

## MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ NOVEMBER 3, 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 Matt Stevenson of Evangel Temple 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, 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 October 20, 2015 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.

Mayor Sanders recognized Aaron Shaw with Boy Scout Pack 7, who was in attendance to earn his Building a Better World Badge.

Item No. 1 was an ordinance to amend Chapter 25, Article II of the Fort Smith Municipal Code to amend billing utilities procedures ~ *Pennartz/Lau placed on agenda at the September 8, 2015 study session / First reading at the October 6, 2015 regular meeting / Second reading at the October 20, 2015 regular meeting* ~ **THIRD & FINAL READING**

Acting City Administrator Jeff Dingman briefed the Board on the item advising the ordinance was adopted at the October 6, 2015 regular meeting; however, such did not obtain the five (5) affirmative votes required for passage on its first reading. The

**November 3, 2015 Regular Meeting**

ordinance must be read in its entirety on three (3) separate dates. The first reading was accomplished at the October 6, 2015 regular meeting. The second reading was accomplished at the October 20, 2015 regular meeting. The City Clerk read the ordinance in its entirety for its third and final reading; therefore, the Mayor declared the ordinance was adopted and given Ordinance No. 71-15.

Item No. 2 was a presentation of proposed 2016 Budget.

Director of Finance Jennifer Walker advised the copies of the proposed budget had been provided to the Mayor and Board prior to the meeting. The budget review sessions are scheduled for November 12 & 16 at 6:00 p.m. each evening in the Bartlett Community Room of the Fort Smith Police Department.

Mayor Sanders noted the fund balance is lower than anticipated due to the prior year's operation fund balance not being accounted for and inquired why such method was used.

Mr. Dingman simply advised staff determined such was an appropriate approach to prepare the 2016 budget.

Item No. 3 consisted of the following two (2) options for consideration regarding an appeal of the Planning Commission's denial of a requested amendment to the 2009 Unified Development Ordinance (*appeal of Jeremy Jones / River City Cycles*):

- A. Ordinance amending the 2009 Unified Development Ordinance of the City of Fort Smith (*add motorcycle or ATV sales and service to the Commercial 6 zoning district as a conditional use*)
- B. Resolution affirming the action of the Planning Commission denying the appeal for a text amendment to the 2009 Unified Development Ordinance to add motorcycle or ATV sales and

***November 3, 2015 Regular Meeting***

service to the Commercial 6 zoning district as a conditional use

Director of Development Services Wally Bailey briefed the Board on the item advising such is an appeal by Jeremy Jones, River City Cycles of the Planning Commission's denial of a requested amendment to the 2009 Unified Development Ordinance (UDO).

The initial request was submitted on September 9, 2015 by Mr. Jeremy Jones, who operates River City Cycles on Grand Avenue. The business has overgrown their current location, and have located and propose to lease a property at 201 Towson Avenue, which is located within the Central Business Improvement District (CBID). The purpose of the request is to allow motorcycle or ATV sales and service in the Commercial Downtown (C-6) zoning district as a conditional use. Currently, motorcycle or ATV sales and service businesses are permitted only in Commercial Heavy (C-5), Industrial Light (I-1), Industrial Moderate (I-2), and Industrial Heavy (I-3) zoning districts. The Central Business Improvement District (CBID) reviewed the request at their September 15, 2015 meeting and unanimously recommended the requested text amendment, provided that no outside storage or display will be permitted. The Planning Commission reviewed the request at their October 13, 2015 meeting with Mr. Richard Griffin present to speak in opposition to the request. Mr. Griffin advised the Planning Commission that when the CBID reviewed the text amendment request on September 15, 2015, it was his understanding that the CBID recommended approval to the Planning Commission as long as there was no outside storage or display of motorcycles or ATV's. Mr. Jones responded citing that while he did plan to have outside storage, it

**November 3, 2015 Regular Meeting**

was his understanding that the CBID had no objection to outside display of motorcycles or ATV's. The Planning Commission denied the request by a vote of four (4) in favor and five (5) opposed.

Due to confusion regarding the issue of the outdoor display, the CBID again reviewed the text amendment on October 20, 2015. After reviewing the issues, the CBID voted unanimously to recommend the text amendment with the understanding that the issue of outdoor display would be discussed as part of the conditional use application review. Based on the clarification concerning outside display, the applicant filed an appeal with the City Clerk's Office on October 20, 2015 to allow consideration by the Board of Directors.

