

## MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ MARCH 2, 2021 ~ 6:00 P.M.

### FORT SMITH CONVENTION CENTER

The meeting was called to order by Mayor George McGill, presiding. Invocation was given by Director Jarred Rego, followed by the Pledge of Allegiance led by Director Lavon Morton.

On roll call the following members of the Board were all physically present: Directors Jarred Rego, Andre' Good, Lavon Morton, George Catsavis, Kevin Settle, Robyn Dawson, and Neal Martin. The Mayor declared a quorum present.

The Mayor 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 February 23, 2021 regular meeting was presented for approval. Settle, seconded by Good, moved approval of the minutes as written. The members all voting aye, the Mayor declared the motion carried.

Item No. 1 consisted of the following items regarding an appeal of Planning Commission approval of the Preliminary Plat of Fianna Hills Lots 1236-1243 (*Appeal of Fianna Hills Property Owners Association, Inc.*) (*Planning*):

- A. Resolution affirming the action of the Planning Commission's approval of the preliminary plat of Fianna Hills Lots 1236-1243
- B. Resolution approving an appeal of the preliminary plat of Fianna Hills Lots 1236-1243

Director of Development Services Maggie Rice briefed the Board on the item advising Mr. John Alford of Alford Law Firm, attorney for the Fianna Hills Property Owners Association, filed an appeal of the Planning Commission's approval of the above

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referenced plat of portions of the Fianna Hills golf course. On behalf of Fianna Properties, LLC, Mickle-Wagner-Coleman filed the application to plat the property. The plat complies with the applicable standards of the Unified Development Ordinance (UDO) subdivision standards and the area and bulk requirements for the RS-3 zoning district, which requires a minimum lot area of 6,500 square feet and a minimum lot width at the building line of 60 feet. The proposed creates eight (8) new lots. The Planning Commission considered the application on February 9, 2021 and approved such by a vote of seven (7) in favor and zero (0) opposed.

Director Settle reminded all that an item of like nature was recently presented to the Board, but was tabled for ninety (90) days whereby such will be presented for consideration at the May 4, 2021 regular meeting.

Settle, seconded by Martin, moved to table the subject item to the May 4, 2021 regular meeting to coincide with the immediately aforementioned. The members all voted affirmatively with the exception of Director Good, who voted “no.” The Mayor declared the motion carried.

Item No. 2 consisted of the following items regarding an appeal of Planning Commission approval of the replat of Fianna Hills, Phase III, Lots 404A, 406A, and Part of Tract 4A, Fianna Hills, Phase V, Lots 400A, 402A and part of Tract 4A, and Fianna Hills, Phase X, Lots 1025A, 1028A, 1032A and 1035A (*Appeal of Fianna Hills Property Owners Association, Inc.) (Planning)*:

- A. Resolution affirming the action of the Planning Commission's approval of the replat of Fianna Hills, Phase III, Lots 404A, 406A, and Part of Tract 4A, Fianna Hills, Phase V, Lots 400A, 402A and part of Tract 4A, and Fianna Hills, Phase X, Lots 1025A, 1028A, 1032A and 1035A

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- B. Resolution approving an appeal of the replat of Fianna Hills, Phase III, Lots 404A, 406A, and Part of Tract 4A, Fianna Hills, Phase V, Lots 400A, 402A and part of Tract 4A, and Fianna Hills, Phase X, Lots 1025A, 1028A, 1032A and 1035A

Mrs. Rice briefed the Board on the item advising Mr. John Alford of Alford Law Firm, attorney for the Fianna Hills Property Owners Association, filed an appeal of the Planning Commission's approval of the above referenced plat of portions of the Fianna Hills golf course. On behalf of Fianna Properties, LLC, Mickle-Wagner-Coleman filed the application to replat the property. The plat complies with the applicable standards of the Unified Development Ordinance (UDO) subdivision standards and the area and bulk requirements for the RS-2 zoning district, which requires a minimum lot area of 10,500 square feet and a minimum lot width at the building line of 75 feet. The UDO states that plats that increase the average size of existing subdivision lots are not defined as a minor plat. As a result, the plat had to be considered by the Planning Commission. The Planning Commission considered the application on February 9, 2021 and approved such by a vote of seven (7) in favor and zero (0) opposed.

Settle, seconded by Martin, moved to table the item to the May 4, 2021 regular meeting. The motion also included that the Planning Commission consider no additional platting requests until Board determination at the May 4, 2021 regular meeting. The members all voting affirmatively, the Mayor declared the motion carried.

