

MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ APRIL 5, 2022 ~ 6:00 P.M.

BLUE LION, 101 NORTH 2ND STREET

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 Robyn Dawson.

On roll call, the following members of the Board were physically present: Directors Jarred Rego, Lavon Morton, George Catsavis, Robyn Dawson, Kevin Settle, and Neal Martin. Director Andre' Good was absent. 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 March 15, 2022 regular meeting was presented for approval. Morton, seconded by Settle, moved adoption of the minutes as written. The members present all voting aye, the Mayor declared the motion carried.

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 Amendment: Residential Detached to Residential Attached / Rezoning: Residential Multifamily Medium Density (RM-3) and Residential Estate One Acre (RE-1) to a Planned Zoning District (PZD) by classification at 5300 Heather Ridge Street*) ~ Tabled to the April 5, 2022 regular meeting at the March 1, 2022 regular meeting ~ (Planning).

Director of Development Services Maggie Rice briefed the Board on the item as presented at the March 1, 2022 regular meeting advising such is per the request of Neal Skelton, agent for Mark Rouse. The subject property is located on the west side of Heather

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Ridge Street north of Interstate 540, and contains an area of forty-three (43) acres. The purpose of the proposed is to allow for a mixed use residential development containing single-family residences, duplexes, row houses, and multifamily apartments. Two (2) neighborhood meetings were held on January 27 and 28, 2022 with a total of thirteen (13) neighboring property owners in attendance who voiced concerns about increased traffic, property values, wildlife habitat degradation, and the width of the landscaping buffer. The Planning Commission held a public hearing on February 8, 2022 whereby Sharon Gosnell, Leslie Wintory and Hank Galaske, all who reside on Hardscrabble Way, and Ben Beland, who resides on Gary Street, were in attendance and spoke in opposition to the proposed citing concerns regarding appropriateness, traffic, home values, ingress and egress, and lot sizes. The Planning Commission voted six (6) in favor, two (2) opposed and one (1) abstention to recommend the matter to the Board of Directors for consideration. At the March 1, 2022 regular meeting, due to noted traffic concerns and to provide adequate to conduct a traffic study, the applicant requested consideration of the matter be tabled to the April 5, 2022 regular meeting. The aforementioned traffic study has not yet been completed; therefore, in order to accommodate such, the applicant has again requested the matter be tabled to the May 3, 2022 regular meeting.

Director Martin requested confirmation that TEC is conducting the traffic study; if a third-party was requested to conduct such; and, if testing will be conducted at all hours of the day; and due to drainage in the area, if the existing detention pond will be adequate whereby Mrs. Rice responded affirmatively to all of the aforementioned inquiries adding the proposed detention pond has been vetted and meets all requirements.

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Director Morton expressed concern that proposed drainage plan does not include or account for increased drainage from rooftops and driveways; therefore, he urged the importance of ensuring all future drainage issues are adequately addressed prior to construction of the proposed structures.

Martin, seconded by Catsavis, moved table consideration of the item to the May 3, 2022 regular meeting. The members present all voting affirmatively, the Mayor declared the motion carried.

Item No. 2 was an ordinance rezoning identified property and amending the zoning map (*Industrial Heavy (I-3) to a Planned Zoning District (PZD) by classification at 815 South 6th Street*) (*Planning*).

Mrs. Rice briefed the Board on the item advising such is per the request of Galen Hunter, agent for Mahmoud and Hebah Yasin. The subject property is located on the northeast corner of South "I" Street and South 6th Street, and contains approximately four (4) acres. The purpose of the proposed rezoning is to allow by conditional use approval through the Planning Commission a homeless shelter with non-congregate housing (provided by Next Step Homeless Services (NSHS)). A neighborhood meeting was held on Friday, February 25, 2022 with no neighboring property owners in attendance; however, Mr. Rex Terry, representing Kansas City Southern Railroad, requested the applicant install a fence adjacent to the property that adjoins the railroad. The NSHS agreed to the request; therefore, the associated project booklet has been updated to reflect such. The Planning Commission held a public hearing on March 8, 2022 with John Clayton, Kim Craig, Ron Sparks, Chief of Police for the Arkansas and Missouri Railroad, and Rex Terry representing

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Kansas City Southern Railroad in attendance and conveyed concerns regarding litter, safety, foot traffic, vandalism, and the railroad system. The Planning Commission voted eight (8) in favor and one (1) opposed to recommend the matter to the Board of Directors for consideration.