Approval of Item No. 3A will overturn the Planning Commission's decision and approve the text amendment which will allow the addition of motorcycles or ATV sales and service in the Commercial 6 (C-6) zoning district as a conditional use. Approval of Item No. 3B will affirm the Planning Commission's decision thereby denying the requested text amendment.

Mr. Bailey further conveyed that subsequently all misunderstandings have been cleared up and all parties support approval of Item No. 3A.

The following individuals were present to address the Board:

- Rodney H. Ghan  
Fort Smith, AR

Re: Spoke in favor of Item 3A. Indicating as all misunderstandings have been clarified all parties support the outside display and sale of goods during business hours noting such does align with the desire for additional retail downtown.

***November 3, 2015 Regular Meeting***

Director Pennartz requested clarification that approval of Item 3A would allow outside display and sales of goods during business hours whereby Mr. Baily responded affirmatively.

If the misunderstanding had not occurred, Director Settle inquired if such would most likely have been approved by the Planning Commission.

Mr. Baily advised from his interaction with the Planning Commission prior to resolving the misunderstanding, it was his conclusion that approval of Item 3A is supported by the Planning Commission.

Pennartz, seconded by Catsavis, moved adoption of Item No. 3A. 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. Hutchings, seconded by Pennartz, 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.72-15.

Items No 4. was an appeal of the Planning Commission's denial of a conditional use permit (*appeal of Alvin L. Prieur, agent for Mahmoud "Mike" Yasin*)

- A. Resolution approving an appeal of Conditional Use No. 19-10-15 for an auto and vehicle dealer sales located at 500 Towson Avenue
- B. Resolution affirming the action of the Planning Commission denying Conditional Use No. 19-10-15 for an auto and vehicle dealer sales located at 500 Towson Avenue

**November 3, 2015 Regular Meeting**

Mayor Sander's advised that the petitioner Al Prieur has requested the submitted appeal be tabled for sixty (60) days.

Settle, seconded by Pennartz moved to table the item for 60 days the members all voting affirmatively, the Mayor declared the motion carried and the item is tabled for 60 days.

Item No. 5 was an ordinance rezoning identified property and amending the zoning map (*Not Zoned to Residential Single Family Medium/High Density (RS-3) by classification located at 8009 Steep Hill Road*).

Mr. Bailey briefed the Board on the item advising such is per the request of Arkansas Valley Electric. The purpose of the rezoning request is to facilitate the development of a new utility substation. The subject property is on the east side of Steep Hill Road. The tract contains five (5) acres with approximately four hundred eighty five (485) feet of street frontage along Steep Hill Road. The property currently has no zoning. The Chaffee Crossing Redevelopment Plan currently classifies the site as Single Family Residential. The classification provides for standard residential lots or zero lot-line lots in attractive, interconnected neighborhoods. Approval of the zone change will not conflict with the goals and objectives of the Chaffee Crossing Redevelopment Plan. A neighborhood meeting was held on October 5, 2015 with no neighboring property owners in attendance to speak in opposition. The Planning Commission held a public hearing on October 13, 2015. Mr. Fred Phillips was present to speak on behalf of Arkansas Valley Electric; however, no one present to speak in opposition. The Planning Commission amended the conditional use request to make approval of subject to the following:

**November 3, 2015 Regular Meeting**

- Approval of the rezoning application by the City Board of Directors.
- Construction must comply with the submitted development plan. Changes or amendments to the submitted development plan are permitted but limited to those described in Section 27-329-8 of the UDO. Any changed greater than those described in this section will require Planning Commission approval.
- The project shall comply with the Chaffee Crossing Design Guidelines. The applicant shall submit an approval from the Chaffee Crossing Design Review Committee prior to the issuance of the building permit.
- All fences shall comply with the requirements of the UDO and Chaffee Crossing Design Guidelines.
- All lighting shall be shielded and comply with the city's Commercial and Outdoor Lighting regulations.
- All signage requires a separate applications and review process.
- Upon completion of the project, staff will review the site to determine if any new trees are necessary for additional screening to the substation.
- Five sets of complete construction plans shall be submitted to the Building Department for plan review.

The Planning Commission approved the conditional use 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 all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given Ordinance No.73-15.

