MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ JUNE 3, 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 Phil Redding of River of Life Fellowship Church, followed by the Pledge of Allegiance. On roll call the following members of the Board were present: Directors Andre' Good, George Catsavis, Pam Weber, Kevin Settle and Philip H. Merry, Jr.; absent – Director Keith Lau. The Mayor declared a quorum present. Director Lorenz arrived during discussion of Item No. 3.

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.

The minutes of the May 20, 2014 regular meeting were presented for approval. Weber, seconded by Good, moved approval of the minutes as written. The members present all voting aye, the Mayor declared the motion carried.

Mayor Sanders recognized Tanner Pascal and Bruce Jones from Boy Scout Troop 4, who were in attendance to earn their Citizenship in the Community merit badge. He also noted attendance of their Troop Leader, Byron Pascal.

Item No. 1 was an ordinance rezoning identified property and amending the zoning map *(from Not Zoned to Industrial-1 by classification located at 10300 Roberts Boulevard, 12201 Roberts Boulevard and 8201 Flagstone Road; from Not Zoned to Industrial-1 by extension located at 8100 Chad Colley; from Not Zoned to Industrial-2 by classification located at 8201 Chad Colley; and, from Not Zoned to Industrial-3 by classification located at 10000 Roberts Boulevard).*

Senior Planner Brenda Andrews briefed the Board on the item advising such is per the request of Randy Coleman, agent for Fort Chaffee Redevelopment Authority

(FCRA). The purpose of the proposed rezoning is to establish zoning to coincide with how it's currently developed and to be consistent with the Master Land Use Plan. The rezoning includes existing developments of Graphics Packaging, Inc., Mitsubishi Power Systems and Mars Petcare, as well as three (3) undeveloped tracts. The subject area contains approximately 275.96 acres. A neighborhood meeting was held on Thursday, May 8, 2014 with no surrounding property owners in attendance. The Planning Commission held a public hearing on May 13, 2014 with no individual present to speak in opposition. The Planning commission approved the proposed rezoning by a vote of eight (8) in favor, zero (0) opposed and one (1) abstention (Cooper).

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 Ordinance No. 28-14.

Item No. 2 was an ordinance amending the 2009 Unified Development Ordinance of the City of Fort Smith *(June 2014 Amendments)*.

Mrs. Andrews briefed the Board on the item advising the proposed consist of multiple amendments to the Unified Development Ordinance (UDO), which are summarized below:

- Clarify that certain items, i.e. patios, terraces, walkways, driveways, fences, and handicap & accessibility ramps, are exempt from meeting setback requirements, and that grade improvements may extend across and over utility easements.

- Corrects Sections 27-416(D)(4)(a) and 27-602-3(D) of the Fort Smith Municipal Code that currently maintain incorrect references to other sections of the UDO.

The Planning Commission held a public hearing on May 10, 2014 with no individual present to speak in opposition. The Planning Commission approved the rezoning request by a vote of nine (9) in favor and zero (0) opposed.

Good, 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 present all voting affirmatively, the Mayor declared the motion carried. Good, seconded by Settle, moved adoption of Section 3 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 Ordinance No. 29-14.

Item No. 3 was 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 *(606 North 12th Street & rear building and 2308 North 27th Street).*

City Administrator Ray Gosack 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 of the item. Upon approval, the property owners will have approximately thirty (30) days to accomplish the demolition. If such is not accomplished, the City will initiate the bidding process to obtain a contractor to demolish the structures.

Catsavis, seconded by Weber, 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. Settle, seconded by Catsavis, moved adoption of Section 5 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 Ordinance No. 30-14.

The Consent Agenda (Item No. 4) was introduced for consideration, the items being as follows:

A. Resolution stating the City of Fort Smith's support for the Sustainable Arkansas Program *~ Good / Lau placed on agenda at the May 27, 2014 study session ~*

B. Resolution adopting a Board Governance Policy *~ Lau / Lorenz placed on agenda the May 27, 2014 brainstorming meeting ~*

C. Resolution to accept the bids and authorize a contract for the construction of Drainage Improvements, Project 13-06-B1 *($510,909.00 / Engineering Department / Budgeted – Street Sales Tax Program Fund)*

