

MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ AUGUST 5, 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 Jerry Jennings of Mount Moriah Missionary 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 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 July 15, 2014 regular meeting was 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.

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 rezoning identified property and amending the zoning map (*from Not Zoned (NZ) to a Planned Zoning District (PZD) by classification located at 11701 Custer Boulevard, 7201 Fort Chaffee Boulevard and 12201 Roberts Boulevard*).

Director of Development Services Wally Bailey briefed the Board on the item advising such per the petition of Mickle Wagner Coleman, Inc., agent. The purpose of the rezoning request is to allow the area, which consists of approximately 285 acres, to be utilized for recreational uses such as baseball fields, soccer fields, sport complex/athletic fields, playgrounds, country clubs and amusement centers. The subject property contains

August 5, 2014 Regular Meeting

the city's proposed softball fields, Fort Chaffee Redevelopment Authority (FCRA) golf course and Sebastian County's soccer fields. All future development must comply with the Chaffee Crossing Master Development Guidelines and the Unified Development Ordinance. The Planning Commission held a public hearing on July 8, 2014 with no individual present to speak in opposition. The Planning Commission approved the proposed rezoning request by a vote of eight (8) in favor and zero (0) opposed.

Lau, 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. 36-14.

Item No. 2 was an ordinance rezoning identified property and amending the zoning map (*from Not Zoned (NZ) to Commercial Light (C-2) by classification located at 8801 Wells Lake Road*).

Mr. Bailey briefed the Board on the item advising such is per the petition of Mickle Wagner Coleman, Inc., agent for RUM, Inc. The purpose of the rezoning request is to allow for the addition and renovation of an existing vacant building into a restaurant. The Planning Commission held a public hearing on July 8, 2014 with no individual present to speak in opposition. The Planning Commission unanimously amended the request to make approval subject to the submitted development plan. The amended rezoning request and submitted development plan were both approved by the Planning Commission with nine (9) in favor and zero (0) opposed.

Weber, seconded by Lorenz, moved adoption of the ordinance. The motion

August 5, 2014 Regular Meeting

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. 37-14.

Item No. 3 was an ordinance prohibiting and regulating the placement and maintenance of signs in public rights-of-way ~ *Lau/Settle placed on agenda at the July 22, 2014 study session* ~.

Mr. Bailey advised the matter was initiated due to citizen complaints regarding temporary signs in public rights-of-way and briefed the Board on the item as presented at the July 22, 2014 study session. Several stakeholders, i.e. the Greater Fort Smith Association of Home Builders (GFSAHB), Fort Smith Board of Realtors (FSBR), Graphic Services, Inc., and Bost, Inc. were contacted for input. No objections were conveyed with regard to regulations; however, the GFSAHB requested no limit on the number of signs allowed for an event (open houses, etc.) and allowance of said signs to remain in the right-of-way for ten (10) days. The FSBR requested that realtor signs be exempted from any signage regulations; however, the city attorney has indicated that a municipality cannot specifically exclude real estate signs while allowing the placement of other types of signs.

At the July 22, 2014 study session, it was requested that staff research an alternative that would regulate temporary signs based on specific zoning districts or by street classification, while not regulating such signs in other areas of the city. In order to accomplish such based on the aforementioned, the city attorney has opined that legitimate reasons must be articulated as related to the City's police powers such as aesthetics or safety.

August 5, 2014 Regular Meeting

To restrict signs in different zoning districts may be difficult to defend based solely on considerations of aesthetics and/or public safety; therefore, staff recommended this option not be considered.

Restricting temporary signs on certain corridors has some merit as long as the Board is able to articulate legitimate reasons, i.e. beautification of the city as such is an important goal for how the city presents itself to visitors, who most likely travel the major corridors. Safety reasons could be considered because streets with a classification of Major Arterial, Boulevard and Freeway typically allow more traffic, faster speeds and have more conflict points with more driveways and street intersections. Restriction of temporary signs by street classification would eliminate possible distractions for motorists; however, this may also be difficult to justify if a number of exceptions are included, which are anticipated. Due to such, the aforementioned alternative is also not recommended.

The proposed ordinance contains a blanket prohibition for temporary signs in public rights-of-way with a few noted exceptions. Essentially, the proposed ordinance contains the following features:

- Section 1: Basic requirement to prohibit signs in public rights-of-way.
- Section 2: Three (3) exceptions allowing for weekend signage, special consideration for non-profit events and sandwich board signs downtown.
- Section 3: Procedure for temporary revocable license whereby an appeal or request can be made to place a sign in the rights-of-way other than as permitted in the ordinance.
- Section 4: Already contained in the existing Municipal Code; however, restated since it will be the place for any signs in or over the public rights-of-way and the restrictions for placing any sign in a sight triangle of intersecting streets.