**November 3, 2015 Regular Meeting**

Item No. 6 was an ordinance amending the Master Land Use Plan map and rezoning identified property and amending the zoning map (*Master Land Use Plan: Residential Detached to Residential Attached / Rezoning: Industrial Light (I-1) to Residential Multifamily Medium Density (RM-3) by extension located at 3321 Utica Street*).

Mr. Bailey briefed the Board on the item advising such is per the request of Ron Brixey, agent for Justin Green Custom Homes, Inc. The purpose of the request is to allow for the construction of two (2) duplexes on separate lots. A neighborhood meeting was held on September 25, 2015 with three (3) neighboring property owners in attendance, but no objections to the proposed project were conveyed. The Planning Commission held a public hearing on October 13, 2015 with no individual present to speak in opposition to the request. The Planning Commission approved the Master Land Use Plan amendment by a vote of nine (9) in favor and zero (0) opposed. The Planning Commission approved the rezoning request by a vote of nine (9) in favor and zero (0) opposed.

Director Settle questioned that if the development plan changes, such would require additional approval by the Planning Commission whereby Mr. Bailey responded "yes."

Catsavis, seconded by Hutchings 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.74-15.

***November 3, 2015 Regular Meeting***

Item No. 7 was an ordinance rezoning identified property and amending the zoning map *(Not Zoned to Residential Single Family Medium/High Density (RS-3) by classification located at 7001 Wells Lake Road)*.

Mr. Bailey briefed the Board on the item advising such is per the request of Crafton Tull & Associates. The purpose of the request is to allow for the development of thirty-two (32) single family, residential lots. A neighborhood meeting was held on October 6, 2015. Mr. Adam Witt, Operations Manager for Phoenix Metals (a neighboring property), was in attendance and conveyed no opposition to the request, but merely wished to advise that Phoenix Metals operates twenty-four (24) hours a day with activities including cutting metals and loading trucks. He further advised the company plans to expand the building and operations. No other property owners attended the neighborhood meeting. The Planning Commission held a public hearing on October 13, 2015 with no individual present to speak in opposition. The Planning Commission voted unanimously to amend the requested to make approval subject to the following:

- Approval by the Fort Chaffee Redevelopment Authority (FCRA) of the property's Chaffee Crossing Land Use Plan classification from Mixed Use: Neighborhood Commercial/Office to Single Family Residential.

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

Director Hutchings inquired where the future development of Phoenix Metal would be in consideration of this new development.

Mr. Bailey advised his understanding is the future expansion of Phoenix Metal will extend toward the subject development.

**November 3, 2015 Regular Meeting**

To ensure there is no issue in the future, Director Settle inquired how potential property owners considering purchase of residential lots within the subject development can be aware of the future Phoenix Metal expansion.

Mr. Bailey advised prior notification is difficult and ultimately is up to the potential buyer to be informed of the existing zoning of the property, as well as the surrounding property, prior to purchase.

Mayor Sanders questioned if any of the issues have been discussed at the Fort Chaffee Redevelopment Authority's Design Review Committee meetings.

Mr. Bailey advised the FCRA Design Review Committee reviews the property after the real-estate purchase has already been made.

Director Lau inquired if a Property Owners Association (POA) would be established for the proposed development and if something could be included in the bills of disclosure regarding the potential noise issue due to the adjacent business (Phoenix Metal).

At the request of Director Lau, the following individual addressed the Board:

- Brad Peterson, agent with Crafton Tull & Associates  
Fort Smith, Arkansas

Re: He conveyed uncertainty regarding the establishment of a POA for this development; however, the development does not offer any amenities to prompt the need for such. He then provided an in-depth description of Crafton Tull's considerations of the many different aspects in regard to Phoenix Metal expansion to address any future issue citing the inclusion of fencing, landscape buffers, easements, detention pond and structure placements all with the intent to create a great deal of distance and buffer's between the development and Phoenix Metal.

**November 3, 2015 Regular Meeting**

Director Pennartz inquired as to the range of value of the projected homes whereby Mr. Peterson advised property values are estimated to be \$200,000 and \$225,000.

Director Settle reiterated the potential concerns with the proposed residential development being located near a commercial development; therefore, he requested Crafton Tull take necessary steps to mitigate any foreseeable issues with potential property owners.

Lau, 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 all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given Ordinance No.75-15.

