

MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ DECEMBER 2, 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 Fire Chief Mike Richards, 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 November 18, 2014 regular meeting was presented for approval. Catsavis, 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.

On behalf of the below noted senior centers, the following individuals presented personal holiday greetings and Christmas cards to the Mayor, Board and Administration (Item No. 1):

- ▶ Don Chitwood - Midtown Senior Activity Center
- ▶ Candyce Graham - Beckman Senior Activity Center
- ▶ Cindy Gartrell - Fort Smith Senior Activity Center
- ▶ Marsha Stroud - Ray Baker Senior Activity Center

Item No. 2 was an ordinance rezoning identified property and amending the zoning map (*from Residential Multi-Family Medium Density (RM-3) to a Planned Zoning District (PZD) by classification located at 1500 Fresno Street*).

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Senior Planner Brenda Andrews briefed the Board on the item advising such is per the request of John Alan Lewis, agent for Peachtree Village, LLC and Peachtree Village South Property, LLC. The purpose of the rezoning is to allow the existing assisted living facility to become a permitted use in a Planned Zoning District. A neighborhood meeting was held on November 12, 2014 with only one (1) individual present, who conveyed no concerns regarding the rezoning request. The Planning Commission held a public hearing on November 13, 2014 with no individual present to speak in opposition. The Planning Commission approved the request by a vote of eight (8) in favor and zero (0) opposed.

Weber, 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. 68-14.

Item No. 3 was an ordinance amending the 2009 Unified Development Ordinance of the City of Fort Smith (*land use chart amendment*).

City Administrator Ray Gosack briefed the Board on the item advising the purpose of the proposed amendment is to allow school, technical or trade, as a conditional use in the Commercial Regional (C-4) zoning classification. Such is consistent with the other land uses related to schools. The Planning Commission held a public hearing on November 13, 2014 with no individual present to speak in opposition. The Planning Commission approved the proposed amendment by a vote of seven (7) in favor, zero (0) opposed and one (1) abstention (Howard).

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

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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. Weber, seconded by Merry, moved adoption of Section 3 the emergency clause. The members all voting affirmatively, the Mayor declared the motion carried and the ordinance and emergency clause were adopted and given Ordinance No. 69-14.

Item No. 4 was an ordinance amending the 2014 Operating Budget.

Director of Finance Kara Bushkuhl briefed the Board on the item advising that in order to comply with governmental accounting standards, the City is required to adjust the General Fund and Street Maintenance Fund revenues during the current year. She provided a brief summary of the required appropriations. Exhibit 1 has been revised as originally presented. The latest franchise fees received in 2014 were estimated and should be revised by an additional \$50,000. In addition, the court fines and forfeitures revenue should be revised by an additional \$85,000 in order to balance the expected forfeiture expenditures that are included in the non-departmental expenditures for the General Fund. Due to the aforementioned revisions, the motion to adopt should include acceptance of the revised Exhibit 1.

Merry, seconded by Weber, moved adoption of the ordinance. The motion included acceptance of Exhibit 1 as revised. The members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 70-14.

Mayor Sanders announced this was the time and place set for a public hearing regarding the fiscal year 2015 Operating Budget ~ *Merry/Catsavis placed on agenda at*

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the November 25, 2014 budget hearing ~. Notice of the public hearing was duly advertised as required. Following the public hearing, consideration of an ordinance authorizing same would be given (Item No. 4).

