

MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ JULY 1, 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 Mayor Sandy Sanders, 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.

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 June 17, 2014 regular meeting were presented for approval. Catsavis, seconded by Merry, moved approval of the minutes as written. The members all voting aye, the Mayor declared the motion carried.

Mayor Sanders, along with the Board and Administration, recognized Andrea Beckman, who is the recent recipient of Keep Arkansas Beautiful's Loadstar Award. A loadstar is someone who serves as an inspiration, model or guide and Keep Arkansas Beautiful recognizes these individuals for guiding their neighborhoods and communities in an effort to keep Arkansas clean, green and free of litter. (Item No. 1)

Item No. 2 was an ordinance rezoning identified property and amending the zoning map (*from Residential Multifamily Medium Density (RM-3) to Residential Single Family Medium/High Density (RS-3) by extension located at 2001-2127 South "V" Street; 2205-2219 South "V" Street; 2000-2228 South "V" Street; 2001-2219 South "W" Street; 2100-2230 South "W" Street; 2400 South 21st Street, 2215 Jenny Lind; 2203 South 21st Street; 2312-2322 South 23rd Street; 2222 South 23rd Street and 2300-2302 South 22nd Street*).

July 1, 2014 Regular Meeting

Director of Development Services Wally Bailey briefed the board on the item advising such is per the request of David Harris, agent for multiple property owners relative to the area. The proposed is a corrective rezoning to reflect how the area has developed. The requested rezoning contains approximately twenty (20) acres and has approximately ninety-one (91) lots. A neighborhood meeting was held on May 19, 2014 with twenty (20) people in attendance with thirteen (13) being home owners from the proposed rezoning area. Owners of four (4) lots on the south side of "W" Street in the 2000 block and the owner of a duplex at the corner of 22nd and "V" Street opposed the rezoning and their properties were excluded. The Planning Commission held a public hearing on June 10, 2014 with five (5) individuals present to support the item and no one was present to speak in opposition; however, a representative of Koenig Properties merely submitted a request for a letter from the City stating that existing multi-family development land uses would be allowed to continue. The Planning Commission approved the rezoning with (7) in favor, zero (0) opposed. After the June 10, 2014 Planning Commission meeting, staff received a letter from Dr. Sam Koenig requesting the below properties be removed from the rezoning area citing potential adverse effects on the sale value of the properties, as well as potential issues with reconstruction because of the nonconforming use if the property is ever damaged by more the 50% of the property value.

- 2101-2103 South "W" Street (duplex)
- 2107-2113 South "W" Street (4-plex)
- 2312-2314 South 23rd Street (duplex)
- 2320-2322 South 23rd Street (duplex)

Because the request to remove the properties was made following the Planning Commission's approval, if the Board agrees with the request to remove the said properties the proposed ordinance would need to be amended to reflect such.

July 1, 2014 Regular Meeting

The following individuals were present to address the Board:

- David Harris, agent
Re: Spoke in favor of the item citing the proposed rezoning is intended for the preservation of the neighborhood, which is one of the goals provided in the Comprehensive Plan.

- Dr. Sam Koenig
Re: Conveyed no opposition to the rezoning; however, he requested his properties be removed from the rezoning citing devaluation of his property, hinder obtaining adequate insurance on the structures, and the potential cost to repair said structures. If they're damaged and repairs are estimated to be more than 50% of the value of the structure, the repairs to ensure compliance with existing codes would be financially unfeasible.

Due to Dr. Koenig's concerns with regard to repairs, Director Weber requested a brief explanation. She further inquired what percentage of the neighborhood signed the petition to rezone and if the Planning Commission was aware of Dr. Koenig's request to remove the properties.

Mr. Bailey advised there would be no issues with Dr. Koenig's properties for routine maintenance; however, if a structure is destroyed or damaged by more the 50% of the value of the structure and the owner desires to reconstruct, such would require a conditional use permit from the Planning Commission. A neighborhood rezoning petition must contain at least fifty percent (50%) of the property owners. The subject rezoning contains ninety-one (91) properties and seventy (70) residents signed the petition. The Planning Commission was not aware of Dr. Koenig's desire/request to remove his properties from the rezoning; therefore, he reiterated that if the Board opts to remove his properties, the ordinance must be amended to reflect such.

July 1, 2014 Regular Meeting

Upon approval as proposed, Director Settle inquired if Dr. Koenig could make application to rezone his properties back to the original zoning classification whereby Mr. Bailey responded "yes."

