

**MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING**

**TUESDAY ~ JANUARY 6, 2015 ~ 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 Pastor Greg Woolf of Cliff Terrace Assembly of God Church, followed by the Pledge of Allegiance.

Fort Smith District Judge David Saxon administered the Oaths of Office to Mayor Sanders and Directors-at-Large Tracy Pennartz, Kevin Settle and Don Hutchings for the term of January 1, 2015 - December 31, 2018.

On roll call the following members of the Board were present: Directors Keith Lau, Andre' Good, Mike Lorenz, George Catsavis, Tracy Pennartz, Kevin Settle and Don Hutchings. 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 December 16, 2014 regular meeting were presented for approval. Settle, seconded by Lau, moved approval of the minutes as written. The members all voting aye, the Mayor declared the motion carried.

Item No. 2 was a presentation by the Girl Scout Diamonds of Arkansas, Oklahoma and Texas. Girl Scout Troop Leader Leigh Norton, Troop 4383 at St. Boniface Catholic School, addressed the Board advising cookie sales will begin January 10, 2015. Cookies will be \$4.00 per box and ordered will arrive on February 14, 2015. Booth sales will begin February 21, 2015.

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Girl Scout Jordan Geoates addressed the Board advising how funds will be utilized while Girl Scouts Katherine Kaelin and Caroline Thomas, presented boxes of cookies to the Mayor, each member of the Board and Administration, and served cookies to all those in attendance.

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. 2 was an ordinance establishing prices and fees for grave spaces and services at Oak Cemetery ~ *Discussed at the November 25, 2014 budget hearing / First reading at the December 16, 2014 regular meeting* ~ \*\* SECOND READING \*\*

Mayor Sanders announced such is merely to accommodate the second reading of the ordinance.

Lau, seconded by Settle, moved adoption of the ordinance. The motion included suspending the rule to allow the second and third readings of the ordinance to be by caption and for the readings to occur on the same date. The members voted as follows: ayes - Good & Hutchings; nays - Lau, Lorenz, Catsavis, Pennartz & Settle. The Mayor declared the ordinance defeated on its second reading.

Item No. 3 was an ordinance rezoning identified property and amending the zoning map (*from Not Zoned to a Planned Zoning District by classification located at 7000 Chad Colley Boulevard*) (*Arkansas College of Osteopathic Medicine*).

Director of Development Services Wally Bailey briefed the Board on the item advising such is per the request of Time Risley & Associates, agent for The Degen

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Foundation. The purpose of the rezoning is to allow for the development of the Arkansas College of Osteopathic Medicine's future campus and supporting facilities. The development appears to support multiple policies of the Comprehensive Plan. The Planning Commission held a public hearing on December 9, 2014 with no individual present to speak in opposition. The Planning Commission unanimously amended the request to make approval subject to the following:

- ▶ Compliance with the Project Booklet as submitted.
- ▶ Correction of the land use matrix which would allow a doctor office and clinic as a permitted use rather than a conditional use.

The Planning Commission approved the amended request by a vote of eight (8) in favor, zero (0) opposed and one (1) abstention.

Hutchings, seconded by Pennartz, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) readings of the ordinance to be by caption and for the readings to occur on the same date. The members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 1-15.

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 Extra-Territorial Jurisdiction Neighborhood Commercial to Extra-Territorial Jurisdiction Light Industrial / Rezoning: from Extra-Territorial Jurisdiction Open-1 (ETJ O-1) to Extra-Territorial Jurisdiction Industrial Light (ETJ I-1) by classification located at 12934 Old Highway 71 South (Beshears Construction).*

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Mr. Bailey briefed the Board on the item advising such is per the request of Kelly Wilson, agent for Eddy & Kathryn Beshears. The purpose of the proposed amendments is to better reflect how the area has developed, which is currently used as a contractor's shop and storage yard for Beshears Construction. The subject area is located in the Extra-Territorial Jurisdiction (ETJ) area, which in 2003 all ETJ areas were given and Open-1 zoning district as a placeholder until development occurred that required a zoning change and existing land uses were permitted to continue as nonconforming uses. The zoning of land in the ETJ area complies with the Comprehensive Plan Policy 1.3.1 - "*Exercise the City's extra-territorial jurisdiction over land in Sebastian County.*" The Planning Commission held a public hearing on December 9, 2014 with no individual present to speak in opposition. The Planning Commission approved the Master Land Use Plan and rezoning amendments with eight (8) in favor, zero (0) opposed and one (1) abstention.

Director Pennartz questioned if residential properties are located near the subject area and if the proposed amendments could affect property values of said structures.

Mr. Bailey advised residential structures are located across the street and in the general vicinity. In order to determine the affect on property values, such would require appraisals; however, he clarified the main purpose of the proposed amendments is merely to allow an addition to the existing structure.

Catsavis, seconded by Lorenz, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) readings of the ordinance to be by caption and for the readings to occur on the same date. The members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and

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given Ordinance No. 2-15.