Ms. Bushkuhl briefed the Board on the item as discussed at the three (3) budget hearings held on November 13, 17 and 25, 2014. A brief overview of all adjustments made at said budget review sessions was provided as follows:

1. The reductions to the Transit Program budget have an impact upon the reimbursement from the government. The net decrease in grant funding is \$76,200.
2. The latest review of franchise fee revenue in 2014 to date indicates that an additional \$50,000 will be received during 2014. This same increase is estimated for 2015 as well.
3. The adjustment for the Street Maintenance Fund ad valorem taxes for 2014 carries over to 2015 in the amount of \$91,800 in additional revenue.
4. The estimated amount of revenue from amending the City's alcohol related permits and fees is \$89,000 for 2015. The City's ordinances will need to be updated to reflect that the City will follow State law by charging the amounts authorized by the State.
5. Increased fees for cemetery plots are anticipated to generate an additional \$25,000 for 2015.
6. The net effect of changes in expenditures for the District Court Programs impacts the reimbursement from Sebastian County. The net decrease in reimbursement is \$6,829.
7. The transfer-in from the Water and Sewer Fund to the Street Maintenance Fund of \$60,000 for 2015 has been eliminated.
8. The 1% cost-of-living (COLA) and implementation of step/merit pay have been added to each program at a total cost of \$1,425,808.
9. The positions eliminated include: 1 police records clerk; 2 patrol officers; 2 Parks positions - a lifeguard and a seasonal laborer; 1 Transit dispatcher; and 1 cross connection technician in Utilities. This

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reduces the total number of positions authorized for 2015 from 943.83 FTE to 936.83 FTE. This compares to the authorized positions in 2014 of 943.33 FTE. The net decrease to appropriations in 2015 is \$309,790.

10. The 1% reduction in the operating costs in all General Fund programs totaled \$468,818 among all four operating funds. Due to the cost allocation for various General Fund programs, the Street Maintenance Fund and the Water & Sewer Operating Fund reflect reductions as well as the General Fund.

There being no individual present to speak, Mayor Sanders closed the public hearing.

Director Merry spoke in favor of the proposed budget, but urged the importance of scheduling future discussions to determine the best avenue to address underfunding of the Arkansas Local Police and Fire Retirement System (LOPFI).

The Mayor, Administrator Gosack and Director Settle clarified such is on the Board's agenda; however, such discussions regarding the matter have been delayed pending a meeting of the State LOPFI Board, which is scheduled for December 4th.

Director Lau conveyed his intention to vote against the proposed budget citing/alleging the following:

- ▶ Such does not include funding to address the aforementioned underfunding to LOPFI.
- ▶ The proposed budget is not "*fiscally responsible*" as presented alleging expenses exceed revenues.
- ▶ Such does not adhere to the 15% reserve policy.
- ▶ The proposed budget does not address staffing issues.

Director Settle spoke in favor of the inclusion of step/merit increases; however, he spoke in opposition to inclusion of the 1% COLA. Due to said inclusion, he too conveyed

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his intent to vote against the proposed budget. Concern was also noted relative to the requirement of an additional eighty-two (82) employees in the Utility Department (*said employees are a requirement of the proposed consent decree regarding the sanitary sewer system*) and rising employee health insurance premiums, which are currently covered by the City.

Director Merry noted, with concurrence from Administrator Gosack, that City employees have received said pay increase only two (2) times in the past six (6) years. With the Consumer Price Index (CPI) continually rising, he urged the inclusion of the 1% COLA for employees within the proposed budget citing if such is not included, employees will essentially be receiving a pay cut.

Mayor Sanders advised he's "*hopeful*" the Board approves the proposed budget noting the many hours of discussion at multiple budget review sessions.

Director Weber expressed disappointment that multiple items designated as priorities at a Board Retreat had to be cut; however, she conceded the proposed budget is the result of a compromise and urged the Board to approve the item. She further conveyed agreement that the LOPFI issue, as well as insurance issues, should be discussed in the near future.

Merry, 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 voted as follows: ayes - Good, Catsavis, Weber and Merry; nays - Lau, Lorenz and Settle. The Mayor declared the motion carried. The ordinance did not receive the five (5) affirmative votes required for adoption on its first reading; therefore,

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announced the ordinance must be read in its entirety. Prior to the City Clerk reading the ordinance, City Attorney Colby Roe addressed the Board alleging the ordinance is not of general or permanent nature; therefore, questioned necessity of reading the ordinance in its entirety.

