

Mayor – Sandy Sanders

City Administrator – Ray Gosack

City Clerk – Sherri Gard

Board of Directors

Ward 1 – Keith Lau

Ward 2 – Andre’ Good

Ward 3 – Mike Lorenz

Ward 4 – George Catsavis

At Large Position 5 – Pam Weber

At Large Position 6 – Kevin Settle

At Large Position 7 – Philip H. Merry Jr.

AGENDA ~ Summary

Fort Smith Board of Directors

REGULAR MEETING

October 21, 2014 ~ 6:00 p.m.

Fort Smith Public Schools Service Center

3205 Jenny Lind Road

THIS MEETING IS BEING TELECAST LIVE ON THE GOVERNMENT ACCESS CHANNEL 214

INVOCATION & PLEDGE OF ALLEGIANCE

Pastor Robert Berry, Bluff Avenue Baptist Church

ROLL CALL

- All present
- Mayor Sandy Sanders presiding

PRESENTATION BY MEMBERS OF THE BOARD OF DIRECTORS OF ANY ITEMS OF BUSINESS NOT ALREADY ON THE AGENDA FOR THIS MEETING

(Section 2-37 of Ordinance No. 24-10)

Information available by viewing rebroadcast of the meeting on the City Access Channel 214 or City website

APPROVE MINUTES OF THE OCTOBER 7, 2014 REGULAR MEETING

Approved as written

ITEMS OF BUSINESS:

1. Resolution authorizing the Mayor to execute a consulting and pre-opening development agreement with American Resort Management, LLC for the aquatics center at Ben Geren Regional Park (\$88,000.00 / Parks Department / Budgeted - 1/8% Sales and Use Tax)
Approved 7 in favor, 0 opposed / Resolution No. R-145-14
2. Public hearing and resolution approving the issuance of Health and Educational Facilities Authority of the State of Missouri Health Facilities Revenue Bonds
Approved 6 in favor, 1 opposed (Catsavis) / Resolution No. R-146-14

3. Ordinance ordering the owners of certain dilapidated and substandard structures to demolish same, authorizing the City Administrator to cause the demolition of such structures to occur, and for other purposes (*2400 North 29th Street*)
Approved 7 in favor, 0 opposed / Ordinance No. 59-14
4. Consent Agenda
 - A. Resolution granting a temporary revocable license for the placement of a monument sign within a water line easement and authorizing the Mayor to execute agreement (*St. Edward Mercy Health System, Inc. – 3501 W.E. Knight Drive*)
Approved 7 in favor, 0 opposed / Resolution No. R-147-14
 - B. Resolution authorizing a time extension for the construction of Drainage Improvements, Project No. 12-06-A (*151 days*)
Approved 7 in favor, 0 opposed / Resolution No. R-148-14
 - C. Resolution accepting completion of and authorizing final payment for the construction of Drainage Improvements, Project No. 12-06-A (*\$6,449.27 / Engineering Department / Budgeted – Sales Tax Program*)
Approved 7 in favor, 0 opposed / Resolution No. R-149-14
 - D. Resolution authorizing Change Order No. 1 with Goodwin & Goodwin, Inc. for the Massard Interceptor Access Improvements (*\$6,692.50 / Utility Department / Budgeted – 2012 Sales Tax and Use Tax Bonds*)
Approved 7 in favor, 0 opposed / Resolution No. R-150-14

OFFICIALS FORUM ~ presentation of information requiring no official action
(*Section 2-36 of Ordinance No. 24-10*)

➤ Mayor

➤ Directors

➤ City Administrator

Information available by viewing rebroadcast of the meeting on the City Access Channel 214 or City website

EXECUTIVE SESSION (Approximately 6:17 p.m.)

Appointments:

INTERNAL AUDITOR

Tracey Shockley (*Confirmed via Item No. 5 / Resolution No. R-151-14*)

MECHANICAL BOARD OF ADJUSTMENTS AND APPEALS

Thomas Franklin

Term expires July 31, 2019

PARKS AND RECREATION COMMISSION

Chris Raible

Term expires August 31, 2019

5. Resolution confirming the appointment of an internal auditor for the City of Fort Smith
Approved 7 in favor, 0 opposed / Resolution No. R-151-14

ADJOURN

6:39 p.m.