The following individual was present to address the Board:

- Galen Hunter, agent
Fort Smith, Arkansas

Re: Simply advised the proposed is the same project as previously presented at 1400 South “U” Street, and stood for questions regarding the matter at the subject site.

Director Morton conveyed the importance of hearing from adjoining businesses, Hope Campus, and the Fort Smith Police Department; therefore, he moved to table consideration of the item pending discussion at a future study session, preferably the last study session in April, i.e. April 26. The motion was seconded by Catsavis. Prior to the vote, Director Morton requested confirmation that the project booklet was amended to permit non-congregate housing whereby Mrs. Rice responded affirmatively adding such will be permitted by conditional use, which requires Planning Commission approval.

Director Dawson extended much respect to Director Morton; however, she spoke in opposition to the proposed motion citing representatives of the NSHS have done exactly what the Board requested, i.e. not relocate to the previously presented site of 1400 South “U” Street and instead opting for a location closer to Hope Campus, which the proposed accomplishes. She further denoted that the matter was thoroughly reviewed and ultimately approved by the Planning Commission. Although much understanding of the concerns

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conveyed by surrounding businesses was extended, it was noted, “*we owe it to Next Step to consider*” the item adding that, unfortunately, there’s not going to be any location that no resistance to the proposed exists.

Director Rego concurred with the comments of Director Dawson citing NSHS should be allowed to proceed with their project and not delay the matter any further. He also requested confirmation that the Planning Commission approved the amended project booklet as aforementioned whereby Mrs. Rice responded affirmatively.

Director Martin indicated that although the proposed is relative to homeless services, the city of Fort Smith currently maintains an issue with the number of homeless individuals throughout the city. Due to such, he requested a separate item be placed on a future study session to discuss same. Director Dawson concurred with the request; therefore, such will be scheduled as requested.

The motion to table consideration of the item pending discussion at a study session, the members voted as follows: ayes - Morton, Catsavis, Settle, and Martin; nays - Rego and Dawson. The Mayor declared the motion carried.

Item No. 3 was an ordinance rezoning identified property and amending the zoning map (*Transitional Special (T SPL), Commercial Heavy Special (C-5 SPL) and Commercial Heavy (C-5) to a Planned Zoning District (PZD) by classification at 5912 and 5915 Remington Circle*) (*Planning*).

Mrs. Rice briefed the Board on the item advising such is per the request of Philip Jacobs, agent for South Fork Duplexes. The subject property is located on the south end of the Remington Circle cul-de-sac, and contains approximately three (3) acres. The

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purpose of the proposed rezoning is to facilitate the development of a mini-storage facility and allow other permitted uses within the land use chart. A neighborhood meeting was held on February 28, 2022 with two (2) neighboring property owners in attendance to voice concerns regarding buffer zone, drainage, building height, noise, hours of business, and site lighting. The Planning Commission held a public hearing on March 8, 2022 with no individual present to speak in opposition. The Planning Commission voted nine (9) in favor and zero (0) opposed to recommend the matter to the Board of Directors for consideration.

Catsavis, seconded by Settle, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance by caption for its readings. Prior to the vote, Director Morton simply stated the proposed location is well-suited for the proposed development.

Director Settle indicated the proposed is to facilitate mini-storage units and any future expansion of same, and that no other use is foreseen on the subject property; therefore, he questioned the purpose of including “other uses” within the project booklet.

Mrs. Rice advised that such inclusion of other uses is not uncommon citing many times, applicants simply desire to not limit any future use of the property that would require additional Planning Commission approval.