There was brief discussion regarding the matter whereby Administrator Gosack noted the ordinance has been designated as being of general and permanent nature by Daily & Woods, PLLC; therefore, Mr. Roe advised he will confer with City Attorney Jerry Canfield and will render a determination as soon as possible.

In the event the ordinance is determined to be of general or permanent nature, the City Clerk read the ordinance in its entirety to accommodate the first reading.

Mayor Sanders announced that if the ordinance is determined to be of general and permanent nature, the Board may be asked to call a special meeting in the near future to accommodate the second reading.

Item No. 6 is an ordinance establishing salaries and benefits and related procedures for City employees.

Director of Human Resources Richard Jones briefed the Board on the item as discussed at the November 25, 2014 budget hearing. Such includes a one-percent (1%) pay increase for all employees; however, such may be withheld if an employee is not meeting performance expectations. The proposed ordinance also provides for step and merit increases for all employees in 2015.

Good, seconded by Merry, moved adoption of the ordinance. The members voted as follows: ayes - Good, Catsavis, Weber and Merry; nays - Lau, Lorenz and Settle. The Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. Ordinance No. 71-14.

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Item No. 7 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) (*ProPak Logistics, Inc.*).

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 ProPak Logistics, Inc., who is investing \$4,355,144 for the renovation of the historic structure at 1100 Garrison Avenue, including new equipment, to serve as its corporate offices. The project will add five (5) new jobs to the region with an average wage of \$17.00 per hour, increasing ProPak Logistics' local employment by fourteen percent (14%). 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.

Director Merry extended much gratitude and appreciation to ProPak Logistics for their investment in Fort Smith.

Settle, seconded by Lorenz, moved adoption of the resolution. The members all voting affirmatively, the Mayor declared the motion carried. Weber, seconded by Settle, moved adoption of Section 3 the emergency clause. The members all voting affirmatively, the Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-162-14.

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The Consent Agenda (Item No. 8) was introduced for consideration, the items being as follows:

- A. Resolution approving specific excess insurance and aggregate excess insurance for the City's employee health coverage
- B. Resolution approving claim service, specific excess insurance and aggregate excess insurance for the City's workers compensation coverage
- C. Resolution approving a contract with Daily & Woods, P.L.L.C for general legal services for 2015
- D. Resolution accepting bid and authorizing a contract with Gametime for a playground unit for the neighborhood park at Fianna Way (*\$108,897.50 / Parks Department - Budgeted - 1/8% Sales and Use Tax*)
- E. Resolution authorizing the execution of a memorandum of understanding between the City of Fort Smith Police Department and the Fort Smith Public School District concerning the addition of 2 Fort Smith police officers into the School Resource Officer (SRO) Program (*\$36,000.00 / Police Department / Budgeted (2015) - Program 4704-101*)

Regarding Item No. 8E, Director Catsavis questioned what schools the School Resource Officer (SRO) will be located.

Police Chief Kevin Lindsey advised the two (2) officers will be located at both Fort Smith Public Schools junior high locations.

Settle, seconded by Merry, moved adoption of all consent agenda items. The members all voting affirmatively, with the exception of Director Catsavis voting "no" on item 8D, the Mayor declared the motion carried and the resolutions were adopted and given Resolutions No. R-163-14 through R-167-14 respectively.

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

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▶ Mayor Sanders

- Re:
1. Announced the monthly Town Hall meeting will be held immediately following adjournment and encouraged all who wish to participate to please sign up at the City Clerk's desk.
 2. Extended much appreciation to the Board for their time and effort associated with the 2015 Budget; recent and upcoming meetings regarding the consent decree; and, upcoming meeting with the Sebastian County Quorum Court relating to the aquatic center at Ben Geren Regional Park.
 3. Reminded all that the 74th Annual Fort Smith Christmas Parade is set for 2:00 p.m., Saturday, December 13th on Garrison Avenue.
 4. Conveyed gratitude to employees of OG&E, who volunteered their time to construct a canoe access to the Arkansas River from the lake Carol Ann Cross Park.
 5. Extended appreciation to the Parks and Recreation Department for their efforts in putting up the Christmas lights in various parks throughout the city, as well as overseeing the Holiday Express at Creekmore Park.