Item No. 3 was an ordinance rezoning identified property and amending the zoning map (from Commercial Heavy (C-5) to a Planned Zoning District (PZD) by classification at 7308, 7310 and 7320 Rogers Avenue) (*Planning*).

Mrs. Rice briefed the Board on the item advising such is per the request of the

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property owner, Stuart Ghan. The subject property is located southwest of Rogers Avenue and South 74<sup>th</sup> Street intersection, and contains an area of 8.2 acres. The purpose of the request is to facilitate a mixed-use site with buildings consisting of multi-family dwellings above retail, service, and entertainment uses included within the PZD land use chart. The Planning Commission held a public hearing on February 9, 2021 with no individual present to speak in opposition to the proposed. The Planning Commission voted five (5) in favor, zero (0) opposed, and two (2) abstentions to recommend the matter to the Board of Directors for consideration.

Martin, seconded by Catsavis, 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 by caption for its readings. Prior to the vote, Director Settle noted the subject area currently contains a shopping center; therefore, he questioned if the existing development will be “*totally redone*”, and questioned if the request includes an option to residential dwellings above the retail/commercial uses whereby Mrs. Rice responded affirmatively to both inquiries.

Director Martin expressed much appreciation to the developer for the project citing such is “*an awesome thing for Fort Smith*”, “*going to be fantastic*”, and that he’s “*fired-up*” about the development.

Director Morton also extended much gratitude for the project citing such is an “*excellent*” development. He noted the subject area contains undeveloped property behind the existing shopping center; therefore, he requested confirmation that the proposed

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development will expand beyond the existing building footprint whereby Mrs. Rice responded affirmatively.

Mayor McGill noted the subject project confirms the confidence that developers have in investing in Fort Smith; therefore, he extended much appreciation for such.

The motion remaining on the floor and the members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 21-21.

Item No. 4 was an ordinance authorizing water and sewer bill adjustments due to historic winter weather event (*Utility*).

Director of Utility Lance McAvoy briefed the Board of the item advising that during the week of February 14, 2021, the City of Fort Smith experienced a historic winter weather event. The temperature during said week fell below 32° Fahrenheit, and for several days, the temperature never exceeded freezing. Customers experienced rolling blackouts and some experienced interruptions in natural gas supply. As a result, some customers' water pipes froze and burst or experienced post freeze leaks. In order to aid the recovery of our customers, the Utility Department recommends the Board of Directors declare an emergency situation and allow the Utility Department to provide leak adjustments to those who have experienced water leaks due to frozen pipes. Upon approval, the impacted customers will be required to provide a plumber's invoice or receipt to confirm the repair was accomplished, and the customer's bill will then be adjusted to the customer's average past six (6) months water and sewer usage volume.

Catsavis, seconded by Morton, moved adoption of the ordinance. Prior to the vote,

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Director Catsavis requested confirmation of the criteria for adjustment and the amount of adjustment. He further conveyed his desire for an adjustment be extended to all customers to address dripping water usage during the recent inclement weather event. Additionally, he questioned if the Utility Department maintains a test bench to check the accuracy of water meters, and if meters are being tested prior to installation.

For those qualifying for the proposed adjustment, Mr. McAvoy advised the utility billing will be adjusted to the customer's six (6) month average of water and sewer usage volume. He further provided the process for customers to receive said adjustment citing a receipt from their plumber must be submitted to the City, and stressed that said adjustments will only be afforded to those with broken pipes directly related to the inclement weather event. With regard to adjustments to all customers to address dripping water during the winter weather event, Utility staff is currently in the process of determining the most appropriate scientific calculation, i.e. to measure how much water would be used over a specific amount of time, to ensure the appropriate amount for said adjustment. Regarding a test bench, the Utility Department currently maintains one; however, such can only test four (4) meters at a time. Funds were included in the 2021 Budget to purchase a new test bench that retains the ability to test up to twenty-two (22) meters. Several meters are on-hand that have been tested for accuracy; however, new meters are delivered to the City with a certification that such have already been tested for accuracy. Due to further inquiries, he added that if a customer questions the accuracy of their meter, they may request the City to test their meter for accuracy. In the event the meter tests poorly, the City will replace the meter; however, in the event the meter tests accurate, the customer will be charged a testing fee by the City of Fort Smith.