Item No. 8 was an ordinance amending the 2009 Unified Development Ordinance of the City of Fort Smith (*microbrewery / microwinery / microdistillery*).

Mr. Bailey briefed the Board on the item advising such is per the request of Mr. Quentin Willard of the Fort Smith Brewing Company. The purpose of the text amendment is to add the following land uses to the UDO Land Use Matrix:

1. Small Scale Production
2. Microbrewer/microwinery/microdistillery
3. Specialty Manufacturing

The applicant requests the above noted uses be permitted in the Commercial Heavy (C-5) zoning district and allowed as a conditional use in the Commercial Light (C-2), Commercial Moderate (C-3) and Commercial Regional (C-4) zoning districts. The Planning Commission held a public hearing on October 13, 2015 with no individual

**November 3, 2015 Regular Meeting**

present to speak in opposition. The Planning Commission unanimously amended the request to make approval subject to the following:

- Amend the UDO Land Use Chart to add microbrewery/microwinery as a permitted land use in the Commercial-5 zoning district.
- Amend Chapter 27-200 to delete the current definition of microbrewery and replace with the applicant's definition for microbrewery/microwinery/microdistillery.

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

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.

The following individuals were present to address the Board:

- Quentin Willard, applicant  
Van Buren, AR

Re: Spoke in favor of item advising he not only represents Fort Smith Brewing Company, but all craft beverage consumers and entrepreneur's in the industry. The intent behind the amendment as proposed is due to obtained knowledge that the University of Arkansas at Fort Smith (UAFS) is going to establish a Brewing Degree Program, which will train master brewers thereby increasing the potential for similar businesses to develop and open locally, and boosting the local economy.

- Kenneth Lyon  
Fort Smith, AR

Re: Spoke in favor of the item alleging that as of 2014, the brewing industry generated \$19.6 billion in taxable revenue and such is growing a double-digit rate each year.

**November 3, 2015 Regular Meeting**

Projection suggests that by year 2020, it will take twenty percent (20%) of the beer market at large. He further alleged the forthcoming Brewing Degree Program at UAFS is extremely rare, and if the city positions themselves to allow these educated brewers to open their businesses locally, such would be a huge bonus for the city of Fort Smith.

- Matthew Liebal  
Fort Smith, AR

Re: Spoke in favor of the item advising he's a member of the Army and has lived in eight (8) different states, all of which have had local microbreweries. Over the last ten (10) years, he has seen the industry expand and can attest to how they boost the economy by creating jobs and attracting tourism.

- George Willis, Jr., Ninth Street Baptist Church  
Fort Smith, AR

Re: Spoke in opposition to the item citing such is due to the suggested area the amendment will effect, specifically the area of North 9<sup>th</sup> and "H" Streets.

- Rev. Ulysses C. Washington, Mission United Methodist Church  
Fort Smith, AR

Re: Spoke in opposition to the item reiterating the comments conveyed by Mr. Willis. He conveyed concern regarding existing parking and residential zoning issues. Further concern was expressed that many elderly live in the area, a local park and multiple churches are also located in close proximity to the recommended site. He advised if the amendment is approved, such would be an ethical and moral breach to all those in which the church serves.

- Jonathan Seubould  
Fort Smith, AR

Re: Spoke in favor of the item, advising he is a licensed professional counselor and was in attendance if there were any questions in regard to the addictive properties of alcohol and its effects on mental health.

***November 3, 2015 Regular Meeting***

There was very lengthy discussion among the Board with each director, except Hutchings, conveying support of a microbrewery business in Fort Smith, but also expressing concern with the prospective location at North 9<sup>th</sup> and "H" Street. The directors also conveyed multiple inquiries regarding inclusion of the other zoning classifications.

Due to the various issues regarding the prospective site, Mr. Bailey clarified the existing zoning currently allows for a bar to be established at the same site without necessity of approval; therefore, he conveyed assurance that the proposed business would be less intrusive on the neighborhood.

Mr. Willard responded to each inquiry and clarified that although the area of North 9<sup>th</sup> and "H" Streets is a prospective site, the proposed item does not address a specific location. The prospective site is ideal for their business plan and he clarified they do not desire to be located in the bar district as such is not the nature of their business. The nature of a microbrewery business is not for people to congregate and drink all night, but such is more of a tasting environment. The patrons, estimated to range from ten (10) to thirty (30) individuals at a time, typically taste and then leave the premises. For clarification, no food is offered at a microbrewery to keep patrons there for an extended time.