▶ Director Merry

Re: Announced Christmas Honors is fast approaching and provided the following:

1. Wreath Workshop
Fort Smith Convention Center, Hall C
Friday, December 12, 9:00 a.m.
2. Distribution of Wreaths
Fort Smith National Cemetery
Saturday, December 13
10:15 a.m. Service Branch Salute (*Bell Tower*)
10:30 a.m. Family Distribution (*Reserved for families to lay wreaths*)

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11:00 a.m. Nationwide Heroes Tribute Ceremony
(Pavilion)

The public distribution of wreaths will follow the
11:00 a.m. ceremony

3. Wreath Pick-up and Storage
Fort Smith National Cemetery and Fort Smith
Convention Center
Saturday, January 3, 2015, 8:30 a.m.

► Director Settle

- Re:
1. Extended congratulations to the University of Arkansas Fort Smith (UAFS) girls volleyball team and Coach Jane Sargent for their recent participation in the South Central Region NCAA Division II National Tournament in Colorado. They have now advanced to the “Elite Eight” in said tournament and will play in Louisville, Kentucky on Thursday, December 4th.
 2. Announced UAFS girls volleyball team players, Jessica Anderson, Kaca Krstonosic, Payton Hamilton and Bailey Katzfey were recently named to the all -tournament team, and Emily Tripp for being named the MVP of the South Central Tournament. Due to such, he conveyed much gratitude to the team and aforementioned girls for representing Fort Smith in a positive way.
 3. Reminded all of the UAFS 5th Annual Toy Toss Basketball Game set for 7:00 p.m., Saturday, December 6th at Stubblefield Center. Attendees toss a new or gently used stuffed toy on the court when the 1st basket is scored by the UAFS Lions. All toys are then donated and given to local children in the river valley area; therefore, he encouraged all to participate in the event.
 4. Invited all to come see the Christmas lights in Fianna Hills, specifically his home off of Fianna Way, advising all to tune into 89.1 FM. The lights are set to music on said channel.

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5. Regarding the upcoming special study session to review the proposed consent decree on Tuesday, December 9th, he requested the following information be gathered from St. Louis, San Antonio, Knoxville and Chattanooga:
 - A. When was their consent decree issued?
 - B. Were they negotiated or court ordered?
 - C. How many miles of sewer lines do each of the cities have?
 - D. What was/is the length of their consent decree?
 - E. What was their average sewer bill before, during and after completion of the consent decree? If completed, would like information by year if possible.
 - F. What was the staffing level for their sewer department before, during and after completion of the consent decree?
 - G. There are nine (9) staffing requirements provided for Fort Smith; therefore, how does the staffing levels of these cities compare to Fort Smith's?
 - H. Estimated impact on customer billings for twelve (12) years (length of the consent decree) along with the sewer broken into existing bill, new capital as part of the consent decree and new operations as part of the consent decree.
 - I. Affordability index requirement from the Environmental Protection Agency (EPA).

► Director Good

Re: Extended much appreciation Mr. Randy Burris, who served on the Transit Advisory Commission for thirteen (13) years, with the last eight (8) serving as its

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chairman. He further extended gratitude to Director of Transit Ken Savage for his recent memo regarding the exemplary service of Mr. Burris.

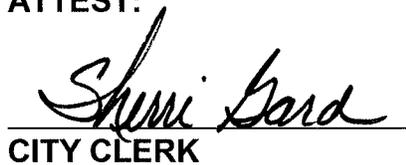
There being no further business to come before the Board, Lau moved that the meeting adjourn. The motion was seconded by Merry, and the members all voting aye, the Mayor declared the motion carried and the meeting stood adjourned at 6:47 p.m.

APPROVED:



MAYOR

ATTEST:



CITY CLERK