

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

**TUESDAY ~ MARCH 15, 2016 ~ 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 Director Don Hutchings, 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 March 1, 2016 regular meeting and February 29, March 3, March 7 and March 8, 2016 special meetings were presented for approval. Settle, seconded by Hutchings, 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 amending the Master Land Use Plan map and rezoning identified property and amending the zoning map (*Master Land Use Plan: from Open Space / Residential Detached to Office Research Light Industrial (ORLI) / Rezoning: from Commercial Light (C-2) to a Planned Zoning District (PZD) by classification located at 5500 Massard Road*) ~ First reading at the March 1, 2016 regular meeting ~ SECOND READING

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Director of Development Services Wally Bailey briefed the Board on the item as discussed at the March 1, 2016 regular meeting citing such is per the request of Jeff Lee, agent for John, Bequita, Mark, Janice, Kevin and Patti Goodson. The purpose of the request is to allow the existing facility to be used for an indoor mini-storage facility with the construction of a new storage building and covered RV parking in the future. A neighborhood meeting was held on January 28, 2016 with three (3) property owners in attendance expressing concerns regarding exterior lighting and appearance of the proposed buildings. The Planning Commission held a public hearing on February 9, 2016 with Mr. Jeff Lee present to speak on behalf of the request and Mr. Ron Yates in attendance to speak in opposition citing concerns relative to security lighting, property devaluations and the fact that tenants will have twenty-four (24) hour access to the facility. An email was also received from Mr. Jim Post that echoed Mr. Yates concerns, as well as potential traffic hazards. The Planning Commission approved the Master Land Use Plan amendment and the rezoning request with seven (7) in favor and one (1) opposed subject to the following:

- ▶ The proposed pole barn structures for RV and boat storage are limited to the location at the rear of the property as shown in the PZD booklet.
- ▶ The rooftops for the new storage buildings in Phase I shall consist of a muted color.
- ▶ The rooftops equipment on the existing building shall be screened from the right-of-way.

The ordinance was presented to the Board of Directors for consideration at the March 1, 2016 regular meeting whereby such did not obtain five (5) affirmative votes for

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passage; therefore, the ordinance was read in its entirety for its first reading. The proposed ordinance is presented for its second reading.

Since the March 1, 2016 regular meeting, both the applicant, Mr. Mark Goodson, and surrounding property owners in opposition to the item have indicated their desire to address the Board. Mr. Ron Yates, representing the surrounding property owners opposing the item, has submitted additional information along with signed petitions from citizens opposed to the proposal to City staff and such has been provided to the Board.

The following individuals were present to address the Board:

- Mark Goodson, owner/applicant  
Ratcliff, Arkansas

Re: Advised when the matter was initially presented at the March 1, 2016 regular meeting and after hearing concerns of the surrounding property owners, he realized some issues should be addressed citing the reference to pole barns gave the impression of an unattractive structure; however, he clarified the proposed structure will be more aesthetically pleasing. Lighting was a noted concern; therefore, the lighting will be placed on fifteen feet (15') poles with cone-shaped shields to ensure lighting will be directed downward with the larger lighted area nearest the ground. After reviewing the petition opposing the development, he discovered he knew some of the individuals who signed it; therefore, he contacted them via email to inquire of any additional concerns. Most were under the impression the zoning would go from a Commercial-2 zoning classification to an Industrial designation, which he clarified the proposed PZD is limited to mini-storages. He noted the existing zoning will allow convenience stores, retail strip malls, furniture stores, lawn and garden stores, hardware stores, multi-family developments, hotels, boarding house, auto parts stores, temporary carnivals, swimming pools, etc. He further noted that increased traffic was a concern, which he conceded such will increase at first due to an initial

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influx of those utilizing the storage facility; however, much assurance was conveyed that such will decrease citing he obtained information from the President of the Self Storage Association and a consultant in Dallas that they advise the typical traffic after a mini-storage is up and running is an average of five (5) customers per day for every one-hundred (100) units.