D. Resolution authorizing an agreement between the City of Fort Smith, Arkansas and the Fort Chaffee Redevelopment Authority to jointly design, construct and fund the construction of public streets *($1,900,000.00 / Engineering Department / Budgeted – Street Sales Tax Program Fund)*

E. Resolution authorizing the Mayor to execute an easement with Oklahoma Gas & Electric Company

F. Resolution accepting the project as complete and authorizing final payment to Goodwin & Goodwin, Inc. for the "P" Street Wastewater Treatment Plant Effluent Pump Installation *($8,548.80 / Utility Department / Budgeted – 2008 Revenue Bonds)*

G. Resolution authorizing Amendment No. 1 to Authorization No. 1 with Morrison Shipley Engineers to design the replacement for Lift Stations 15, 16 and 17 *($65,500.00 / Utility Department / Budgeted – 2012 Sales and Use Tax Bonds)*

Regarding Item No. 4A, Director Settle offer a motion to remove said item from the consent agenda to be voted on as a separate item.

Mayor Sanders announced such is a proper motion and does not require a second; therefore, Item No. 4A was removed from the consent agenda for individual consideration.

The following individuals were present to address the Board on Item No. 4A:

- Joey McCutchen
  Fort Smith, AR

  Re: Alleged sustainability regulations are excessive and property owners do not want regulations affecting the use of their property. Indicated moving forward on this issue is not in line with the City's goal to be more business friendly; therefore, he encouraged the Board to further review the item before voting.

- Noah Steffy
  Fort Smith, AR

  Re: Expressed concern that the sustainability movement creates a great deal of regulations citing a city in California adopted a sustainability program that contained strict regulations on the use of lawnmowers and prohibited the use of grills and fireplaces. Adoption of such would be very burdensome on residents; therefore, if adopted, announced he will move his family and business out of Fort Smith.

Weber, seconded by Merry, moved to table the item to a future study session to allow more time to adequately review criteria of the program.

Prior to the vote, Director Good requested a brief overview of the item; however, Mayor Sanders advised the motion to table must be considered.

The motion remaining on the floor, the members present voted as follows: ayes – Directors Good, Lorenz, Weber, Merry; nays – Directors Catsavis and Settle. The Mayor declared the motion carried; therefore, the item will be placed on a future study session for further discussion.

With regard to Item No. 4B the following individual was present to address the Board:

- Joey McCutchen
  Fort Smith, AR

  Re: Conveyed opposition to the item citing concern with multiple sections of the policy. He alleged such would inhibit the Board from speaking their personal opinion, as well as take the constituents rights away from being able to communicate with elected officials.

Director Merry expressed concern with several sections of the presented Board Governance Policy stating, *"some sections seem a bit controlling."*

Due to concern, Director Weber requested Item No. 4B be removed from the consent agenda and be voted on as a separate item.

Settle, seconded by Weber, moved adoption of the remaining consent agenda (Items No. 4C through 4G). The members present all voting affirmatively, the Mayor declared the motion carried and resolutions were adopted and numbered R-58-14 through R-62-14 respectively.

Item No. 4B was then introduced for consideration. No motion was offered; therefore, Mayor Sanders declared the item died for lack of a motion.

The Mayor announced the Fort Smith Public Library (FSPL) filed a petition with his office today, June 3, 2014, calling for the question of a tax millage increase from one (1) to three (3) mills for maintenance and operation of the Fort Smith public libraries. The FSPL has requested the measure be submitted to the voters of Fort Smith at a special election on August 12, 2014. An ordinance calling a special election on said date must be filed with the Sebastian County Clerk by Friday, June 13th. In order to comply with the filing deadline, a special meeting must be called in order to consider the aforementioned ordinance. The FSLP requested a special meeting be held at 12:00 Noon, June 10, 2014 at the Fort Smith Public Library Community Room, immediately preceding the regularly scheduled study session.

Director Merry inquired if the city will be responsible for the cost of the requested special election.

FSPL Director Jennifer Goodson addressed the Board advising the Library Board of Trustees (LBT) has committed to cover the cost of the special election. Due to concern of utilizing taxpayer dollars for such, she confirmed that said cost will be paid for with private funds/donations. The originally anticipated special election cost was identified as being $35,000 for a citywide election; however, the Sebastian County Election Commission has indicated their willingness to consider strategies to significantly reduce the cost.

