

MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ MAY 18, 2021 ~ 6:00 P.M.

FORT SMITH CONVENTION CENTER

The meeting was called to order by Vice-Mayor Jarred Rego, presiding. Invocation was given by Director Neal Martin, 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 Vice-Mayor declared a quorum present.

The Vice-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 May 11, 2021 regular meeting was presented for approval. Good, seconded by Dawson, moved approval of the minutes as written. The members all voting aye, the Vice-Mayor declared the motion carried.

Item No. 1 was presentation of a Proclamation for Public Works Week (May 16 - 22, 2021).

Deputy City Administrator Jeff Dingman recognized and presented proclamations to the below noted City of Fort Smith Public Works Department Directors:

DEPARTMENT	DIRECTOR	REPRESENTING EMPLOYEES
Utility	Lance McAvoy	322
Streets and Traffic Control	Matt Meeker	75
Parks and Recreation	Doug Reinert	41
Transit	Ken Savage	34
Engineering	Stan Snodgrass	19
Solid Waste Services	Jeff Dingman, acting	93

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Vice-Mayor Rego announced that this was the time and place set for a public hearing regarding the Five Year Consolidated Plan for Program Years 2021-2025, the Year 47 Community Development Block Grant Budget, the Year 28 Home Investment Partnership Act Program Budget, submission of the Five Year Consolidated Plan for Program Years 2021-2025, and the 2021 Annual Action Plan (CDBG) ♦ *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 (Item No. 2).

Note: Morton and Settle originally placed this item on May 4, 2021 agenda at the March 30, 2021 study session; however, the matter was moved to the May 18, 2021 agenda by unanimous consent of the Board on May 4, 2021. (The May 4, 2021 regular meeting was canceled and rescheduled due to no electricity at the meeting location.)

Director of Community Development Matt Jennings briefed the Board on the item as discussed at the May 30, 2021 study session. The required thirty (30) day review and comment period expired on April 12, 2021, and no additional written comments were submitted. The Community Development Advisory Committee reviewed the recommendations on April 15, 2021 and recommended such to the Board of Directors for consideration. Upon completion of the public hearing and approval of the proposed resolution, as required by law, the City of Fort Smith will submit same to the U.S. Department of Housing and Urban Development.

There being no individual present to speak, Vice-Mayor Rego closed the public hearing.

Morton, seconded by Dawson, moved to adopt the resolution. Prior to the vote,

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Director Martin noted discussion at the recently held Strategic Workshop whereby the Board's desire was conveyed that all homeless services be located and provided at Hope Campus. The challenge is that some homeless services have opted to not relocate and have instead preferred to remain in the downtown area. The downtown area is now an Entertainment District; therefore, the City desires such be utilized as such on a more consistent basis with reduced existence of vagrancy and homeless individuals. He expressed concern that discussions regarding relocation of The Next Step Day Room were initiated many years ago; however, it's his understanding that such have been and continue to be unproductive since no resolution has been accomplished to date.

Martin, seconded by Settle, moved to amend the proposed funding recommendations to remove all funding from The Next Step Day Room until negotiations are re-initiated and completed via the organizations relocation to Hope Campus. Prior to the vote, Director Dawson expressed concern with the amount of funding for administration of the subject programs citing such "*seems like a lot*" and that the City is currently utilizing the maximum limit of twenty-percent (20%) for said costs. She further noted that United Way does not expend said percentage for their administrative costs citing they "*have a lot of reporting.*" Due to such, she requested an explanation of said costs.

Mr. Jennings defended the funding recommendation for administration of the programs citing federal regulations require a lot of reporting, and the City's Community Development Department accomplishes such with only three (3) full-time employees. The subject funding not only covers the employee costs, but such also includes all operating expenses for the department as well. With regard to the United Way, said agency is not

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federally regulated; therefore, the administrative costs associated with the reporting requirement is not comparable to that of the Community Development Department.

Director Catsavis questioned if a representative from The Next Step Day Room was present, and if so, requested same address the Board of Directors to advise how the proposed funding cut would impact the organization.