The motion remaining on the floor and the members present all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 28-22.

Item No. 4 was an ordinance amending the Master Land Use Plan map and

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rezoning identified property and amending the zoning map (*Master Land Use Plan Amendment: Regional Center to General Commercial / Rezoning: Commercial Light (C-2) and Commercial Heavy (C-5) to a Planned Zoning District (PZD) by classification at 2219 South Waldron Road*) (*Planning*).

Mrs. Rice briefed the Board on the item advising such is per the request of Brett Abbott, agent for Ghan Properties. The subject property is located southeast of the Waldron Road and South “U” Street intersection, and contains an area of 3.14 acres. The purpose of the proposed is to facilitate a 127,155 square feet, three (3) story, indoor, mini-storage facility. A neighborhood meeting was held on February 15, 2022 with no neighboring property owners in attendance. The Planning Commission held a public hearing on March 8, 2022 with no individual present to speak in opposition. The Planning Commission voted eight (8) in favor, zero (0) opposed, and one (1) abstention to recommend the matter to the Board of Directors for consideration.

The following individual was present to address the Board:

- Matt Sandlin, Brookwood Development
Baton Rouge, Louisiana

Re: Simply advised he was available to answer any questions regarding the proposed.

Director Settle questioned, “*will you do what you say you’re going to do*” whereby Mr. Sandlin responded affirmatively citing Brookwood Development specializes in mini-storage facilities.

Director Dawson noted the site was previously an eyesore; therefore, she conveyed much appreciation to Mr. Sandlin and his company for investing in the city of Fort Smith and increasing the value of the property. She

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further extended much hope that he finds working with the City a smooth process whereby Mr. Sandlin responded, “so far it’s been great.”

Dawson, seconded by Rego, 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 Martin questioned what the facility will look like whereby Mr. Sandlin then presented a brochure containing pictures of like facilities in various other locations to each member of the Board.

Director Rego indicated the proposed PZD allows for various other uses; therefore, he inquired if such are included merely to limit the “red-tape” in the event another use is proposed in the future.

Mrs. Rice confirmed the inclusion of other uses in the PZD provides flexibility to allow various other uses on the subject property.

Director Morton complimented Mr. Sandlin on the appearance of the mini-storage facilities and questioned if such will provide interior storage pods; if elevators will be included; and, the number of employees. He further conveyed no objection to the proposed, but denoted opposition for such facilities to be located around dense business locations on major thoroughfares.

The motion remaining on the floor and the members present all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 29-22.

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Item No. 5 was an ordinance amending Chapter 7 Article II of the Fort Smith Municipal Code and establishing fees for Oak Cemetery (*Columbarium*) (*Parks*).

Director of Parks and Recreation Doug Reinert briefed the Board on the item advising a third columbarium was installed at Oak Cemetery during 2020 due to decreasing availability. While the first two (2) columbariums are mirror images of each other, the third columbarium has a boxed design. The current rate ordinance establishing the purchase price of niches does not correlate with the niche arrangement of the third columbarium; therefore, it is necessary to amend the current rate ordinance to properly reflect the deviation in niche arrangement amongst the three (3) columbariums. The proposed only addresses the rates for Columbarium No. 3 with no amendment recommended for Columbarium No. 1 or Columbarium No. 2. The Parks and Recreation Commission reviewed the proposed rates on March 16, 2022 and voted unanimously to recommend such to the Board of Directors for consideration.

Settle, seconded by Martin, 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 Rego conveyed much struggle with fees associated with a cemetery citing his opinion that the City of Fort Smith should be more considerate of financial needs for grieving families. Due to such, he spoke in opposition to the proposed item citing he intent to vote against the ordinance.

Director Dawson inquired if other cemeteries, specifically the National Cemetery, maintain columbariums. She further questioned if there is a way to mitigate the cost.

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Mr. Reinert advised that several cemeteries maintain columbariums. With regard to the cost per niche, such is determined by dividing the total cost of the columbarium by the total number of niches available.