Director Lorenz inquired of the significance of having a special election rather than waiting to present the issue at the general election in November 2014.

Mrs. Goodson advised the FSPL has not received a millage increase in fifty-seven (57) years and expressed concern that if the measure were to be presented at the general election, the proposed library measure would *"get lost"* among other issues also included on the general election ballot. Due to the utmost importance of the issue for the library, she conveyed much desire that the proposed measure be the sole item for consideration on a special election ballot.

If the proposed measure is to ensure financial stability, Director Catsavis inquired if the FSPL has considered closure of one of the branch libraries. If the library is financially solvent, he questioned the overall necessity of the measure citing it's *"bad timing."*

Mrs. Goodson confirmed that despite conservative spending, the FSPL has had to utilize some reserve funds the past couple of years to maintain operations; however, she confirmed the FSPL is financially solvent. The proposed measure is not presented due to lack of finances to operate the libraries. All four (4) library locations are well

utilized and use of traditional materials remain good; however, there has been an increase in the use and request for digital items. The requested funding will allow the FSPL to provide more digital services to the community and ensure the FSPL financial security for the future.

Director Settle inquired if the estimated, reduced election cost can be determined by the suggested June 10, 2014 special meeting whereby Mrs. Goodson conveyed much confidence such can be determined and provided to the Board on said date.

Directors Weber, Merry, Good and Settle called for a special meeting to be held at 12:00 Noon, June 10, 2014 at the Fort Smith Public Library Community Room as requested (prior to the regularly scheduled study session) to consider an ordinance to call a special election on August 12, 2014. The aforementioned directors noted concurrence that consideration of the aforementioned ordinance at the special meeting is contingent upon the petition being determined to be sufficient for the measure to be placed on a special or general election ballot.

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

- Mayor Sanders

Re:

1. Advised of the recent announcement regarding the $40 million investment in the Georgia Pacific plant and 975 high quality jobs ArcBest (formerly Arkansas Best Corporation) will soon offer the community. He further noted that in the last nineteen (19) months, over $328 million in investments have been announced, which are anticipated to create over 2,300 new jobs in Fort Smith.

2. Expressed gratitude to all who volunteered, participated and simply worked hard to ensure the success of Western Heritage Month (May 2014).

3. Announced the success and appreciation for the previous weekend activities as follows:

- Cancer Relay for Life, Ramsey Junior High
- Mental Health Awareness Walk at Ben Geren Regional Park
- Cancer Survivor Day at the Cancer Support House

4. Congratulated Director Merry on the birth of his newest granddaughter.

5. Announced the monthly Town Hall Meeting will be held immediately following adjournment and encouraged those wishing to speak to sign-in at the City Clerk's desk.

➢ Director Settle

Re: Commended Rodeo Chairman Ron Scamardo, and all involved, for the success of the 81st Annual Old Fort Days Rodeo. Western Heritage Month contributed to the rodeo's success; therefore, conveyed his desire that Western Heritage Month be continued in the future.

➢ Director Merry

Re: Due to recent allegations regarding the billings for legal services provided by Daily & Woods, P.L.L.C., he requested the following:

1. An independent audit of legal billings provided by Daily & Woods, P.L.L.C. for the last three (3) years.

2. The creation of a five (5) person ad hoc committee to research the feasibility of legal services being provided by contract or by in-house employment. He recommended the committee consist of three (3) business professionals, one (1) certified public accountant and one (1) attorney.

He indicated the above is not intended to suggest or question the presence of any wrongdoing by city attorneys via the contract with Daily & Woods, P.L.L.C.; however, he insisted such is merely to ensure transparency for the citizens of Fort Smith.

Mayor Sanders clarified that such cannot be considered at said meeting; therefore, Director Merry requested the items be placed on the June 10, 2014 study session agenda for discussion. Such placement requires concurrence of two (2) directors; therefore, Weber agreed to the requested

placement and the Mayor confirmed said items will be placed on the June 10, 2014 study session agenda.

There being no further business to come before the Board, Settle moved that the meeting adjourn. The motion was seconded by Catsavis, and the members present all voting aye, the Mayor declared the motion carried and the meeting stood adjourned at 6:47 p.m.

APPROVED:

Ken Soul

Vice-**Mayor**

ATTEST:

Sherri Gard

City Clerk