August 5, 2014 Regular Meeting

The following individuals were present to address the Board:

- David Harris
Fort Smith, Arkansas

Re: Spoke in favor of the item stating it's a "*good ordinance*" citing it does not ban temporary signs, but merely requires such to be moved out of the right-of-way. He further noted that once exceptions are considered and granted, the City should anticipate multiple requests for additional exemptions from the regulations.

- Robin Mulac, President of the Fort Smith Board of Realtors
Greenwood, Arkansas

Re: Noted the Fort Smith Board of Realtors is a strong proponent of individuals right to sell their property; therefore, conveyed much apprehension to anything that would hinder that right, i.e. placement of "for sale" signs. The real estate industry provides a huge economic impact on the community; therefore, she spoke in favor of the inclusion of an exemption for real estate signs in public rights-of-way.

There was somewhat lengthy discussion among the Board with regard to specific details relative to exemptions, the actual location of public rights-of-way, enforcement, etc.

Mr. Bailey addressed each inquiry citing temporary signs for special events, i.e. garage sales, open house, etc., are allowed to be placed in public rights-of-way from 12:00 Noon on Friday to 12:00 Noon on the following Monday. Public rights-of-way can be easily determined if a sidewalk is present as the area between the street and sidewalk is always considered to be in the public right-of-way, as well as a ditch located next to the street. When a sidewalk or ditch is not present, the rule-of-thumb has always been that the public right-of-way is ten (10) feet from the side of the street. With regard to enforcement, the City will first ask the owner of the sign to remove it. If the owner of the sign is unknown or the owner refuses to remove the temporary sign, the City will remove, impound/store at the Sanitation Department. The owner may then pick it up at said location.

August 5, 2014 Regular Meeting

Although a majority of the Board spoke in favor of the proposed ordinance, Director Settle expressed concern with the proposed regulations being citywide and conveyed his desire that said regulations be based on street classification.

Lorenz, 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 voted affirmatively with the exception of Director Settle, who voted "no". The Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 38-14.

Item No. 4 consisted of the following ordinances updating construction and life safety codes:

- A. Ordinance for the purpose of adopting the 2012 Edition of the International Fire Code known as the 2012 Arkansas Fire Prevention Code Volume I and other provisions relating thereto
- B. Ordinance for the purpose of adopting the 2012 Edition of the International Building Code known as the 2012 Arkansas Fire Prevention Code Volume II and other provisions relating thereto
- C. Ordinance amending Section 6-2 of the Fort Smith Municipal Code for the purpose of adoption of the International Residential Code for One and Two Family Dwellings known as the 2012 Edition of the Arkansas Fire Prevention Code Volume III
- D. Ordinance amending Section 10-2(b) and (c) of the Fort Smith Municipal Code

City Administrator Ray Gosack briefed the Board on the item advising the proposed ordinances ensure the City of Fort Smith codes remain consistent with the Arkansas State codes that regulate fire, residential and building construction. Items 4A through 4C were

August 5, 2014 Regular Meeting

reviewed by the Building Code Board of Adjustments and Appeals. Item No. 4D was reviewed by the Fire Code Board of Appeals. Both of the aforementioned boards recommended the proposed ordinances be presented to the Board of Directors for consideration.

Director Lau requested a brief explanation of the proposed ordinances.

Upon approval, Mr. Bailey advised such merely brings the City's Code in compliance with the current State Code, which identifies the minimum safety requirements for various fire, residential and building construction standards . The State Code is developed by the Arkansas State Fire Marshal. They review existing codes and recommend amendments to the Arkansas State legislature for approval. Upon approval by the legislature, the updated versions are codified into a new edition. The proposed ordinances merely adopt the new editions of the Arkansas Fire Prevention Code Volumes I, II and III. Each municipality throughout the State of Arkansas tries to mirror their local ordinances to ensure such remain consistent with the State of Arkansas minimum safety standards.

Director Lorenz inquired if adoption of the proposed ordinances effect insurance rates for Fort Smith residents.

Mr. Bailey advised such can effect the City's ISO rating, which is essentially a safety score or standard issued to municipalities. Most insurance companies provide discounted rates for property insurance, if the minimum safety standards, i.e. the proposed Codes, are adopted by the municipality.

Settle, seconded by Merry, moved adoption of the ordinances identified as Items 4A, 4B, 4C and 4D. The motion included suspending the rule to allow the three (3) full readings of the ordinances to be by caption and for the readings to occur on the same

August 5, 2014 Regular Meeting

date. The City Clerk read the ordinances for their readings and the members all voting affirmatively, the Mayor declared the motion carried and the ordinances were adopted and given Ordinance No. 39-14 through 42-14 respectively.

Item No. 5 was a resolution authorizing the Mayor to execute a non-exclusive fiber optics network franchise agreement with Vantage Telecom, LLC d/b/a Newroads Telecom

Deputy City Administrator Jeff Dingman briefed the Board on the item advising such authorizes the renewal of a non-exclusive franchise agreement, for the term of ten (10) years (*August 17, 2014 through August 31, 2024*), for the provision of fiber optics telecommunication services via the public rights-of-way in the city of Fort Smith. Such allows Newroads Telecom to operate in any part of the city and allows them to maintain or install network facilities utilized to provide wholesale telecommunication services to end users and other telecommunication providers.