RESOLUTION NO. R-145-14

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONSULTING AND PRE-OPENING DEVELOPMENT AGREEMENT WITH AMERICAN RESORT MANAGEMENT LLC FOR THE AQUATIC CENTER AT BEN GEREN REGIONAL PARK

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS, that:

The Mayor is hereby authorized to execute a Consulting and Pre-Opening Development Agreement with American Resort Management, LLC for the aquatics center at Ben Geren Regional Park. The Consulting and Pre-Opening Development Agreement will be for an amount of \$88,000.00 shared equitably between the County and the City.

This Resolution adopted this 21st day of October, 2014.

APPROVED:


Mayor

ATTEST:


City Clerk

APPROVED AS TO FORM

 npr

RESOLUTION NO.

R-146-14

A RESOLUTION APPROVING THE ISSUANCE OF THE HEALTH AND EDUCATIONAL FACILITIES AUTHORITY OF THE STATE OF MISSOURI HEALTH FACILITIES REVENUE BONDS

WHEREAS, the Health and Educational Facilities Authority of the State of Missouri (the "Authority") has represented that it is authorized by Chapter 360 of the Revised Statutes of the State of Missouri to issue bonds the interest on which is tax-exempt in order to finance certain educational and health facilities both within and outside of the State of Missouri; and

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code") requires that, in order for the interest on such bonds to be tax-exempt, a properly-noticed public hearing with respect to the issuance of such bonds and the facilities to be financed or refinanced thereby be held in the jurisdiction in which the facilities being financed or refinanced are located and that approval be provided by the governing body or the chief elected representative of such jurisdiction; and

WHEREAS, the Authority intends to issue one or more series of its Health Facilities Revenue Bonds (Mercy Health) in a principal amount not to exceed \$400,000,000 (the "Bonds"), and to loan the proceeds thereof to or for the benefit of Mercy Health, a Missouri nonprofit corporation, and its affiliates (collectively, "Mercy Health"), to finance, refinance, and reimburse the costs of health care facilities to be owned and operated by Mercy Health; and

WHEREAS, Mercy Health may use sale proceeds of the Bonds in an amount not to exceed \$50,000,000 to pay or reimburse the costs of the acquisition, construction, renovation, installation and equipping of an orthopedic hospital, two primary care clinics, existing medical office buildings and additional capital improvements to health care facilities to be owned and operated by Mercy Hospital Fort Smith Communities, an Arkansas nonprofit corporation and affiliate of Mercy Health, subject to all applicable development and building codes, ordinances and approvals of the City of Ft. Smith (the "City") with respect to construction projects in the City; and

WHEREAS, the Authority has requested the City to provide "Host Approval" under Section 147(f) of the Internal Revenue Code in connection with the use of the sale proceeds of the Bonds in the City; and

WHEREAS, the City has been assured that there will be no financial liability accruing to the City as a result of such approval and that this approval shall constitute approval solely for the purpose of permitting Mercy Health to proceed with the use of the sale proceeds of the Bonds in the City; and

WHEREAS, pursuant to the requirements of the Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA"), Mercy Health provided for the publication of notice of an open public hearing to permit the public to comment on the proposed use of the sale proceeds of the Bonds; and

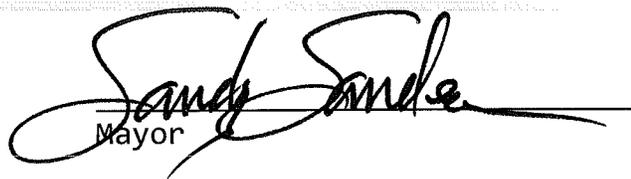
WHEREAS, the notice was published on October 1, 2014, in the *Times Record*, the official newspaper of the City, which publication date is more than 14 days prior to today's date; and

WHEREAS, on today's date, the Board of Directors held an open public hearing permitting the public to comment on the proposed use of the sale proceeds of the Bonds;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the City of Fort Smith, Arkansas that:

The use by Mercy Health of the sale proceeds of the Bonds in the City as described in the notice of public hearing is hereby approved.

This Resolution passed this 21st day of October, 2014.


Mayor

ATTEST:


City Clerk

ORDINANCE NO. 59-14

AN ORDINANCE ORDERING THE OWNERS OF CERTAIN DILAPIDATED AND SUBSTANDARD STRUCTURES TO DEMOLISH SAME, AUTHORIZING THE CITY ADMINISTRATOR TO CAUSE THE DEMOLITION OF SUCH STRUCTURES TO OCCUR, AND FOR OTHER PURPOSES.