Ms. Sharon Chapman, Executive Director of The Next Step Day Room, addressed the Board as requested citing the organization is willing and actively pursuing another location outside of the downtown area. As soon as an adequate facility is selected, The Next Step Day Room will relocate its services. With regard to the proposed funding removal, she advised said funding is utilized to provide transitional housing citing the organization provided said housing for fifty (50) people in 2020. Additionally, with regard to case management / administrative costs, she urged such be retained advising such is an asset to all agencies specifically denoting the City assisted just her agency with one-hundred-sixty-five (165) cases in 2020.

Director Morton spoke in opposition to the proposed amendment to remove funding from The Next Step Day Room and urged the importance of working collaboratively with all agencies, specifically those that provide homeless services. He further requested confirmation that no City money is utilized to operate the Community Development Department whereby Mr. Jennings responded affirmatively.

City Administrator Carl Geffken confirmed that initial conversations with representatives of The Next Step Day Room were contentious; however, he noted that such is not abnormal due to the nature of the matters citing communications with the subject agency is *"better now."*

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Director Settle requested confirmation that funding is considered annually and that such will again be presented for consideration in 2022 whereby Mr. Jennings responded affirmatively. Due to such, Director Settle withdrew his second to the motion to amend the funding recommendations.

Due to the comments of Ms. Chapman that relocation is being actively pursued and the immediately aforementioned confirmation that funding will again be considered in 2022, Director Martin withdrew his motion to amend the funding recommendations to remove all funding to The Next Step Day Room.

Director Good extended much appreciation to Mr. Jennings citing he does “*a great job*” and that all need to remember the Community Development Department works with all agencies. He further stressed the importance of the department’s expertise and responsibilities to keep track with ever-changing federal regulations.

Director Dawson again submitted multiple inquires regarding the plan, affordable housing, and notification of funding and service availability.

Mr. Jennings responded to each inquiry and clarified with the Community Development Department publicizes funding availability; however, it also works closely with other agencies, churches, and homeless liaisons at various schools.

At approximately 6:40 p.m., Director Settle called the question to end debate on the matter citing there are many other items on the agenda.

Director Dawson advised she had additional questions; however, she would refrain in order to accommodate Director Settle, who then withdrew his motion to call the question.

The main motion remaining on the floor and the members all voting affirmatively,

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the Vice-Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-65-21.

Items No. 3, 4, and 5 related to the same issue; therefore and although each requires separate consideration, each item was presented and briefed collectively. The items being as follows:

3. Items regarding appeal of Planning Commission approval of the replat Plat, Fianna Hills, Phase III, Lots 409A, 411A, 412A and Tract 4A (*Appeal of Fianna Hills Property Owners Association, Inc.*) ~ *Tabled for 90 days (May 4, 2021 RM) at the February 2, 2021 regular meeting / Moved to May 18, 2021 agenda by unanimous consent of the Board on May 4, 2021 ~ (Planning):*
 - A. Resolution affirming the action of the Planning Commission's approval of the replat of Fianna Hills, Phase III, Lots 409A, 411A, 412A and Tract 4A
 - B. Resolution approving an appeal of the replat, Fianna Hills, Phase III, Lots 409A, 411A, 412A and Tract 4A
4. Items regarding appeal of Planning Commission approval of the preliminary Plat of Fianna Hills Lots 1236-1243 (*Appeal of Fianna Hills Property Owners Association, Inc.*) ~ *Tabled to the May 4, 2021 regular meeting at the March 2, 2021 regular meeting / Moved to May 18, 2021 agenda by unanimous consent of the Board on May 4, 2021 ~ (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
5. Items regarding 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,

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1032A and 1035A (*Appeal of Fianna Hills Property Owners Association, Inc.*) ~ Tabled to the May 4, 2021 regular meeting at the March 2, 2021 regular meeting / Moved to May 18, 2021 agenda by unanimous consent of the Board on May 4, 2021 ~ (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
- 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

Director of Development Services Maggie Rice briefed the Board on the items as previously discussed at the February 2 and March 2, 2021 regular meetings. In summary, the Planning Commission considered the subject preliminary plat (Item No. 4) and replats (Items No. 3 and 5) whereby the Planning Commission unanimously approved each. The Fianna Hills Property Owners Association (POA) filed appeals with the City Clerk's Office within the required time-frames. The appeals were presented to the Board whereby each were ultimately tabled to the May 4, 2021 regular meeting to allow negotiations to commence between the owner and the POA for potential purchase of the property. Due to severe storms and tornados on May 3, 2021, the regular meeting location maintained no electricity; therefore, the May 4, 2021 regular meeting was canceled and rescheduled with the subject items moved to the May 18, 2021 regular meeting for Board consideration.