Settle, 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-92-14.

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

- A. Resolution setting public hearing date on petition to vacate an alley located in East Heights Block 1 and Block 2, an addition to the City of Fort Smith, Arkansas
- B. Resolution to accept the bids and authorize a contract for the construction of Drainage Improvements, Project No. 13-06-B2 (\$510,379.00 / Engineering Department / Budgeted - Sales Tax Program Fund)
- C. Resolution authorizing the early redemption of outstanding Parking Facilities Refunding and Improvement Revenue Bonds, Series 1998

August 5, 2014 Regular Meeting

- D. Resolution authorizing the Mayor to execute a lease agreement with Smith Automotive Accounting, LLC for parking spaces in the proximity of 720 Garrison Avenue
- E. Resolution accepting the bid and authorizing a contract with Richardson Roofing, LLC for re-roofing of the Creekmore pool building and roof replacement of the Creekmore Community Center (\$87,000.00 / Parks Department / Budgeted - Capital Outlay Improvements)
- F. Resolution authorizing the Mayor to execute an electric utility easement with OG&E for the aquatic facility at Ben Geren Regional Park
- G. Resolution authorizing the City Administrator to accept an offer made by a property owner for the acquisition of real property interests for the Lake Fort Smith Water Supply (\$4,000.00 / Utility Department / Budgeted - 6505 Capital Improvement Fund)
- H. Resolution authorizing the City Administrator to accept offer made by a property owner for the acquisition of real property interests for the Mill Creek Interceptor Improvements - Phase II (Charitable Donation / Utility Department)
- I. Resolution authorizing Amendment No.1 to Authorization No. 3 with Mickle Wagner Coleman, Inc. for engineering services for the Chaffee Crossing Water Supply Improvements - Geren Road and Massard Road Water Lines (\$76,600.00 / Utility Department / Budgeted - 2012 Sales Tax and Use Tax Bonds)
- J. Resolution authorizing the Mayor to execute Amendment No. 1 to the agreement with Hawkins Weir Engineers, Inc. for engineering services for the Massard Interceptor Access Improvements (\$27,000.00 / Utility Department / Budgeted - 2012 Sales Tax and Use Tax Bonds)
- K. Resolution accepting the bid of and authorizing the Mayor to execute a contract with Goodwin & Goodwin, Inc. for the Massard Interceptor Access Improvements (\$197,560.00 / Utility Department / Budgeted - 2012 Sales Tax and Use Tax Bonds)

August 5, 2014 Regular Meeting

- L. Resolution authorizing the Mayor to execute an agreement with CDM Smith, Inc. for providing engineering services for the "P" Street Sewer Basin Hydraulic Model Update (\$108,436.00 / Utility Department / Budgeted - 2012 Sales Tax and Use Tax Bonds)

Mayor Sanders announced the easement associated with Item No. 6F has been revised with slight wording changes; therefore, requested the motion to adopt indicate acceptance of revised easement document.

Merry, seconded by Weber, moved adoption of all consent agenda items. The motion included acceptance of the revised easement document associated with Item No. 6F. The members all voting affirmatively, the Mayor declared the motion carried and the resolutions were adopted and numbered R-93-14 through R-104-14 respectively.

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

► Mayor Sanders

- Re: 1. The City of Fort Smith Government Access Channel has, for the second year in a row, been selected as a Top 3 Finalist in the "Bulletin Boards" category of the 2014 National Association of Telecommunications Officers and Advisors (NATOA) Government Programming Awards, along with the City of Austin, Texas and the City of Cerritos, California. He extended much appreciation to Production Assistant Amber Jones, who prepares all advertisements on the channel. The City received third place in 2013; however, he conveyed much assurance the City will "*bring home the gold*" this year. The winner is set to be announced on Thursday, October 2nd.
2. Extended much appreciation to the Fort Smith Police and Fire Departments for their participation in a blood drive hosted by the Arkansas Blood Institute on July 23rd.

August 5, 2014 Regular Meeting

3. Due to the upcoming special election on Tuesday, August 12th, he announced that early voting has begun and encouraged all to "vote early."
4. Announced a statewide swim meet was recently held at Creekmore Park; therefore, he extended much appreciation to the Parks and Recreation Department, the Bullock Family and Tide Riders Swim Team.
5. Noted the recent reunion of the Lincoln High School Alumni and extended gratitude to all who attended.

There being no further business to come before the Board, Lau moved that the meeting adjourn. The motion was seconded by Settle, and the members all voting aye, the Mayor declared the motion carried and the meeting stood adjourned at 6:59 p.m.

APPROVED:



MAYOR

ATTEST:



CITY CLERK