BE IT ORDAINED AND ENACTED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS, that:

SECTION 1: It is hereby determined by the Board of Directors that the hereinafter described tract of real property, and the improvements located there, are dilapidated, unsafe and otherwise detrimental to the public health and constitute structural, fire and health hazards:

Street Address: **2400 NORTH 29TH STREET - LOT 8, BLOCK 1; MCLOUDS ADDITION**

SECTION 2: The owners of the tract of real property described in Section 1 are hereby ordered to remove or raze the improvements located on the said tract of property and to remedy the unsightly and unsanitary conditions otherwise located on said tract of real property within thirty (30) days from the date of this ordinance.

SECTION 3: With reference to any tract identified in Section 1 as to which compliance with the direction of Section 2 has not occurred within thirty (30) calendar days from the date of passage of this ordinance, the City Administrator is hereby authorized to execute a contract, based on the bid(s) accepted on the date of this action or at a later date, for the removal or razing of the described improvements on the tract of real property.

SECTION 4: The provisions of this ordinance are hereby declared to be severable to the extent that a decision by any court of competent jurisdiction determining that any portion of this ordinance or any application thereof is unconstitutional, invalid or otherwise illegal shall not affect the constitutionality, validity or legality of the other provisions and/or applications of the ordinance.

SECTION 5: Emergency Clause. It is hereby found and declared by the Board of Directors that the dilapidated, unsanitary condition of the tracts of real property and improvements described herein constitute an immediate menace to the health, welfare and safety of the citizens of the City so that an emergency is hereby declared and

Ord. 59-14

that this ordinance shall be effective from and after the date of its passage.

This Ordinance adopted this 21st day of Oct. 2014.

APPROVED:

Mayor 

ATTEST:


City Clerk

Approved as to form:


Publish 1 time

RESOLUTION NO. R-147-14

**A RESOLUTION GRANTING A TEMPORARY REVOCABLE LICENSE FOR THE
PLACEMENT OF A MONUMENT SIGN WITHIN A WATER LINE EASEMENT
AND
AUTHORIZING THE MAYOR TO EXECUTE AGREEMENT**

**BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT
SMITH, ARKANSAS, THAT:**

SECTION 1: A Temporary Revocable License is hereby granted to St. Edward Mercy Health System, Inc., its successors or assigns for the placement and maintenance of a monument sign within a water line easement as shown on Exhibit "A" and within the following described property:

Part of Lot A, Hillsboro Estate, an addition to the City of Fort Smith (filed for record February 22, 2008), Sebastian County, Arkansas, being more particularly described as follows:

Commencing at the SW corner of said Lot A, at the right of way intersection of Phoenix Avenue and South 79th Street; thence N02°54'07"E along the west line of said Lot A, 7.42'; thence S87°05'53"E 13.47' to the Point of Beginning; thence S74°58'57"E 5.06'; thence S47°56'15"W 2.63'; thence N43°45'52"W 4.25' to the Point of Beginning, containing 5.6 square feet, more or less.

Also, commencing at said SW corner of Lot A; thence N02°54'07"E along the west line of said Lot A, 13.40'; thence S87°05'53"E 7.12' to the Point of Beginning, thence N44°06'30"E 4.37'; thence S02°54'07"W 6.00'; thence N43°45'52"W 3.96' to the Point of Beginning, containing 8.6 square feet more or less.

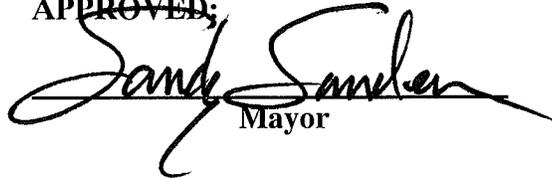
Containing a total of 14.2 square feet more or less.

*Approved as to form
JSC
No publication required*

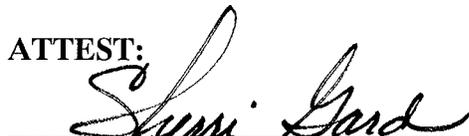
SECTION 2: The Mayor is authorized to execute the agreement for the above-captioned Temporary Revocable License.