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 Open Space and Office, Research & Light Industrial to Neighborhood Commercial / Rezoning: from Residential Multi-Family Medium/High Density (RM-3) to a Planned Zoning District by classification located at 3101-3225 Phoenix Avenue*).

Mr. Bailey briefed the Board on the item advising such is per the request of Brandon Woodrome, agent for Ben David, LLC. The purpose of the requests is to allow a three-lot development that will include a restaurant (breakfast & lunch only), medical clinic, a six-unit strip center and a hair salon. Neighborhood meetings were held on September 30 and October 9, 2014. A total of twelve (12) property owners attended the neighborhood meetings with only one (1) conveying opposition to the proposed development. The Planning Commission held a public hearing on December 9, 2014 with six (6) property owners in attendance speaking in support of the development. Two (2) individuals were also in attendance to speak in opposition alleging the development is incompatible with the surrounding residential area and expressing concern relative to traffic and potential property devaluation. The Planning Commission approved the Master Land Use Plan amendment with nine (9) in favor and zero (0) opposed. Regarding the proposed rezoning, the Planning Commission voted unanimously to amend the request to make approval subject to the following:

- ▶ A detailed drainage plan shall be submitted for review and approval by the City's Engineering Department prior to development.

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- ▶ A traffic study shall be submitted to the City's Engineering Department prior to development that encompasses the PZD area as well as the area north of the PZD if future development is planned for that site.

The Planning Commission approved the amended rezoning request with nine (9) in favor and zero (0) opposed.

The following individuals were present to address the Board:

- Beatrice White  
Fort Smith, AR

Re: Spoke in favor of the proposed item citing the proposed development will be a "nice improvement", enhance the existing appearance of the area and increase property values of surrounding residences.

- Bryan White  
Fort Smith, AR

Re: Also spoke in favor of the item advising such is positive step forward the neighborhood. He further expressed concern that the existing zoning classification would allow a multi-family development, which is adamantly opposed.

- Mary Karber  
Fort Smith, AR

Re: Spoke in opposition to the citing a medical clinic or restaurant does not need to be located in such close proximity to a residential neighborhood. She further expressed concern that the proposed development will create a drainage issues for the surrounding residences; therefore, recommended the development be relocated to an area along Towson Avenue, Jenny Lind Road or Phoenix Avenue.

Director Good conveyed much assurance the City is aware of the alleged drainage issues and questioned if the area currently maintains adequate drainage facilities.

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Director of Engineering Stan Snodgrass advised of no existing drainage issues in the area and conveyed much assurance that all drainage issues, potentially created by the proposed development, must be adequately addressed prior to issuance of building permits.

Good, seconded by Lorenz, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) readings of the ordinance to be by caption and for the readings to occur on the same date. The members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 3-15.

Item No. 6 consisted of the following items relative to property located at 11808 Highway 71 South (*Arvest Bank*):

- A. Resolution approving a pre-annexation agreement for Superior Federal Tract 1 (*11808 Highway 71 South*)
- B. Ordinance accepting certain territory into the City of Fort Smith, Arkansas (*3.5 acres*)
- C. Ordinance amending the Master Land Use Plan map and rezoning identified property and amending the zoning map (*Master Land Use Plan: from Extra-Territorial Jurisdiction Neighborhood Commercial to General Commercial / Rezoning: from Extra-Territorial Jurisdiction Open-1 (ETJ O-1) to Commercial Moderate (C-3) by classification located at 11808 Highway 71 South*)

Mr. Bailey briefed the Board on the items advising such is per the request of Arvest Bank. Item No. 6A authorizes execution of a pre-annexation agreement, which specifically identifies issues to be addressed such as establishing master land use designations, zoning of the subject property (3.5 acres); installation of a fire hydrant (required by the Fort

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Smith Fire Department); understanding that Marion Lane is a private road and that the City shall not be responsible for maintenance; and the dedication of drainage easements per the 2011 Storm Drainage Standards.

Item No. 6B accepts the subject property into the corporate limits of the City of Fort Smith. The petition for annexation was filed with Sebastian County on September 9, 2014 and the Decree of Annexation duly filed with Sebastian County on October 20, 2014.

Item No. 6C accomplishes the required master land use designation and zoning classification and is per the request of Patrick Mickle, agent for Arvest Bank. A neighborhood meeting was held on December 1, 2014 with no neighboring property owners in attendance. The Planning Commission held a public hearing on December 9, 2014 with no individual present to speak in opposition. The Planning Commission approved the Master Land Use Plan amendment with nine (9) in favor and zero (0) opposed. The rezoning request was unanimously amended to make approval subject to approval of the annexation by the Fort Smith Board of Directors. The Planning Commission approved the amended rezoning request by a vote of nine (9) in favor and zero (0) opposed.

Director Pennartz inquired of the purpose for the annexation.

Mr. Bailey advised of no other or additional commercial purpose than it's current use; however, such is merely to allow Arvest Bank to connect to the City of Fort Smith's sewer system.