The following individuals were present to address the Board, which the Board

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concurred to allow “*not to exceed five (5) minutes*” to each individual signed-in to address the Board:

- Bennie Westphal
Fort Smith, Arkansas

Re: Spoke in favor of Items No. 3A, 4A, and 5A citing a golf course is simply not a viable option for the property, and it’s “*not fair*” to hold up the property owner on seeking other avenues for the property. He further suggested the City of Fort Smith take over the property.

- David Mille
Fort Smith, Arkansas

Re: Also spoke in favor of Items No. 3A, 4A, and 5A advising he’s exhausted all means to prevent uses that would be displeasing to the surrounding property owners; however, the golf course is “*not making money*” and he simply cannot continue to expend numerous dollars to maintain the property. His desire is not to hurt property values of surrounding properties citing he’s a resident in the area as well, but he’s hopeful the proposed will help increase value and prevent the property from being developed with a usage that would create a detrimental impact. It was suggested the subject property be utilized as a walking trail; however, he alleged the surrounding owners conveyed disagreement with said use. He further encouraged the club house be refurbished and opened as a community center. Regardless, he urged the Board to uphold the Planning Commission’s approval of the items that will allow the subject lots to be sold to adjoining property owners.

- Danny Aldridge, representing the POA
Fort Smith, Arkansas

Re: Provided an update regarding discussions associated with the potential purchase of the property with the intent to retain the property as a golf course. A business plan was created, which indicated a profit could be

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made; however, such was based on the originally accepted sale price. Upon presentation of such, he alleged that Mr. Mille advised the original sale price was no longer valid extending a higher sale price whereby the POA maintained no option, but to reject such. Much concern was expressed that several property owners have sold their parcels for an amount less than their original purchase price citing the remaining property owners desire is to stabilize property values adding the original purchases were based on the promise that the subject property would continue to be a golf course. He further expressed concern that pesticides were utilized on the property; therefore, he recommended the Board deny the Planning Commission's approval at least until an environmental assessment can be conducted.

- John Alford, attorney representing the POA
Fort Smith, Arkansas

Re: Reiterated some of the comments of Mr. Aldridge regarding decreased property values adding that studies have shown when a golf course closes, surrounding property values decrease by approximately twenty to twenty-five percent (20% to 25%). The property owners purchased said parcels based on the existence of the golf course and he further alleged the golf course should be retained citing it's not the role of the governing body to "*rescue a business owner*" when a business experiences financial difficulty. He urged the Board to allow additional time for surrounding property owners to conduct a meeting to determine the best course of action. He further advised that a lawsuit was originally filed in Circuit Court regarding the matter; however, the POA voluntarily dismissed said lawsuit.

Lee Kemp, resident of Fianna Hills
Fort Smith, Arkansas

Re: Simply advised he served as the Vice-President of the POA; however, he resigned said position due to potential litigation, which he maintained no desire to be associated with. Regardless, he's hopeful a compromised resolution can be achieved for all parties.

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- Randy Coleman, Mickle-Wagner-Coleman
Fort Smith, Arkansas

Re: Merely advised his firm prepared the subject plats and was available to answer any questions.

- Jack Davidson, resident of Fianna Hills
Fort Smith, Arkansas

Re: Advised he initially maintained no affiliation with the POA; however, he donated \$2,000 to the POA to assist in their attempt to obtain investors to “*save the golf course.*” He alleged that he, as well as other neighbors, were under the impression that they had to maintain a membership to the Fianna Hills Country Club in order to utilize the amenities, i.e. golf course, club house, etc. citing had they known, they would’ve be patrons of the facility, which would’ve assisted in its financial stability. Regardless, if a golf course if not an option, he recommended the club house be transitioned and utilized as a police sub-station, which would increase police presence and ensure consistence patrol of the area.