Director Good sympathized with Dr. Koenig's concerns regarding devaluation of property, etc.; however, he expressed concern with the potential use of the structures if the properties are sold and do not maintain the same zoning classification as the surrounding properties.

At the request of Director Good, Mr. Harris again addressed the Board citing Dr. Koenig maintains his properties very well; however, he too conveyed concern that in the event Dr. Koenig sells the properties, the new owners will not do the same. Due to such, he urged the Board to adopt the ordinance as originally proposed.

Director Merry noted he would not want to deter a property owner from upgrading or improving their property in the event of damage to the structure; therefore, he conveyed no objection to the removal of Dr. Koenig's properties.

Director Lau commended the neighborhood for taking action to better their neighborhood; however, if the ordinance is approved as proposed, he alleged Dr. Koenig will have less property rights and decreased value of the properties.

Lau, seconded by Merry, moved to amend the ordinance to remove Dr. Koenig's properties as requested, i.e. 2101-2103 & 2107-2113 South "W" and 2312-2314 & 2320-2322 South 23rd.

Prior to the vote, Director Settle conveyed his objection to the proposed amendment reiterating Dr. Koenig may petition the Planning Commission to rezone the property back to their original zoning classification.

July 1, 2014 Regular Meeting

The motion to amend remaining on the floor, the members voted as follows: ayes – Lau, Good, Lorenz, Catsavis and Merry; nays – Weber and Settle. The Mayor declared the motion carried.

Lau, seconded by Catsavis, moved adoption of the ordinance as amended. The motion included suspending the rule to allow the three (3) full reading 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. 32-14.

Item No. 3 was an ordinance rezoning identified property and amending the zoning map (*from Transitional (T) to Commercial Light (C-2) by extension located at 1922 Dodson Avenue*)

Mr. Baily briefed the Board on the item advising such is per the request of Gregg Teece, agent for Goddard United Methodist Church. The proposed is a corrective rezoning which would place the same zoning on this property as the properties to the north, east and west on Dodson Avenue. Such rezoning would allow the church to utilize the commercial signage regulations for future signage. A neighborhood meeting was held on June 9, 2014 with two (2) property owners in attendance with questions relative to how the proposed zoning would affect their property. After their questions were answered, they maintained no opposition to the proposed rezoning. The Planning Commission held a public hearing on June 10, 2014 with no individual present to speak in opposition. The Planning Commission approved the proposed rezoning by a vote of seven (7) in favor, zero (0) opposed.

Lorenz, seconded by Settle, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) full reading of the ordinance to be by

July 1, 2014 Regular Meeting

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. 33-14.

Item No. 4 was an ordinance amending the Master Land Use Plan map and rezoning identified property and amending the zoning map (*Master Land Use Plan: from Unclassified to General Commercial / Rezoning: from Unzoned to Commercial-3 by extension located at 6100 and 6200 Massard Road*).

Mr. Baily briefed the Board on the item advising such is per the request of Rob Coleman. The purpose of the request is to allow for the site to be compatible to the surrounding and adjacent land uses. The applicant also requested a development plan deferral because the developer does not have a defined plan for the lots. The Planning Commission held a public hearing on June 10, 2014 with no individual present to speak in opposition. The Planning Commission approved the Master Land Use Plan amendment and proposed rezoning by a vote of six (6) in favor, zero (0) opposed and one (1) abstention (Cooper). The Planning Commission unanimously amended the request for the development plan deferral making approval subject to the Planning Commission approval of a development plan prior to the issuance of a building permit. The requested amendment was approved by the Planning Commission by a vote of six (6) in favor, zero (0) opposed and one (1) abstention (Cooper).

Good, seconded by Lorenz, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) full reading 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. 34-14.

July 1, 2014 Regular Meeting

Item No. 5 was an ordinance amending the Master Land Use Plan map and rezoning identified property and amending the zoning map (*Master Land Use Plan: from Unclassified to General Commercial / Rezoning: from Not Zoned to Commercial-3 by classification located at 8210 and 8220 South Zero Street, and 8201 Huntington Circle*).

Mr. Baily briefed the Board on the item advising such is per the request of Galen Hunter, agent for Joey Cole. The purpose of the request is to allow for future development of a convenience store/gas station and other retail or restaurant development. The applicant also requested a deferral of a development plan until plans have been solidified for the project. The Planning Commission held a public hearing on June 10, 2014 with no individual present to speak in opposition. The Planning Commission approved the Master Land Use Plan amendment and proposed rezoning by a vote of six (6) in favor, zero (0) opposed and one (1) abstention (Cooper). The Planning Commission unanimously amended the request for the development plan deferral making approval subject to the Planning Commission approval of a development plan prior to the issuance of a building permit. The requested amendment was approved by the Planning Commission by a vote of six (6) in favor, zero (0) opposed and one (1) abstention (Cooper).