At the request of Director Lau, Mr. Bailey explained that upon approval, a conditional use permit would still require Planning Commission approval and that conditional uses are utilized to mitigate concerns when the desired use of a property has negative impacts on surrounding property owners.

***November 3, 2015 Regular Meeting***

Lau, seconded by Lorenz, moved to amend the ordinance by permitting microbrewery/microwinery/microdistillery in all commercial zoning classifications as a conditional use and as a permitted use in all industrial zones. Prior to the vote, there was continued discussion, which led to the legitimacy of the offered motion because the proposed amendment had not been reviewed by the Planning Commission.

City Attorney Jerry Canfield advised zoning regulations state that a governing body may amend an ordinance by the same procedure as they were adopted as long the proper public notice requirements are met "or" by a vote of the Board of Directors. If the Board finds it prudent to amend the zoning ordinance and because such is germane to the proposed ordinance, such is a lawful action to take if the Board so desires.

Due to the perpetual discussion, Mayor Sanders he did not accept the previous motion and opened the floor for a new motion regarding the matter.

Lau, seconded by Lorenz moved to amend the ordinance by permitting microbrewery/microwinery/microdistillery in all commercial zones as a conditional use and as a permitted use in C-6 and industrial zones. The members voted as follows: ayes – Lau and Lorenz; nays – Good, Catsavis, Pennartz, Settle and Hutchings. The Mayor declared the motion defeated.

Good, seconded by Pennartz, moved to amend the ordinance to permit microbrewery/microwinery/microdistillery in C-6 and industrial zones 1, 2 & 3 as a permitted use.

Prior to the vote, Director Settle requested Mr. Richard Griffin, Chairman of the CBID, to convey his thoughts regarding the CBID's position on the matter.

***November 3, 2015 Regular Meeting***

Mr. Griffin simply advised he cannot speak for the CBID since the matter has not been presented for review.

There was continued discussion whereby Director Pennartz called the question.

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

Pennartz, seconded by Settle, moved adoption of the ordinance as amended. 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, Pennartz, Settle and Hutchings; nays – Lau, Lorenz and Catsavis. The Mayor declared the motion carried, but noted the motion did not obtain the five (5) affirmative votes for passage on its first reading. Due to such, the City Clerk read the ordinance, as amended, in its entirety for its first reading. The Mayor noted the ordinance will be placed on the November 17, 2015 regular meeting to accomplish its second reading.

Director Pennartz requested the Planning Commission review if conditional uses are suitable as it pertains to permitting microbrewery/microwinery/microdistillery in the remaining C-1 through C-5 zoning districts.

Director Good also requested the Planning Commission review current C-5 zoning in the North 9<sup>th</sup> Street corridor.

Director Lau encouraged staff to inform residents within the North 9<sup>th</sup> Street corridor how they can address zoning issues in their neighborhood whereby Mr. Bailey affirmed staff will proceed with such.

**November 3, 2015 Regular Meeting**

Item No. 9 was an ordinance amending the 2009 Unified Development Ordinance of the City of Fort Smith (*auto body shops in the ETJ Industrial Light zoning district*)

Mr. Bailey briefed the Board on the item advising such is per the request of Chris Adam Sharp of C. Sharp Restorations. The purpose of the proposed amendments is to allow auto body shops in the Extra Territorial Jurisdiction (ETJ) Industrial Light (I-1) zoning district as a permitted use. The Planning Commission held a public hearing on October 13, 2015 with no individual present to speak in opposition. The Planning Commission unanimously amended the request to make approval subject to the following:

- Amend the UDO to allow auto body shops in the ETJ Industrial Light (ETJ I-1) zoning district and when contiguous to residentially zoned or residentially developed property a conditional use permit would be required.

The Planning Commission approved the amended request by a vote of nine (9) in favor and zero (0) opposed.

Hutchings, seconded by Lorenz 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. Lorenz, seconded by Settle, 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.76-15.

**November 3, 2015 Regular Meeting**

Item No. 10 was a resolution authorizing the hiring of one internal auditor for Utility Department ~ *Lau/Settle placed on agenda at the October 20, 2015 regular meeting ~*

Mr. Dingman briefed the Board on the item advising such is per the request of Director Lau at the October 20, 2015 regular meeting. The Internal Utilities Auditor will perform test on the water and sewer areas based upon the Consent Decree.