- Dalton Person, attorney representing the owner, Mr. Mille
Fort Smith, Arkansas

Re: Also provided an update since the matters were initially tabled. A couple, who maintained the means to purchase the property, conveyed interest in doing so and retaining such as a golf course; however, they expressed concern with the financial viability of doing so and eventually opted not to purchase the property. Two (2) real estate developers also conveyed interest; however, they too opted not to pursue citing such was not economically feasible. Despite the good faith efforts of the owner, Mr. Mille, there remains no offer to purchase the property or a plan to develop same. Mr. Mille has continued to incur the expense of maintaining the property and has completed every City requirement to approve the proposed measures, i.e Planning Commission approval, which was based on requirements of the City of Fort Smith Unified

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Development Ordinance (UDO). The UDO indicates that when all requirements are met, the Board “*shall*” approve the matter; therefore, he urged approval of Items No. 3A, 4A, and 5A, and encouraged the City to not stand in the way of the landowner’s desire to sell the subject lots. He further noted that they currently maintain an additional 140 contracts of sale for other lots.

Settle, seconded by Martin, moved adoption of Item No. 3B. Prior to the vote, there was very lengthy discussion from 6:42 p.m. to 7:52 p.m. with Directors Morton, Catsavis, and Good conveying multiple comments and questions regarding the matters whereby several of the individuals previously addressing the Board were called back to the podium for further inquiry.

At approximately 7:30 p.m., Good, seconded by Morton, called the question to end debate on the items. The members voted as follows: ayes - Good, Morton, Catsavis, and Dawson; nays - Rego, Settle, and Martin. The Vice-Mayor declared the motion defeated as such requires five (5) affirmative votes.

Upon defeat of the above, Directors Martin, Settle, and Good then offered additional comments and extended further inquires to Mr. Person and Mr. Mille, who again urged approval of Items No. 3A, 4A, and 5A citing the UDO requires Board approval since all requirements of the UDO had been met.

The motion remaining on the floor to adopt Item No. 3B, the members voted as follows: ayes - Settle and Martin; nays - Rego, Good, Morton, and Catsavis; abstention - Dawson. The Vice-Mayor declared the motion defeated.

Good, seconded by Morton, moved adoption of Item No. 3A. The members voted

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as follows: ayes - Rego, Good, Morton, and Catsavis; nays - Settle and Martin; abstention - Dawson. The Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-66-21.

Morton, seconded by Catsavis, moved adoption of Item No. 4A. There being no director commenting, the members voted as follows: ayes - Rego, Good, Morton, and Catsavis; nays - Settle and Martin; abstention - Dawson. The Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-67-21.

Good, seconded by Morton, moved adoption of Item No. 5A. There being no director commenting, the members voted as follows: ayes - Rego, Good, Morton, and Catsavis; nays - Settle and Martin; abstention - Dawson. The Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-68-21.

At approximately 7:55 p.m., the Board took a brief recess and reconvened at 8:06 p.m.

Item No. 6 consisted of items regarding annexation of property (*petition of Owens Corning Composite Materials, LLC; FM Ft. Smith, LLC; and Stephens Production Company*) (*Planning*):

- A. Resolution approving a pre-annexation agreement with Owens Corning Composite Materials, LLC; FM Ft. Smith, LLC; and Stephens Land Holdings, LLC
- B. Ordinance accepting certain territory into the city of Fort Smith, Arkansas

Mrs. Rice briefed the Board on the items advising Owens Corning Composite Materials, LLC; FM Ft. Smith, LLC; and Stephens Land Holdings, LLC have requested the