Settle, seconded by Lau, moved adoption of Item No. 6A. The members all voting affirmatively, the Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-1-15.

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Settle, seconded by Lau, moved adoption of Item No. 6B. 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. 4-15.

Settle, seconded by Catsavis, moved adoption of Item No. 6C. 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. 5-15.

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) (*ArcBest Corporation*).

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 ArcBest Corporation, who is investing \$45,715,000 in facilities and equipment at their new corporate headquarters being constructed at Chaffee Crossing and their existing building at 3801 Old Greenwood Road. The investment will support the addition of 975 new employees (a 71% increase for the corporation's Fort Smith facilities) making an average hourly wage of \$26.07 over a ten year period. Participation in the Tax Back Program allows for new or expanding businesses to request refunds of sales taxes paid on building materials, new equipment

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and other eligible expenses incurred due to construction and/or expansion, and requires governmental endorsement. Participation requires approval from the governing body and supports Goal ED-3 of the Fort Smith Comprehensive Plan; therefore, he recommended approval.

Settle, seconded by Pennartz, moved adoption of the resolution. The members all voting affirmatively, the Mayor declared the motion carried. Settle, seconded by Lorenz, 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-2-15.

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

- A. Resolution authorizing an engineering services agreement for the design of a project in the 2015 Sales Tax Program, Project No. 15-01-A (\$827,381.25 / *Engineering Department / Budgeted - Sales Tax Program Fund*)
- B. Ordinance authorizing the Mayor to execute a services agreement with the U.S. Marshals Museum, Inc. for certain services for inhabitants of the city of Fort Smith
- C. Resolution accepting bids for the purchase of aggregates, sand, concrete, and asphalt concrete products for 2015 (*Annual bid / Various Departments / Budgeted - Various Departments*)
- D. Resolution authorizing the Mayor to execute an agreement with Shannon & Wilson, Inc. for providing engineering services associated with Year 2015 post construction monitoring and inspection of the Lake Fort Smith Dam and Reservoir (\$91,032.00 / *Utility Department / Budgeted - Water & Sewer Operating Budget*)

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Catsavis, seconded by Good, moved adoption of all consent agenda items. The members all voting affirmatively, the Mayor declared the motion carried and the ordinances and resolutions were adopted with the ordinance given Ordinance No. 6-15 and the resolutions given Resolution No. R-3-15 through R-5-15 respectively.

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

▶ Mayor Sanders

- Re:
1. Extended much appreciation to the Fort Smith Parks and Recreation Department for the Christmas lights and Holiday Express at Creekmore Park during the 2014 holiday season.
  2. Conveyed gratitude to the Fort Smith Convention Center staff and all those involved in making the Mayor's New Year's Eve Celebration at a great success.
  3. Extended much appreciation to the Fort Smith Police and Fire Departments and all others who worked during the holidays to ensure the safety of Fort Smith residents.

▶ Director Settle

- Re:
1. Congratulated Northside High School on their recent success at the Coke Classic.
  2. Encouraged attendance at the University of Arkansas Fort Smith upcoming conference games.

The Board entered into executive session at approximately 6:41 p.m. and after reconvening, the Mayor announced the following appointment nominations:

**ADVERTISING AND PROMOTION COMMISSION**

Director Don Hutchings  
Term is indefinite

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**AUDIT COMMITTEE**

Director Keith Lau

*(to fill the unexpired term of former director Pam Weber)*

Term expires November 30, 2015

**FORT SMITH HOUSING AUTHORITY**

Rex Terry (reappointment)

Term expires March 3, 2020

**SEBASTIAN COUNTY REGIONAL SOLID WASTE  
DISTRICT MANAGEMENT BOARD**

Director Mike Lorenz

Term expires January 21, 2016

Director Andre' Good

Term expires January 21, 2018

**VICE-MAYOR**

Director Kevin Settle (reappointment)

Term expires December 31, 2016

Lau, seconded by Hutchings, moved acceptance of the above named nominations.

The members all voting aye, the Mayor declared the motion carried.

Lau, seconded by Settle, moved to place the following items on a future study

session:

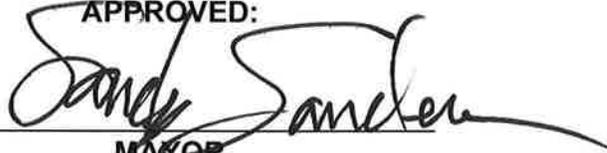
- ▶ Review fiscal policies of the City of Fort Smith in advance of the FY2016 budget process
- ▶ Discuss the LOPFI multiplier and the city's contributions to the police & fire pension program

Mayor Sanders noted placement of items on a future agenda merely requires concurrence of two (2) members of the Board; therefore, he announced the above items will be placed on a future study session agenda.

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There being no further business to come before the Board, Hutchings 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 6:57 p.m.

APPROVED:



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MAYOR

ATTEST:



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CITY CLERK