Director Settle questioned how many niches have already been purchased and requested a brief explanation of the columbariums.

Mr. Reinert provided the requested explanation conveying the design differences as aforementioned. With regard to current availability, all but two (2) niches have either been utilized or sold in Columbariums No. 1 and 2; however, all niches remain available in Columbarium No. 3.

The motion remaining on the floor, the members present voted as follows: ayes - Morton, Dawson, Settle, and Martin; nays - Rego and Catsavis. The Mayor declared the motion carried; however, such did not obtain the required five (5) affirmative votes to suspend the rules. Due to such, the City Clerk read the ordinance in its entirety for its first reading. The second reading of the ordinance will be placed on the agenda of the April 19, 2022 regular meeting.

Item No. 6 was an ordinance amending Ordinance No. 5-22 and establishing a communications liaison pay allowance for certain City employees (*Human Resources*).

Director of Human Resources Rick Lolley briefed the Board on the item advising the Board of Directors and City Administration desire the City to have a comprehensive website that provides clear, relevant information in a professional-looking format that is easy to navigate. The desire is to have a user-friendly communications platform that allows the public to receive city-related information concerning areas in which they have expressed

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interest. Development and maintenance of the website and communications platform will be the responsibility of various departments of the City. Each department has identified a communications liaison(s) who will have development and maintenance responsibility for their respective department. The additional responsibility is in addition to the employee's regular job duties; therefore, a pay allowance of \$50.00 per bi-weekly pay period is recommended for each person identified as the department's communications liaison. The requested allowance is similar to other allowances paid to employees who perform work outside their normal job duties such as language interpreter, field training officer, former chlorine emergency response team and former IT user liaison. The proposed ordinance establishes the communications liaison pay allowance as aforementioned. Employees that are currently tasked with communication responsibilities, i.e. Communications Manager or those employees in the Utility Department Communications Division, will not be eligible to receive the proposed allowance. The ordinance is not of general and permanent nature; therefore, such will become effective immediately upon passage.

Rego, seconded by Morton, moved adoption of the ordinance. Prior to the vote, Director Morton denoted the proposed is similar to other allowances; therefore, he requested a general example.

Mr. Lolley reiterated such is similar to incentive pay for a language interpreter, field training officer, former chlorine emergency response team and former IT user liaison, as well as members of the SWAT team at the Police Department.

Director Martin expressed concern with the proposed citing that the company that he is employed, such would merely be an added assignment with no additional pay.

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Regardless, he inquired of the anticipated number of employee liaisons and associated cost.

Mr. Lolley advised twenty-one (21) employees have been identified and selected to serve in said capacity, which will result in an estimated \$27,300 annual expense.

Director Settle expressed concern with the proposed and questioned how the added duties of communications liaison will be measured to ensure said work is being accomplished. He spoke in opposition to the proposed citing the incentive pay is being extended to learn how to update the website; however, he feels any incentive pay should be offered after such is provided, i.e. *“Learn to earn rather than earn to learn.”*

Deputy City Administrator Jeff Dingman reminded the Board that they recently approved an agreement with Granicus for the new website, as well as an agreement to provide the necessary training for employees, which will ensure the City’s website is kept up-to-date and prevent such from becoming stagnant. Although the Communications Manager will still oversee general communications, each department is responsible to maintain their own departmental webpages.

Director Rego spoke in favor of the proposed item citing any company with a similar number of employees as the City typically maintains a Communications Department. He previously worked for the City of Colorado Springs, Colorado whereby said municipality maintained a Communications Department with five (5) employees. Regardless, he indicated that the proposed is more financially feasible option because even the addition of one (1) employee would create an expense greater than the proposed \$27,300.

Director Morton concurred with the comments of Directors Rego and Deputy

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Administrator Dingman alleging the City of Fort Smith has not excelled in communication with residents. Due to such, he spoke in favor of the proposed citing anything that will enhance and improve communication to residents will result in the betterment of the city.