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Director Good requested confirmation that an adjustment will only be extended if the broken pipe was due to and occurred during the inclement weather event. With regard to an adjustment for all users due to dripping water, he acknowledged that more information is needed; therefore, he further inquired if such is being reviewed for future consideration.

Mr. McAvoy confirmed the proposed adjustment will only be extended for customers that experienced water leaks resulting from the freezing temperatures during the subject winter weather event. With regard to customers allowing water to drip in order to prevent frozen pipes, and to ensure the adjustment amount is fair and equitable to all customers, staff is currently conducting testing to determine an accurate amount for a potential across-the-board adjustment to all customers.

Director Martin noted that a receipt for repair would be required in order to receive the proposed adjustment; therefore, he inquired about an instance where the property owner maintains the knowledge to repair the leak without necessity of a professional plumber whereby no receipt is available. Additionally, at a recent meeting whereby adjustments for water leaks was discussed, the Board was advised that State Law prohibits the City from providing free service and the City could be held liable if adjustments are extended, and that legal penalties could be imposed. Due to such, he expressed concern with the proposed adjustment and requested a brief explanation of the difference. He further urged the importance of adopting a policy to address water leaks encompassing multiple scenarios.

Mr. McAvoy advised the proposed adjustment does not address a scenario when a property owner or tenant accomplishes the leak repair themselves. With regard to legal

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implications, the proposed ordinance declares an emergency and authorizes a one-time adjustment. The matter has been reviewed by the city attorney, who has indicated the City maintains the legal authority to provide said adjustment.

Director Morton acknowledged the noted State Law prohibits a municipal utility from providing free water service to customers; however, he does not accept the premise that such prohibits the City from providing adjustments for water leaks. With regard to the proposed adjustment, he recommended non-plumber repair be included; however, no such inclusion or proposed amendment authorizing same was offered by the Board. Upon approval, he further urged the Utility Department to retain data associated with the adjustments authorized under the subject ordinance to eventually determine the total amount of adjustments extended. Regarding customer requested meter testing and prior to the test, the customer should be advised of the actual cost and that they will be responsible for said cost in the event the test indicates that the meter is reading accurately.

The motion remaining on the floor and the members all voting affirmatively, the Mayor declared the motion carried. Settle, seconded by Martin, moved adoption of Section 4 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. 22-21.

The consent agenda (Item No. 5) was presented for consideration, the items being as follows:

- A. Resolution setting a public hearing date on petition to vacate a portion of Chad Colley Boulevard located in the city of Fort Smith, Arkansas (*Planning*)

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- B. Resolution to accept the bid and authorize a contract for the Geren Road Reconstruction, Project No. 15-02-A (\$8,685,634.50 / Engineering Department / Budgeted - Sales Tax Program) ♦ Future Fort Smith Item
- C. Resolution authorizing an amendment to the engineering services agreement for the Geren Road Reconstruction (\$48,155.00 / Engineering Department / Budgeted - Sales Tax Program) ♦ Future Fort Smith Item
- D. Resolution accepting completion of and authorizing final payment for the 2020 Traffic Signal Battery Backup Equipment, Project No. 20-09-B (\$28,574.16 / Engineering Department / Budgeted - Sales Tax Program) ♦ Future Fort Smith Item
- E. Resolution authorizing the Mayor to execute Amendment No. 1 with Hawkins-Weir Engineers, Inc. to provide engineering services for the Lee Creek Water Treatment Plant Lagoon Lining (\$80,070.00 & add 100 days / Utility Department / Budgeted - 2018 Revenue Bonds) ♦ Future Fort Smith Item
- F. Ordinance declaring an exceptional situation waiving the requirements of competitive bidding and authorizing the purchase of equipment from Instrument and Supply, Inc. for Pump Station 6 Pump Replacement (\$112,565.00 / Utility Department / Budgeted - 6505 Capital Improvement fund)

Good, seconded by Rego, moved adoption of all consent agenda items. Prior to the vote and regarding Item No. 5A, Director Morton questioned the location of the proposed street right-of-way closure.

Mrs. Rice advised such consists of two (2) small “notches”, which are identified most clearly on Page 113 of the Board Packet.

With regard to Item No. 5B, Director Settle simply extended much appreciation to the Engineering Department for the project citing it’s been needed for a long time.

Regarding Item No. 5D, Director Morton conveyed gratitude to the Engineering

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Department for being proactive citing such is an “*excellent project.*” He further inquired how many more traffic signals are in need of said battery backup equipment.