- Ron Yates  
Fort Smith, Arkansas

Re: Although multiple other valid concerns have been expressed, the proposed development will also increase the likelihood of crime in the area citing multiple meth labs have been discovered in mini-storage facilities, as well as funeral homes storing bodies in such facilities. Concern was expressed that the proposed will be the sixth mini-storage facility in a three quarter (3/4) mile radius alleging there should be a limit to how many mini-storage facilities may be located near residential areas. He alleged the development will decrease his property value and he'll *"never be able to sell"* his property and urged the Board to opt not merely to allow the second reading, but requested they vote again on the item and defeat the ordinance disallowing the proposed development.

- Bill Hanson  
Fort Smith, Arkansas

Re: Advised of a rezoning request in 2006 for the construction of duplexes across the street from the subject location. The Board approved the rezoning and the applicant paid approximately \$50,000 to relocate utility services, which prompted discord with the surrounding neighbors. Due to such, the Board eventually reversed their decision. He urged the Board to do the same in this instance citing his opposition to the proposed development.

- Jim Post  
Fort Smith, Arkansas

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Re: Advised the information provided to the Planning Commission contained a list of Factors to be Considered, which one was "*Compatibility of the proposed development with the character of the neighborhood.*" He conveyed much confidence the proposed development is not compatible with the neighborhood as such is residential. Referring to the comments of Mr. Goodson, he further noted that a pole barn is a pole barn, no matter what you call it. Due to such, he merely conveyed opposition to the item and urged the Board to consider the character of the surrounding neighborhood and defeat the ordinance.

- Diane Fagan  
Fort Smith, Arkansas

Re: Advised she's lived in the surrounding neighborhood for twenty (20) years citing such is a "*lovely neighborhood for walking.*" She too spoke in opposition to the proposed development and urged the Board to consider the effect such will have on their neighborhood.

Upon completion of Ms. Fagan's comments, the Mayor granted a three (3) minute rebuttal to both sides of the issue.

Mr. Goodson, the owner/applicant, simply noted he's owned the subject property for twenty (20) years and reminded the Board that although one (1) side of the subject property is residential, the other side is currently zoned industrial. He urged the Board to allow the development to proceed alleging such will be less intrusive to the surrounding neighborhood than the allowed land uses in its current zoning classification.

Mr. Yates, representing those in opposition, also noted he's lived in the nearby neighborhood for twenty-two (22) years. Specific opposition was conveyed regarding the inclusion of pole barns on the subject location and expressed concern the development will be constructed "*cheaply.*" Due to such, he alleged property values will decrease making

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their properties “*unsaleable*”; therefore, he reiterated the previous request that the Board consider such and defeat the ordinance.

At the request of Mayor Sanders, City Attorney Jerry Canfield addressed the Board and advised of procedural options regarding the second reading of the ordinance advising the Board may either merely proceed with the second reading; offer another motion to adopt the ordinance with suspension of the rule to allow the second reading to be by caption and to occur on the same date; or, offer a motion to disapprove the ordinance.

Catsavis, seconded by Lorenz, moved adoption of 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.

Prior to the vote, Director Settle requested a brief explanation of the proposed Planned Zoning District (PZD).

Mr. Bailey advised that upon approval, the proposed PZD will limit the land use of the subject property to mini-storage warehouse and vehicle storage yard.

Director Lorenz spoke in favor of the proposed ordinance citing the subject property is currently zoned Commercial-2 and the properties to the west and north are currently zoned Industrial. Upon approval, such will essentially remove the potential of other uses currently allowed within the existing zoning classification to essentially one (1) use, i.e. storage (mini-storage and vehicle storage).

Director Pennartz noted a PZD’s primary emphasis should be based on compatibility to preserve and enhance surrounding neighborhoods with considerations of landscaping, architecture, signage, enhanced design, etc. When the proposed PZD was presented to

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the Planning Commission for consideration, she questioned what enhancements were considered.