Settle, seconded by Lau, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) full reading 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. 35-14.

Item No. 6 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

July 1, 2014 Regular Meeting

Program (as authorized by Section 15-4-2706(d) of the Consolidated Incentive Act of 2003) (*River Bend Industries, LLC*).

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 River Bend Industries, LLC, who plans to expand its current custom injection molding facility. The expansion is a \$227,593.00 investment and will add thirty-five (35) new jobs to the region. 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.

Good, seconded by Lorenz, moved adoption of the resolution. The members all voting affirmatively, the Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-73-14.

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

- A. Resolution authorizing the waiver and reimbursement of building permit fees for the Greater Fort Smith Association of Home Builders showcase home at 7230 Stonebrook Drive (\$482.50 / *Building Department / Not Budgeted – General Fund*)
- B. Resolution stating the City of Fort Smith's desire to be selected by AT&T to participate in the U-verse with GigaPower Initiative
- C. Resolution authorizing execution of a memorandum of understanding between the City of Fort Smith, Arkansas, and Sebastian County, Arkansas, regarding the 2014 Edward Byrne Memorial Justice Assistance Grant (JAG) Program
- D. Resolution authorizing the Mayor to execute an agreement and Authorization No. 1 with RJN Group, Inc. for engineering services

July 1, 2014 Regular Meeting

for the Sub-Basin P007 and S004 Wastewater Collection System Improvements (*\$454,065.15 / Utility Department / Budgeted – 2012 Sales and Use Tax Bond Funds*)

- E. Resolution authorizing the Mayor to execute an agreement and Authorization No. 1 with Brixey Engineering & Land Surveying, Inc. for the design of Neighborhood Water System Improvements – Reduced Service Area (*\$32,000.00 / Utility Department / Budgeted – 2008 Revenue Bonds*)
- F. Resolution authorizing the use of the unobligated balance of the Water and Sewer Fund to provide self-funded, supplemental automobile insurance coverage required by private roadway and crossing agreements with Arkansas and Missouri Railroad Company (*not to exceed \$1,000,000.00 / Utility Department / Not Budgeted – Appropriated funds from Unobligated Water and Sewer Operating Funds*)
- G. Resolution authorizing the Mayor to execute an easement with Oklahoma Gas & Electric Company (*Lake Fort Smith*)

Regarding Item No. 7B, Director Settle advised his brother works for AT&T; therefore, announced his intent to abstain from voting on the item.

Catsavis, seconded by Weber, moved adoption of all consent agenda items. The members all voting affirmatively, with the exception of Item No.7B whereby Director Settle abstained, the Mayor declared the resolutions were adopted and numbered R-74-14 through R-80-14, respectively.

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

➤ Mayor Sanders

- Re:
- 1. Invited all to attend the Mayor's Annual Fourth of July Celebration at Harry E. Kelley Park. Live music begins at 7:00 p.m. and fireworks is scheduled for approximately 9:30 p.m.
 - 2. 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.

July 1, 2014 Regular Meeting

➤ Director Weber

- Re: 1. Regarding a beautification project at the corner of Old Greenwood Road and Phoenix Avenue, she extended much appreciation to Nancy Smreker, the committee involved and nearby property owners; Matt Cobb, Bennie Westphal and Roger Meek.
2. Announced another beautification project is forthcoming at Interstate 49 and Rogers Avenue.
3. Offered a motion to repeal Section 2-31(4) of the Fort Smith Municipal Code. Such requires concurrence of two (2) directors to place an item on a future agenda; therefore, Merry seconded the motion. Due to such, Mayor Sanders announced an ordinance authorizing same will be placed on the July 15, 2014 regular meeting agenda for consideration.

➤ Director Settle

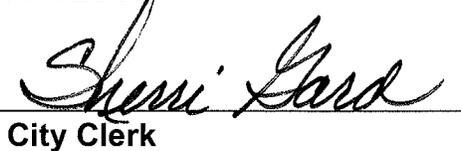
- Re: Regarding the July 8, 2014 study session, he reminded all of the time and location change whereby such will be held at 6:00 p.m., Fort Smith Senior Activity Center, 2700 Cavanaugh Road. The Board will be provided an update regarding the Whirlpool TCE remediation.

There being no further business to come before the Board, Merry 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 6:46 p.m.

APPROVED:


Mayor

ATTEST:


City Clerk