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City of Fort Smith consider annexation of property located south of Planters Road and east of Arkansas Highway 45, which contains approximately 111.16 acres. In accordance with Arkansas law, two (2) Petitions for Annexation were filed with Sebastian County whereby each were reviewed by the County Clerk and County Assessor. The County Judge issued County Court Order No. 2021-0071 and County Court Order 2021-0085 recommending the petitions be forwarded to the City of Fort Smith for consideration. The next step in the annexation process is for the Board to consider the annexation request. City staff has reviewed the proposed annexation and recommend the annexation contingent upon the approval of a pre-annexation agreement. During the staff review, there were three (3) items identified to be included in a pre-annexation agreement, which are provided as follows:

1. Only a portion of the property requesting annexation, i.e. Lots 1 and 2, Little Massard Creek and Lots 3C and 3D, Industrial Park South No. 5 Tract 3, are requesting a Master Land Use Plan map amendment and zoning map amendment. Please note that annexations should be accompanied by a Master Land Use Plan map amendment, as well as a zoning map amendment; however, per Section 27-105(A) of the Fort Smith Municipal Code, the Board maintains the authority to waive the requirement when the future use of the property can be agreed upon in a pre-annexation agreement. Paragraph 3 of the agreement addresses said issue; therefore, no Master Land Use Plan or zoning amendment is requested at this time.
2. Future construction of Excelsior Drive and the widening of Arkansas Highway 45. Within the agreement, the applicants agree to dedicate, at no cost to the City, the necessary rights-of-way and easements for future improvements. The City acknowledges the applicants have no obligation to construct the street.
3. Construction of a water line to run parallel along Excelsior Drive. Within the agreement, the applicants agree to dedicate, at no cost to the City the necessary easements for future improvements.

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Item No. 3A approves the pre-annexation agreement containing the above noted waiver for immediate Master Land Use Plan and zoning classifications, and acknowledgment of above noted street and water line construction. Since the aforementioned court filings, Stephens Production Company has legally changed their name to Stephens Land Holdings, LLC. Due to such, the pre-annexation agreement originally provided maintains the original name; therefore, said agreement as been revised to accommodate same.

The following individuals were present to address the Board:

- Dalton Person, attorney for petitioners
Fort Smith, Arkansas

Re: Spoke in favor of the item citing although he represents the petitioners, as a citizen and resident of Fort Smith, he conveyed much excitement for the forthcoming project. He noted the project involved many stakeholders; however, such was ultimately a voluntary decision of the company to invest in the community. The project is a \$130 million financial investment that will create eighty (80) new jobs.

- Ed Ford, Owens Corning Plant Leader
Fort Smith, Arkansas

Re: Advised the company, who has been in Fort Smith since 1985, is "*thrilled*" to be staying in Fort Smith! He noted the company started a search for potential relocation several years ago. Such prompted a nationwide search for other locations citing such was "*very competitive*"; however and ultimately, Fort Smith's incentives prompted the company to stay in the area. In order to convey the company's commitment to Fort Smith, he clarified the proposed annexation is voluntary.

Martin, seconded by Settle, moved adoption of Item No. 6A with acknowledgment

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of the revised pre-annexation agreement. Prior to the vote, Directors Martin, Dawson, and Settle submitted inquires regarding clarifications of location, zoning, etc. whereby Mrs. Rice responded accordingly.

Director Catsavis questioned if said annexation will put a strain on police and fire services.

Administrator Geffken conveyed much assurance that such will not citing the Fort Smith Fire Department already provides fire protection via a contract. Upon approval, the contract will “go away.”

Several directors extended much appreciation to Owens Corning for its commitment to Fort Smith, with much assurance that said commitment was due to Mr. Ford’s leadership.

The motion remaining on the floor and the members all voting affirmatively, the Vice-Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-69-21.

Settle, seconded by Martin, moved adoption of Item No. 6B. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance by caption for its readings. There being no director commenting and the members all voting affirmatively, the Vice-Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 46-21.