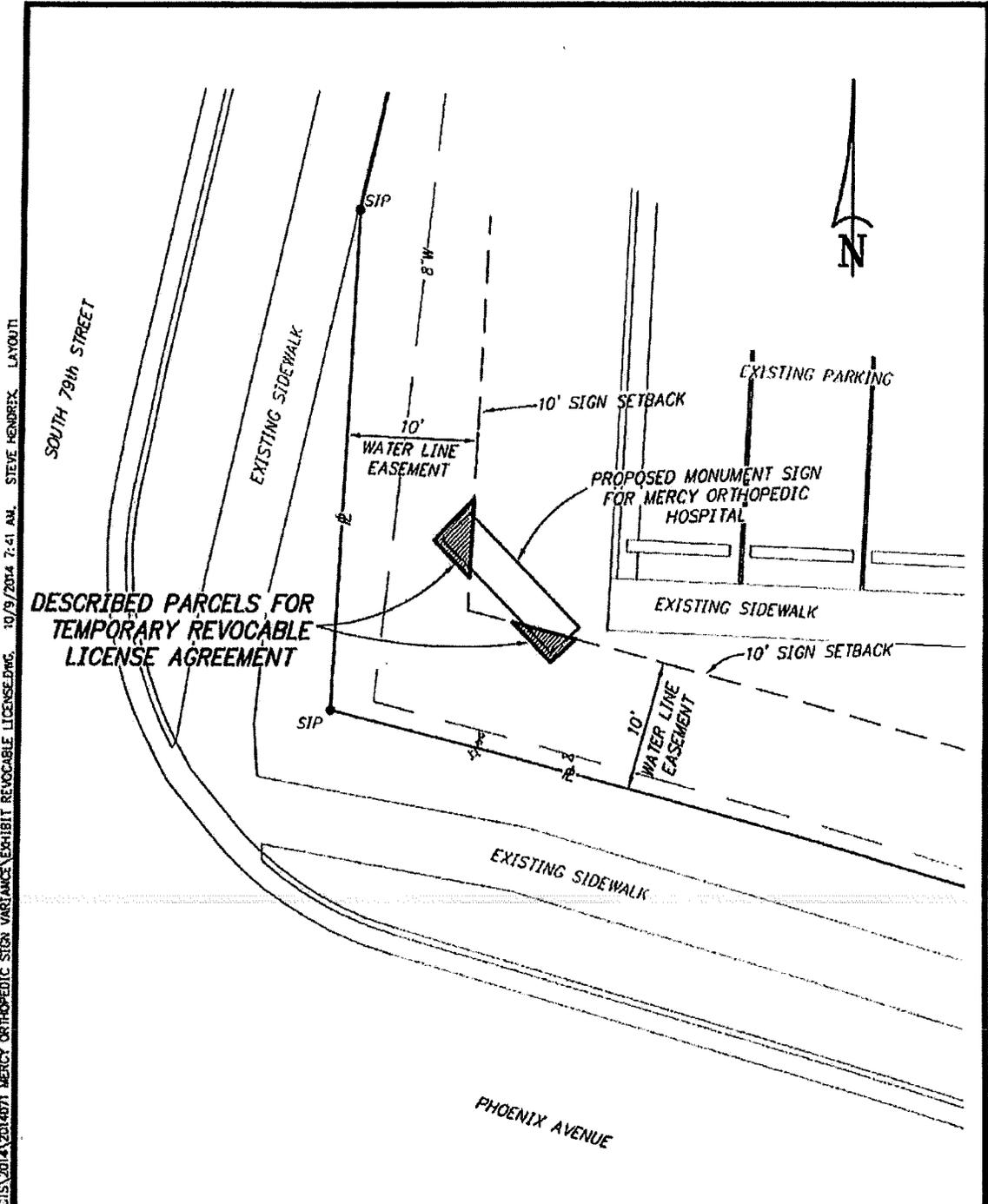
THIS RESOLUTION ADOPTED THIS 21st DAY OF October 2014.

APPROVED;


Mayor

ATTEST:


City Clerk



U:\DRAWINGS\PROJECTS\2014\2014071 MERCY ORTHOPEDIC SIGN VARIANCE\EXHIBIT REVOCABLE LICENSE.DWG. 10/9/2014 7:41 AM. STEVE HENDREX. LAYOUT

**DESCRIBED PARCELS FOR
TEMPORARY REVOCABLE
LICENSE AGREEMENT**

HW HAWKINS & WEIR
ENGINEERS, INC.