Mr. Bailey specifically noted the following enhancements, which are included within the Project Booklet:

1. All dumpsters will be screened with split-face CMU, brick veneer or other acceptable masonry units with opaque wood or metal gates.
2. The proposed pole barn structures for RV and boat storage shall be limited to the location at the rear of the property as shown in the PZD booklet (along the west property line).
3. The rooftops for the new storage buildings in Phase I shall consist of a muted color.
4. The rooftop equipment on the existing building shall be screened from the right-of-way.
5. The front facades of all new construction facing Massard will contain 100% colored split-faced CMU, as well as the sides of the buildings to a point 50' away from the front wall.
6. Signage for the PZD will be per City ordinance 27-704-3 in general but customized to prohibit highway type billboards and flashing or blinking electronic signage or any type or size only. Ground mounted monument signs are permitted and if illuminated will be lit with flood lights or backlit. Facade signage to be per UDO. Lighted signage, canopies or building lighting shall be controlled to avoid spillage onto surrounding properties.
7. Pole signs will not be used.

Director Pennartz then inquired how many individuals were in attendance to oppose the item whereby approximately fifteen (15) individuals raised their hands. She further questioned Mr. Yates if the proposed PZD is compatible to the area whereby Mr. Yates advised the proposed development is not compatible to the neighborhood.

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Director Good requested clarification of the motion on the floor whereby Mayor Sanders provided such.

Director Pennartz then inquired if a substitute motion could be offered to disapprove the ordinance and which motion (main or substitute) would be considered first.

At the request of Mayor Sanders, City Attorney Canfield addressed the Board advising a motion to disapprove the proposed ordinance is "*legally permissible*" and noted a substitute motion, provided such receives a second, should be considered first. If such is defeated, the main motion can then be considered by the Board.

Pennartz, seconded by Catsavis, offered a substitute motion to disapprove (or defeat) the ordinance. The members voted as follows: ayes - Catsavis and Pennartz; nays - Lau, Good, Lorenz, Settle and Hutchings. The Mayor declared the motion defeated.

The main motion remaining on the floor, the City Clerk read the ordinance by caption for its second reading. The members voted as follows: ayes - Lau, Good, Lorenz, Settle and Hutchings; nays - Catsavis and Pennartz. The Mayor declared the motion carried and the ordinance was adopted on its second reading and given Ordinance No. 20-16.

Mayor Sanders announced this was the time and place set for a public hearing regarding the Year 42 Community Development Block Grant Budget, the Year 23 HOME Investment Partnership Act Program Budget, authorizing the submission of the Program Year 2016 Action Plan and for other purposes ~ *Settle/Hutchings placed on agenda at the March 8, 2016 study session* ~ ♦ *Future Fort Smith Item*. Notice of the public hearing had been duly published as required by law. Following the public hearing, consideration of a resolution authorizing same would be given.

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Mr. Bailey briefed the Board on the item as discussed at the March 8, 2016 study session. The proposed resolution authorizes funding to various organizations as reviewed and recommended by the Community Development Advisory Committee (CDAC) for the funding cycle of July 1, 2016 to June 30, 2017.

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

Hutchings, seconded by Catsavis, moved adoption of the resolution. There being no Director wishing to comment, the members all voting affirmatively; therefore, the Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-34-16.

The Consent Agenda (Item No. 3) was introduced for consideration, the items being as follows:

- A. Resolution approving Master Plan for 51 acre park located on Riverfront Drive ~ *Hutchings/Pennartz placed on agenda at the March 8, 2016 study session ~ ♦ Future Fort Smith Item*
- B. Resolution authorizing a change order for the construction of Towson Avenue Streetscape Improvements, Job 040602, F.A.P. STPE-ENHN (464) Fort Smith Towson Avenue Streetscaping (ATEP-11) (S) Sebastian County, Project No. 12-90-A (25 days / \$1,839.71 / Engineering Department / Budgeted - Sales Tax Program Fund) ♦ *Future Fort Smith Item*
- C. Resolution accepting completion of and authorizing final payment for the construction of Towson Avenue Streetscape Improvements, Job 040602, F.A.P. STPE-ENHN (464), Fort Smith Towson Avenue Streetscaping (ATEP-11) (S), Sebastian County, Project No. 12-90-A (\$25,452.13 / Engineering Department / Budgeted - Sales Tax Program Fund) ♦ *Future Fort Smith Item*