Director Catsavis expressed concern with the item and inquired what kind of experience the subject position would need to be most efficient and requested a brief explanation of the position.

Internal Auditor Tracey Shockley advised that upon approval, the individual hired in the subject position would report their findings to the Internal Auditor, who would then review the findings and report such to the Audit Committee and the Board of Directors. Another alternative would be to hire a consultant whose objective would be to ensure cost savings for the city. The person would need utility engineering auditing experience, which would involve things such as inventory control, ensuring billing and work is being done correctly according to what is in the contracts, etc. She further advised focus on operations and compliance audits, and current work load would have to be scaled back and discussed with the Audit Committee, as well as her ability to incorporate such responsibilities onto her position.

Director Hutchings questioned the necessity of the proposed position and the estimated salary range. Regardless, he conveyed much concern with the matter citing such is not the time to be adding personnel when the City may have to consider

***November 3, 2015 Regular Meeting***

freezing other positions. If the Board opts to move forward, he requested assurance that the position will result in a cost savings.

Director Lau indicated such is good business practice and when dealing with the estimated \$480 million projects and if you can save one percent (1%) by utilizing the position, such will result in a cost savings of \$4.8 million over a twelve (12) year period. Such is external control and making sure the Board is aware of what's going on. He further advised that the Board needs to take necessary steps to ensure the citizens are not having to pay any more than absolutely necessary.

Mrs. Shockley advised such person would need to have at least three (3) to five (5) years of experience in utility engineering auditing, and based upon research the median pay is around \$45,000 annually; however and in order to attract the person with the expertise needed, she recommended an estimated \$55,000 to \$60,000 annually.

Director Lorenz spoke in favor of the proposed item alleging the new position could result in significant cost savings; however, he encouraged any potential candidate must be advised they will be hired with a great expectation to perform. Due to such, he recommended the position be required to provide extensive and frequent reports on findings and cost savings.

Director Pennartz noted concurrence with Directors Lau and Lorenz citing projects of such magnitude associated with consent decrees typically utilize an auditor to ensure accurate results. She also requested Mrs. Shockley work up a job description for the proposed position.

Director Settle conveyed much support of the item citing cost savings is the determining factor.

***November 3, 2015 Regular Meeting***

Catsavis, seconded by Hutchings, moved to table the item for thirty (30) days and the members voted as follows: ayes – Catsavis and Hutchings; nays – Lau, Good, Lorenz, Pennartz and Settle. The Mayor declared the motion defeated.

Lau, seconded by Lorenz, moved adoption of the resolution. Prior to the vote, Director Pennartz inquired if such position could be included in the 2016 budget review process, thus allowing Mrs. Shockley the time to obtain the additional information regarding the salary and provide the requested job description whereby Mrs. Shockley advised she'll provide the requested information at the budget review hearings.

Director Hutchings requested Acting City Administrator Jeff Dingmans to convey his opinion on the matter.

Mr. Dingman advised an auditor to review contracts, review materials used and ensure proper payment and order of things when dealing with a project of such magnitude is certainly beneficial. Regarding capital projects, evaluation of contracts and performance of such along the way as well as fixed asset monitoring and other things mentioned are already evaluated not only within the Utility Department, but also city wide. He advised when presented with the magnitude of the projects the consent decree will require, it is quite obvious that all of such cannot be absorbed by one (1) position and further advised if the Board sees an additional position as prudent such position will certainly be utilized.

The motion remaining on the floor, the members voted as follows: ayes – Lau, Good, Lorenz, Pennartz and Settle; nays – Hutchings; abstention – Catsavis. The Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-200-15.

