The Parks and Recreation Commission reviewed the request; however, no determination was made due to a split vote. Placement of the communication and cell tower required the granting of a Conditional Use Permit, whereby such was unanimously approved by the Planning Commission.

Director Catsavis requested confirmation that the Federal Aviation Administration (FAA) does not require lights to be placed on the proposed tower.

Mr. Alsup confirmed such and noted the FAA has submitted a letter specifically stating that, upon approval, no lights will be required on the proposed tower.

Director Merry read a prepared statement, which conveyed much concern that the proposed location will adversely affect and obstruct the view of residents at Methodist Village. He further expressed concern with placement of such within a city park. Due to the aforementioned, he recommended the matter be referred back to the Planning Commission with a request that an alternate location be determined, specifically one that will not hinder the view of the elderly who reside at Methodist Village.

Director Weber conveyed much understanding with the need for a communication/cell tower in the area; however, she noted objection to the proposed location. Concern was also expressed that Board approval will set a precedent for future

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requests for same in other city parks and she further questioned the necessity of Planning Commission approval.

Directors Merry and Weber both conveyed concern that the matter was not adequately publicized to allow enough public comment on the issue.

Administrator Gosack conveyed much assurance that proper notification of the neighborhood meeting, Parks and Recreation Commission and Planning Commission meetings were duly publicized as required. With regard to Planning Commission approval, he clarified that such is a requirement of the Fort Smith Municipal Code citing all communication/cell towers must first be approved by the Planning Commission.

Director Good advised he met with several surrounding residents who attended the meetings and their concerns have been addressed. With regard to opposition by Methodist Health and Rehab, he clarified/alleged their objection is based on a future project in which they intend to construct a patio, which will face the tower location. Due to the aforementioned, he spoke in favor of the item citing the proposed location has been determined to be most suitable site.

Director Settle concurred with Director Good's comments, and noted his main concern was the requirement for lighting on the proposed tower. Since the FAA has indicated such is not required, he too spoke in favor of the item.

Good, seconded by Lorenz, moved adoption of the resolution. The members voted as follows: ayes - Lau, Good, Lorenz, Catsavis, Weber and Settle; nays - Merry. The Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-6-14.

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

- A. Resolution authorizing the Mayor to execute a caretaking lease on City-owned property at Haven Hill Reservoir
- B. Resolution accepting the project as complete and authorizing final payment to Nebo Residuals Services, Inc. for Lake Fort Smith and Lee Creek Water Treatment Plant Residuals Lagoon Cleaning (\$37,203.00 / *Utility Department / Budgeted - Water and Wastewater General Account*)
- C. Ordinance amending Ordinance No. 14-10 regarding the use of Federal Asset Forfeiture Funds to increase the total number of authorized sworn officer positions for the Fort Smith Police Department
- D. Resolution approving Change Order No. 1 to contract for fire stations upgrades with Southern Building Services, Inc. (\$16,752.95 / *Fire Department / Budgeted - 2012 Sales Tax Bonds*)
- E. Resolution accepting bid for the purchase of an automated side loading refuse truck with packer body (\$272,075.90 / *Sanitation Department / Budgeted - Capital Outlay 6302-301*)

Regarding Item No. 7C, Director Catsavis inquired if the position was to replace Officer Ron Scamardo, who will soon be retiring and expressed concern with a potential fund decrease in the future. Due to increased development in the Chaffee Crossing area, he further inquired if future needs with regard to police protection has been considered.

Police Chief Kevin Lindsey confirmed the ordinance addresses the replacement of Officer Scamardo, which was previously authorized per Ordinance 14-10 and was based solely on his salary. The proposed ordinance merely authorizes the continuation of the partnership with the Internal Revenue Service for another, non-specifically identified officer.

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With regard to future funding, he conveyed much assurance that the Federal Asset Forfeiture Fund is closely monitored to ensure adequate funds are available.

Regarding the Chaffee Crossing area and associated police protection, he advised such has certainly been considered; however, due to current and ongoing budgetary concerns, the matter must unfortunately be delayed until necessity becomes more apparent.

With regard to Item No. 7E, Director Weber requested a brief explanation of the item.

Director of Sanitation Baridi Nkokheli simply advised the proposed purchase will replace an older truck; however, the automated side loading refuse truck will be utilized to continue the intent of city-wide automation for recycling.

Director Catsavis requested an update with regard to storm debris removal and reimbursement from the Federal Emergency Management Administration (FEMA).

Mr. Nkokheli advised the Department of Sanitation has collected approximately 1,400 tons of debris to date, but anticipate over 2,000 tons when completed. Collection is well ahead of schedule and FEMA representatives have indicated they're "very impressed" with the storm debris program. The federal government has offered an increased reimbursement percentage if completion can be accomplished within ninety (90) days of the storm event (December 2013); therefore, the department is working vigorously to complete the removal within said time-frame to obtain the incentive.

Catsavis, seconded by Settle, moved adoption of all consent agenda items. The members all voting affirmatively, the Mayor declared the motion carried. With regard to

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Item No. 7C, Weber, seconded by Merry, moved adoption of Section 2, the emergency clause. The Mayor declared the motion carried and the ordinance, along with the emergency clause on Item No. 7C, and resolutions were adopted with the ordinance given No. 16-14 and the resolutions numbered R-7-14 through R-10-14 respectively.

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

▶ Mayor Sanders

Re: Extended much appreciation to multiple City departments who provided public service assistance, i.e. Street, Utility, Sanitation Departments, etc. during the recent inclement weather events citing they've done a "great job!"

▶ Director Merry

Re: Conveyed a heartfelt congratulations to Victor Guinn, a fourth grader at Christ the King School, upon winning the recently held Sebastian County Spelling Bee. He further extended appreciation for the invitation to attend said event.

▶ Director Settle

Re: 1. Advised he and Mayor Sander recently accepted the "Volunteer City of the Year Award" for the City of Fort Smith, which was presented at the Arkansas Municipal League Winter Conference held in Rogers, Arkansas.

2. Announced the University of Arkansas Fort Smith mens basketball team, ranked No. 2, will face No. 1 ranked Texas A & M International on Thursday, February 6; therefore, he encouraged all to attend and support the UAFS Lions.

The Board entered into executive session at approximately 6:48 p.m. to accomplish a performance evaluation of the City Administrator.

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After reconvening, the Mayor simply announced the Board completed the performance evaluation and the next performance evaluation will occur at its regularly scheduled time, July 2014.

There being no further business to come before the Board, Settle, moved that the meeting adjourn. The motion was seconded by Lorenz, and the members all voting aye, the Mayor declared the motion carried and the meeting stood adjourned at 8:10 p.m.

**APPROVED:**

  
MAYOR

**ATTEST:**

  
CITY CLERK