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- D. Resolution authorizing a change order for the construction of Traffic Signal Improvements, Project No. 13-09-B (\$2,662.25 / Engineering Department / Budgeted - Sales Tax Program Fund) ♦ Future Fort Smith Item
- E. Resolution accepting completion of and authorizing final payment for the construction of the Traffic Signal Improvements, Project No. 13-09-B (\$65,375.58 / Engineering Department / Budgeted - Sales Tax Program Fund) ♦ Future Fort Smith Item
- F. Resolution authorizing a change order for the construction of Traffic Signal Improvements, Project No. 14-09-A (14 days / \$4,550.28 / Engineering Department / Budgeted - Sales Tax Program Fund) ♦ Future Fort Smith Item
- G. Resolution accepting completion of and authorizing final payment for the construction of Traffic Signal Improvements, Project No. 14-09-A (\$33,351.55 / Engineering Department / Budgeted - Sales Tax Program Fund) ♦ Future Fort Smith Item

Pennartz, seconded by Hutchings, moved adoption of all consent agenda items.

Regarding Item No. 3A, Director Catsavis inquired if the one-eighth percent (1/8%) sales tax will be sufficient to fund existing parks and the subject construction and maintenance of the proposed project.

Director of Parks and Recreation Doug Reinert confirmed such will be sufficient to proceed with the first phase of the project, which includes construction of two (2) soccer fields; however, the community center and other items within the Master Plan will need to be incorporated into the Parks and Recreation Five Year CIP.

Once the subject two (2) soccer fields are completed, Director Good questioned the anticipated completion of the remaining soccer fields. He noted multiple posts on Facebook have indicated discontent with the construction of only two (2) soccer fields at this time.

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Due to such, he reminded all that the project has always been anticipated to be a multi-phase project.

Mr. Reinert advised of no anticipated date to initiate construction of the remaining fields as such will need to be presented to the Parks and Recreation Commission; however, he conveyed much assurance construction will be expedited if possible. He's hopeful such can be determined upon completion of the first two (2) fields citing if they are "*easily done*", the remaining fields may be initiated sooner rather than later.

Director Lorenz noted the importance of getting the first two (2) soccer fields built and usable; however, he questioned where restroom facilities will be located and urged such be constructed as soon as possible.

Mr. Reinert advised restroom facilities are planned to be located near the concession area and acknowledged the request for timely construction of restroom facilities.

The motion to adopt the consent agenda remaining on the floor and the members all voting affirmatively, the Mayor declared the motion carried and the resolutions were adopted and given Resolution No. R-35-16 through R-41-16 respectively.

Mayor Sanders opened the Officials Forum with no Director wishing to comment.

The Board entered into executive session at approximately 6:44 p.m. and after reconvening, the Mayor announced the following appointment nominations:

**HOUSING ASSISTANCE BOARD**

Karen Wuthrich (reappointment)

Jim Harris (reappointment)

Sara Edmiston (reappointment)

Terms expire April 30, 2018

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**PLANNING COMMISSION**  
Marshall Sharpe (reappointment)  
Robert Cooper, Jr. (reappointment)  
Don Keesee (reappointment)  
Terms expire April 30, 2019

Note: Director Settle left the meeting immediately after reconvening from executive session.

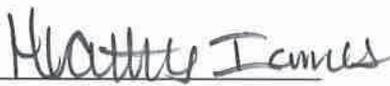
Hutchings, seconded by Pennartz, moved acceptance of the above named nominations. The members present all voting aye, the Mayor declared the motion carried.

There being no further business to come before the Board, Catsavis moved that the meeting adjourn. The motion was seconded by Hutchings and the members present all voting aye, the Mayor declared the motion carried and the meeting stood adjourned at 6:52 p.m.

**APPROVED:**

  
\_\_\_\_\_  
**VICE - MAYOR**

**ATTEST:**

  
\_\_\_\_\_  
acting **CITY CLERK**