110 South 7th Street • Van Buren, Arkansas 72916 • (479) 474-1227
211 Natural Resources Drive • Little Rock, Arkansas 72205 • (501) 374-4646
www.hawkins-weir.com

FORT SMITH, ARKANSAS
SITE EXHIBIT FOR TEMPORARY REVOCABLE LICENSE
LOT A, HILLSBORO ESTATE
 FOR: MERCY ORTHOPEDIC HOSPITAL

DATE: 10/08/14 SCALE: 1" = 10' JOB NO. 2014071

RESOLUTION NO. R-148-14

**RESOLUTION AUTHORIZING A TIME EXTENSION
FOR THE CONSTRUCTION OF
DRAINAGE IMPROVEMENTS
PROJECT NO. 12-06-A**

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS, THAT:

SECTION 1: A time extension with N.E.C. Inc., Drainage Improvements, Project No. 12-06-A, which increases the contract time by 151 calendar days, is hereby approved.

This Resolution adopted this 21st day of October, 2014.

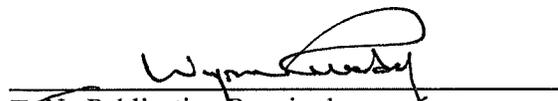
APPROVED

Mayor

ATTEST:

City Clerk

Approved as to Form


 No Publication Required
 Publish ___ Times

RESOLUTION NO. R-149-14

**A RESOLUTION ACCEPTING COMPLETION OF AND
AUTHORIZING FINAL PAYMENT FOR THE CONSTRUCTION OF
DRAINAGE IMPROVEMENTS
PROJECT NO. 12-06-A**

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS, THAT:

SECTION 1: The City of Fort Smith hereby accepts the construction of the Drainage Improvements, Project 12-06-A, as complete.

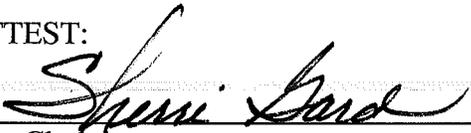
SECTION 2: Final payment is hereby authorized in the amount of \$6,449.27 to the contractor, N.E.C., Inc., for the Drainage Improvements, Project 12-06-A.

This resolution adopted this 21st day of October, 2014.

APPROVED:


Mayor

ATTEST:



City Clerk

Approved as to Form



- No Publication Required
- Publish ____ Times

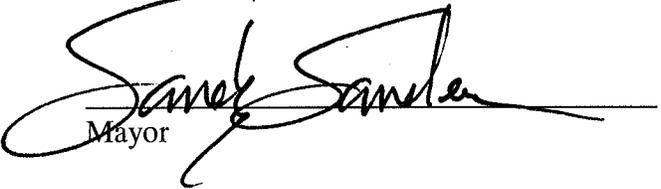
RESOLUTION AUTHORIZING CHANGE ORDER NUMBER
ONE WITH GOODWIN & GOODWIN, INC., FOR THE
MASSARD INTERCEPTOR ACCESS IMPROVEMENTS

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT
SMITH, ARKANSAS, that:

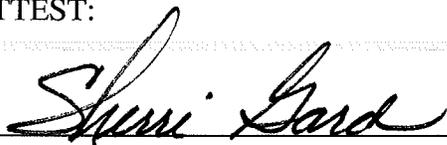
Change Order Number One in the amount of \$6,692.50 to the contract with Goodwin &
Goodwin, Inc., for the Massard Interceptor Access Improvements, Project Number 13-03-C1,
adjusting the contract amount to \$204,252.50, and adding five calendar days to the contract
completion time, is hereby approved.

This Resolution adopted this 21st day of October 2014.

APPROVED:


Mayor

ATTEST:



City Clerk

APPROVED AS TO FORM:



npr

RESOLUTION NO. R-151-14

A RESOLUTION CONFIRMING THE APPOINTMENT OF
AN INTERNAL AUDITOR FOR THE CITY OF FORT SMITH

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS, THAT:

The City Administrator's recommendation that Tracey Shockley be appointed an Internal Auditor for the City of Fort Smith, effective December 8, 2014 at an annual salary of \$ 74,600.00, is hereby confirmed.

This Resolution adopted this 21st day of October, 2014.

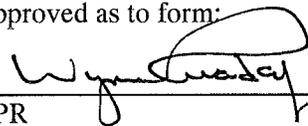

MAYOR

ATTEST:



City Clerk

Approved as to form:



NPR