Director of Engineering Stan Snodgrass advised that upon completion of the subject project, only three (3) remain, which will be included in the a signal improvement contract in 2021.

With regard to Item No. 5F, Director Morton requested a brief explanation of the following sentence included in the staff memo, “*With the Utility Department purchasing these pumps directly, a credit on the 19-29-C5 contract of approximately \$100,000.00 will be received.*”

Mr. McAvoy advised the subject amount was set aside for rehabilitation of existing pumps. The subject pumps are the original pumps from the 1960's, which the manufacturer no longer makes. Unfortunately both have failed; therefore, the City opted to replace the pumps, and purchase directly adding if the pumps were purchased via the contractor, a sizeable markup is assessed. Regardless, he clarified that since the City is purchasing new pumps, the \$100,000 earmarked for rehabilitation will no longer be necessary.

The following individual was present to address the Board:

- Krista Kitchens  
Fort Smith, Arkansas

Re: Alleged that pump station is not appropriately labeled on the City’s GIS website, and inquired of the location of Pump Station No. 6.

Mr. McAvoy advised such is located on Riverfront Drive, in the wooded area up from Fort Smith Park. He further confirmed the subject pump station is appropriately identified on the GIS website as “PS6.”

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The motion remaining on the floor to adopt all consent agenda items and the members all voting affirmatively, the Mayor declared the motion carried and the resolutions and ordinance were adopted with the resolutions given Resolutions No. R-32-21 through R-36-21 respectively, and the ordinance given Ordinance No. 23-21.

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

- Mayor McGill

- Re: 1. Advised the COVID-19 vaccination event on March 3 at the Convention Center was “*successful*” citing 500 vaccines were anticipated to be administered; however, 530 were given. Like events are anticipated to be scheduled again in the future.
2. Regarding the ongoing COVID-19 pandemic, he again urged all to continue to be mindful of its existence and take all necessary precautions.

- Director Morton

- Re: 1. Extended congratulations to his former employer, ArcBest Corporation, for the following recognitions citing they’re a “*great company with great leadership*”:
- ▶ January 2021 - “*2020 Best Employer for Diversity*” by Forbes Magazine, ranking No. 340 in the United States.
  - ▶ January 2021 - “*One of the Best Places to Work in the State Arkansas among Large Employers*”, ranking No. 2. Entergy received the No. 1 ranking.
  - ▶ ArcBest CEO Judy McReynolds was also named as “*One of the Influencers of the Year*” in the 2021 Arkansas Money and Politics Magazine.

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- Director Dawson

Re: Advised she's spoke with residents of Cisterna Villa at Fort Chaffee, who addressed the Board at the February 2, 2021 Town Hall Meeting regarding concerns associated with the widening of Massard Road. Due to such, she requested an item be placed on a future study session in April to discuss the matter. Catsavis concurred with the request. Placement of items on a future agenda requires the concurrence of two (2) directors; therefore, the Mayor announced the item will be placed on a future agenda as requested.

- Administrator Geffken

Re: Regarding the aforementioned COVID-19 vaccination event, he extended appreciation to Mayor's Assistant Jurena Storm for her involvement and oversight, and announced the City will host another like event on May 5, 2021.

Mayor McGill added that a liaison from the Arkansas Department of Health was present at the event, and commented such was the *"best he's ever seen"* citing most usually have only three (3) to four (4) stations; however, the City of Fort Smith had ten (10) stations. The Mayor additionally noted he was very pleased with overall event citing the *"community was amazing"* recognizing all the volunteers. He further extended much appreciation to Mr. Jeff Fenwick, who led the medical personnel, i.e. nursing students from the University of Arkansas Fort Smith, medical students from the College of Osteopathic Medicine, etc.

Director Morton advised he spoke with a person that attended the vaccination event, who commented the City had *"gotten really good at it"* due to having so many events. He clarified such was the City's first event whereby the individual was *"absolutely amazed"* that the event ran so smoothly. Due to such, he further extended appreciation to Mrs. Storm for her efforts. He further encouraged all to contact pharmacies and hospitals to make an appointment to get vaccinated.

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There being no further business to come before the Board, Morton moved that the meeting adjourn. The motion was seconded by Martin, and the members all voting aye, the Mayor declared the motion carried and the meeting stood adjourned at 6:41 p.m.

**APPROVED:**

  
MAYOR

**ATTEST:**

  
CITY CLERK