Item No. 7 consisted of items regarding auditing services (*Finance*):

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- A. Resolution authorizing the City Administrator to execute Amendment No. 1 with BKD, LLP for the purpose of providing additional compensation for the audit of the City's 2019 financial statements
- B. Ordinance amending the 2021 Budget and authorizing the appropriation of funds from the available General Fund balance to fund all appropriate costs related to the 2019 Audit
- C. Resolution adopting annual audit requirements, retaining BKD, LLP as external auditors and authorizing the Mayor to execute a contract with BKD, LLP for the purpose of auditing the City's 2020 financial statements

Director of Finance Andy Richards briefed the Board on the items advising Item No. 7A authorizes an amendment to the contract with BKD to address additional services required for the 2019 audit, which were due to issues experienced with implementation of the new Enterprise Resource Planning (ERP) system. As a result, BKD incurred significantly more time to perform the subject audit, which created an additional \$60,000 in audit costs. Item No. 7B authorizes an appropriation for the aforementioned amount, along with an additional \$144,500 to accommodate payment for audit of the 2020 financial statements that will be incurred in 2021. Item No. 7C adopts the City's annual audit requirements and authorizes a contract with BKD, LLP to perform the audit for the year ended December 31, 2020. The total cost is estimated to be \$260,000.

Morton, seconded by Martin, moved adoption of Items No. 7A, 7B, and 7C. Prior to the vote, Director Morton requested clarification of the \$144,500 whereby Mr. Richards advised such is merely to accommodate for the timing of invoice payment.

Director Settle questioned why the City stays with BKD.

Mr. Richard advised their experience with governmental accounting and expertise

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in municipal auditing is the main reason; however, he conveyed no objection to considering another auditing firm in the future.

Director Morton concurred with the comments of Mr. Richards regarding considering another auditing firm in the future; however, he cautioned that bond rating agencies “*do not like it when you change auditors*” citing such creates suspicion that there’s a problem.

The motion remaining on the floor and the members all voting affirmatively, the Vice-Mayor declared the motion carried and the ordinance and resolutions were adopted with the ordinance given Ordinance No. 40-21 and the resolutions given Resolution No. R-70-21 and R-71-21 respectively.

Item No. 8 was a resolution authorizing the Mayor to execute Amendment No. 1 to the engineering agreement with Hawkins-Weir Engineers, Inc. for providing engineering design services to accommodate the transition to submersible pumps at Wastewater Pump Station No. 6 (*\$53,580.00 & add 75 days / Utility Department / Budgeted - 2018 Revenue Bonds*) ♦ *Future Fort Smith Item* • *Consent Decree Item*

Director of Utility Lance McAvoy briefed the Board on the item advising that on January 26, 2021, the City Administrator signed an engineering agreement with Hawkins Weir Engineering, Inc. to design improvements to improve the wet well hydraulics and reroute piping at Pump Station No. 6. The Utility Department subsequently approached the Board to have funds added to the budget to purchase new pumps rather than repair the old outdated pumps. The funds were approved by the Board of Directors per Ordinance No. 37-21. The new pumps required additional design work due to the size and weight of the pumps and the need to provide for a new roof with lift hatches for pump removal and

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installation. Upon approval, such authorizes Amendment No. 1 to accommodate an additional cost of \$53,580.00 and add seventy-five (75) days to the original agreement.

Settle, seconded by Morton, moved adoption of the resolution. There being no director comment and the members all voting affirmatively, the Vice-Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-72-21.

Item No. 9 was an ordinance declaring an exceptional situation, waiving the requirements of competitive bidding, and authorizing the purchase of equipment from Instrument and Supply, Inc. for return activated sludge pump (\$34,008.24 / *Utility Department / Budgeted - Utility Department Operating Fund*) ♦ *Future Fort Smith Item* • *Consent Decree Item*

Mr. McAvoy briefed the Board on the item advising the one of the requirements of the Consent Decree is that the “P” Street Wastewater Treatment Plant utilizes four (4) Fairbanks Morse RAS pumps that are located in the blower building, and are critical as they pump the activated sludge collected in the secondary clarifiers back into the treatment process. This overall recycling of sludge is needed for biological and nutrient removal. Pursuant to the Consent Decree, pumps and items deemed critical for continued compliance operations require a spare to be available (on the shelf) to shorten the amount of time needed to bring the treatment system back online. Due to the age and working environment of these pumps, it is time to purchase a new spare pump to ensure compliance with the Plant's permit limits and the Consent Decree. Utilizing a direct replacement Fairbanks Morse pump (same type and model as the existing pumps) will enable easy installation and operation without any piping / electrical modification. New

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rotating assembly will be procured while using existing connections and parts. Such also allows for consistent and continuous operation of the pumps without requiring additional cost for parts that would be specific to just one pump. As this is a direct replacement, staff contacted the Fairbanks Morse dealer for the State of Arkansas and thus is a single source item; therefore, upon approval, the proposed authorizes the waiving of competitive bidding to purchase the item.