***November 3, 2015 Regular Meeting***

Item No. 11 was an ordinance authorizing the appropriation of funds from the Landfill Operating Fund, and accepting the bid of and authorizing the Mayor to execute a contract with Forsgren Inc. for the Landfill Road Reconstruction Project (*\$1,393,424.20 / Sanitation Department / Budgeted - Sinking Fund ~ Landfill Construction*)

Director of Sanitation Baridi Nkokheli advised that in September 2013, a comprehensive environmental audit was completed on the Fort Smith Regional Sanitary Landfill. The results of the audit indicated that the existing 28-acre active landfill area, developed from 1993 through 2009 (Phase A, Areas 1-4), was largely underutilized. Plans were developed to integrate the current 12-acre disposal site (Phase A, Area 5) with the 28-acre site allowing for additional usage estimated at nearly fourteen (14) years. The plans were developed with the assumption that the 20+ year old improved (concrete) landfill roads (Methane Lane and Compost Drive) would be rebuilt and operations would migrate back to the 28-acre active area rather than developing Area 6. These roads (Methane Lane and Compost Drive) were the primary access roads until they were semi-closed in 2005 due to their poor condition. The condition has deteriorated severely making it unsuitable to support the large/heavy commercial, industrial and residential solid waste collection vehicles as well as all other (250-300) vehicles that access the landfill six-days a week, three-hundred and fourteen days a year. The proposed item authorized a contract with Forsgren, Inc. for the landfill road(s) project. The funding for the project is available in the amount of \$1,355,000 within the landfill sinking fund so the remaining \$38,424.20 will be transferred from the Landfill Operating Fund (6305-203 Fuel Oil & Lube) to accommodate the difference. Upon

**November 3, 2015 Regular Meeting**

approval, such will allow “easy access in all weather conditions to all portions of the active disposal site and to other operational areas where access is necessary to achieve timely compliance with permit requirements” and achieve compliance with the Arkansas Pollution Control and Ecology Commission’s Regulation 22.417(c).

Hutchings, seconded by Good, moved adoption of the ordinance the members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 77-15.

The Consent Agenda (Item No. 12) was introduced for consideration, the items being as follows:

- A. Resolution to accept the bid and authorize a contract for the construction of street and parking lot improvements serving the Arkansas College of Osteopathic Medicine, Project No. 15-90-A, EDA Award No. 08-79-04996 (*\$2,161,727.73 / Engineering Department / Budgeted – Sales Tax Program Fund, EDA Grant, Degen Foundation*) ♦
- B. Resolution accepting Change Order No. 2 with Dixon Contracting, Inc. for the construction of the Greg Smith Riverwalk (West River Front Trail) (*\$8,500.00 / Parks Department / Budgeted - 1/8% Sales and Use Tax*)
- C. Resolution authorizing the execution of a memorandum of agreement between the City of Fort Smith, Arkansas, and Sebastian County, Arkansas, concerning the administration and funding for the Fiscal Year 2015 Homeland Security Grant Program

Settle, seconded by Hutchings, moved adoption of all consent agenda items. The members all voting affirmatively, the Mayor declared the motion carried and the resolutions were adopted and numbered R-201-15 through R-203-15, respectively.

## **November 3, 2015 Regular Meeting**

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

➤ Mayor Sanders

- Re:
1. Expressed gratitude to merchants and citizens who participated in the Ghouls on Garrison event on October 31<sup>st</sup>.
  2. Conveyed appreciation to recently retired Fire Chief Mike Richards for his service to the Fort Smith Fire Department.
  3. Reminded all of the Veterans Day event at 11:00 a.m., November 11<sup>th</sup> at the National Cemetery and the Veterans Day Parade scheduled for 12:00 Noon on Saturday, November 14<sup>th</sup> at Chaffee Crossing.
  4. Announced the Department of Human Services Division of Community Service & Nonprofit Support nominated Charolette Tidwell as a final honoree for the 39<sup>th</sup> annual Arkansas Community Service Award in 2016.

➤ Director Settle

- Re:
1. Announced at 4:00 p.m. on November 14 the University of Arkansas at Fort Smith will host the Mens Metro State Top 10 Division II basketball team and encouraged all to “get involved” and support the local college.
  2. After the budget hearings, he would like a report on what consultants the City utilizes and alleged the consultants utilized by the Human Resources Department did not contact Don Zimmerman in the recent health insurance discussions; therefore, he requested a true cost service comparison.
  3. Advised of a Waters of United States Rule Stay issued to the State of Arkansas along with eleven (11) others by the Attorney General and noted concern with the dry weather issued as indicated in the consent decree.

**November 3, 2015 Regular Meeting**

There being no further business to come before the Board, Pennartz moved that the meeting adjourn. The motion was seconded by Lorenz, and the members present all voting aye, the Mayor declared the motion carried and the meeting stood adjourned at 8:27 p.m.

APPROVED  
  
MAYOR

ATTEST

  
CITY CLERK