Settle, seconded by Martin, moved adoption of the ordinance. Prior to the vote, Director Settle questioned the size of the motor and if such is clockwise or counter-clockwise.

Mr. McAvoy advised he will obtain the actual size; however, he confirmed such is “*clockwise.*”

Director Martin noted that such is a requirement of the Consent Decree; however, he questioned if such should be standard to have a backup on-hand whereby Mr. McAvoy responded affirmatively.

The motion remaining on the floor and the members all voting affirmatively, the Vice-Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 48-21.

Item No. 10 was an ordinance declaring an exceptional situation, waiving the requirements of competitive bidding, and authorizing the purchase of equipment from Jack Tyler Engineering, Inc. for a blower for the Massard Wastewater Treatment Plant (*\$45,070.50 / Utility Department / Budgeted - Utility Department Operating Fund*) ♦*Future Fort Smith Item* • *Consent Decree Item*

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Mr. McAvoy briefed the Board on the item advising the Massard Treatment Plant currently has three (3) blowers in operation. The blowers provide air for biological and nutrient removal. In the event of one or more blowers are not in service, there is an increased risk of plant not meeting permit limits. Pursuant to the Consent Decree, blowers and items deemed critical for continued compliance operations require a spare to be available (on the shelf) to shorten the amount of time needed to bring the treatment system back online. Due to the age and working environment of the blowers, as well as the repair time should a blower need to be sent off for repair, it is time to purchase a new spare blower to ensure compliance with the Plant's permit limits and the Consent Decree. To reduce overall cost, staff looked for a blower that has the capacity needed and would allow the existing blower base, controls, motor etc. to be reused. The Hoffman Model 73208-ADGI-Bare blower, is the only one that meets all of the criteria. As this is the only blower that meets the criteria, staff contacted the Hoffman dealer for the State of Arkansas and this is a single source item; therefore, upon approval, the proposed authorizes the waiving of competitive bidding to purchase the item.

Settle, seconded by Good, moved adoption of the ordinance. Prior to the vote, Director Martin again questioned if such should be standard protocol to have a backup on hand whereby Mr. McAvoy responded affirmatively.

Director Settle questioned if the proposed is a high-efficiency item whereby Mr. McAvoy responded affirmatively.

The motion remaining on the floor and the members all voting affirmatively, the Vice-Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 49-21.

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The consent agenda (Item No. 11) was presented for consideration, the items being as follows:

- A. Resolution authorizing the Mayor to execute an easement with Oklahoma Gas & Electric Company for the water meter test bench facility modification (*Utility*) ♦ *Future Fort Smith Item*
- B. Resolution authorizing the purchase of a water meter test bench and authorizing the Mayor to execute a contract with the MARS Company for the software license and maintenance, calibration, and certification of the water meter test bench (\$225,469.31 / *Utility Department / Budgeted - Utility Department Operating Fund*) ♦ *Future Fort Smith Item*
- C. Resolution accepting the bid of and authorizing the Mayor to execute a contract with Crawford Construction Company for the Lake Fort Smith east filter media building replacement (\$931,000.00 / *Utility Department / Budgeted - 6505 Capital Improvement Fund*) ♦ *Future Fort Smith Item*
- D. Resolution authorizing the execution of a non-residential solid waste collection and disposal permit and agreement with Altes Sanitation Service, LLC (*Solid Waste Services*)
- E. Resolution authorizing the execution of a non-residential solid waste collection and disposal permit and agreement with Waste Management of Arkansas, Inc. (*Solid Waste Services*)
- F. Ordinance declaring an exceptional situation and waiving the requirements of competitive bidding for the purchase of Axon Enterprise, Inc. body worn cameras, interview room video system and licensing services for the Fort Smith Police Department (\$287,816.58 - 2021 through 2023 / *Police Department / Budgeted - Support Services Capital Outlay-Other Equipment*)
- G. Ordinance declaring an exceptional situation, waiving the requirements of competitive bidding, and authorizing purchase of pipe for the 36" transmission line replacement (\$250,000.00 / *Utility Department / Budgeted - 2018 Revenue Bonds*)

Martin, seconded by Settle, moved adoption of all consent agenda items. Prior to

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the vote and regarding Item No. 11C, Director Morton expressed concern that there was only one (1) attendee at pre-bid and only one (1) bidder.

Administrator Geffken advised the matter was publicized in the normal manner, as well as publication in both the Democrat-Gazette and Tulsa World newspapers whereby Director Morton simply stating “*we still need to talk about it.*”

With regard to Item No. 11F, Director Martin inquired if there are any officers that do not have a body cam and requested a brief explanation of when said body cams are turned on.

Police Chief Danny Baker confirmed that all patrol officers have body cams; however, he noted that detectives do not. Upon approval of the proposed, such will provide body cams for all sworn officers. He further provided the explanation that officers must manually turn the body cams on and off citing an internal policy clearly identifies when such must be accomplished.

Regarding Item No. 11G, Director Morton inquired if any of the damage is covered by insurance. He further questioned if such was budgeted, and if not, he questioned if a budget amendment is necessary.

Mr. McAvoy advised no damage was covered by insurance. The purchase was not budgeted; however, revenue bond funds are being utilized whereby no budget amendment is necessary.

At the request of Director Morton, Director of Finance Andy Richards advised that since such is not a capital purchase and the Utility Department is utilizing operating funds, he confirmed that no budget amendment is necessary.

May 18, 2021 Regular Meeting

The motion remaining on the floor and the members all voting affirmatively, the Vice-Mayor declared the motion carried and the ordinances and resolutions were adopted with the ordinances given Ordinance No. 50-21 and 51-21 respectively, and the resolution given Resolution No. R-73-21 through R-77-21 respectively.

Citing the late hour (approximately 8:40 p.m.), Director Settle moved to table the executive session to consider appointments to the Electric Code Board of Appeal (1), Housing Authority (1), and Water and Sanitary Sewer Utilities Advisory Committee (2) to the June 1, 2021 regular meeting. The motion was seconded by Dawson. The members all voting affirmatively, the Vice-Mayor declared the motion carried.

Vice-Mayor Rego opened the Officials Forum with the following comments offered:

▶ Vice-Mayor Rego

Re: Extended congratulations to Internal Auditor Tracey Shockley upon being appointed as an Officer on the Board for Central Arkansas Institute of Internal Auditors, as well as its certification committee.

▶ Director Lavon Morton

Re: Requested an update and status of amendments to the Consent Decree be scheduled for a future study session, with the City's attorneys Jerry Canfield and Paul Calamita present to address the Board. He further requested that citizen comment be permitted at said study session as well.

Director Settle concurred with the request and suggested that a Town Hall meeting be scheduled to allow citizen participation, possibly on a couple Saturdays, whereby Director Morton conveyed no objection.

May 18, 2021 Regular Meeting

▶ Director Good

- Re: 1. Reminded all of the upcoming Ward 2 Neighborhood Meeting, which is scheduled for 6:00 p.m., Thursday, May 20, 2021 at the Blue Lion, 101 North 2nd Street.
2. Reminded all of the 64.6 Downtown's concert series and encouraged all to attend.

▶ Director Martin

Re: Regarding the residents from Cisterna Villa request for a wall, he urged potential for a short-term resolutions such as placement of signs directing truck to not travel on Massard Road or, what he feels is the best option, increased police presence in the area. He further noted the City should make contact with the developer of the subdivision to address the concerns of the residents.

There being no further business to come before the Board, Settle moved that the meeting adjourn. The motion was seconded by Martin, and the members all voting aye, the Vice-Mayor declared the motion carried and the meeting stood adjourned at 8:59 p.m.

APPROVED:


MAYOR

ATTEST:


CITY CLERK