The motion remaining on the floor, the members present voted as follows: ayes - Rego, Morton, Catsavis, and Dawson; nays - Settle and Martin. The Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 30-22.

Item No. 7 was a resolution accepting bid and authorizing a contract with ACS Playground Adventures, Inc. for construction of Creekmore Park Inclusive Playground (*\$548,853.00 / Parks Department / Budgeted - 1/8% Sales and Use Tax*).

Mr. Reinert briefed the Board on the item advising the proposed authorizes a contract with ACS Playground Adventures, Inc. for construction of the Creekmore Park inclusive playground, which will feature a variety of amenities designed for individuals of all abilities, including multi-play artificial turf in lieu of the traditional wood fiber mulch. A total of three (3) bids were received; however, two (2) bidders were deemed non-responsive whereby one (1) did not execute their Bid Bond and neither provided unit pricing and/or a breakdown of individual bid items. Even had the aforementioned been deemed responsive, the proposed would still have been the lowest bidder. The Parks and Recreation Commission reviewed the proposed contract on March 16, 2022 and voted unanimously to recommend the contract to the Board of Directors for consideration.

Martin, seconded by Settle, moved adoption of the resolution. Prior to the vote, Director Catsavis denoted that the proposed vendor seems to be selected for multiple past projects; therefore, he questioned if they are always the lowest bidder.

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Mr. Reinert confirmed the subject vendor was the lowest bidder for the subject project, as well as other past projects.

Director Settle questioned if the existing playground floor was wood chips and if such will be utilized for the proposed. He further inquired about the disposition of the existing playground equipment.

Mr. Reinert advised the existing playground flooring was wood chips; however, the proposed flooring will be astro-turf. With regard to the existing playground equipment, such is cemented in place; therefore, they cannot be relocated so they're not reusable. Unfortunately, the only option is to scrap and recycle.

Director Martin questioned the anticipated completion date whereby Mr. Reinert advised estimated completion by mid-August, 2022.

Mayor McGill spoke in favor of the inclusive playground citing said amenities are "almost mandatory" for all parks.

Director Morton commented that the inclusive playground at John Bell, Jr. Park on Riverfront Drive is an asset to the city and conveyed much assurance that the proposed will be as well.

The motion remaining on the floor and the members present all voting affirmatively, the Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-49-22.

Items No. 8, 9, and 10 were presented collectively, the items being as follows:

8. Resolution accepting bid for the purchase of a CNG commercial front loader for the Fort Smith Sanitary Landfill (*\$452,298.15 / Solid Waste Services Department / Budgeted - Capital Equipment Replacement Fund*)

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9. Resolution accepting bid for the purchase of a CNG residential automated side loader for the Fort Smith Sanitary Landfill (*\$441,078.96 / Solid Waste Services Department / Budgeted - Capital Equipment Replacement Fund*)
10. Resolution accepting bid for the purchase of a CNG residential rear loader for the Fort Smith Sanitary Landfill (*\$341,355.21 / Solid Waste Services Department / Budgeted - Capital Equipment Replacement Fund*)

Deputy City Administrator Jeff Dingman briefed the Board on the items advising each authorizes the purchase of the respective CNG front, side, and rear loader vehicles for the Solid Waste Services Department. The City is authorized to participate in the State Cooperative Purchasing Program, which enables the City to take advantage of other negotiated contract that the State of Arkansas currently participates. One of the contracts is Sourcewell, a national municipal contracting agency offering national contract purchasing solutions by facilitating and awarding national competitively bid contracts. All of the respective vehicles are being purchased from River City Hydraulics (Sherwood, Arkansas), who is a member of Sourcewell and is the regional distributor of subject CNG vehicles.

Settle, seconded by Morton, moved adoption of Item No. 8. Prior to the vote, Director Morton denoted the cost of said vehicles and inquired if grant funds are available due to such being CNG vehicles; if such a replacement vehicle; and the estimated delivery.

Mr. Dingman advised that a CNG fueling station is a grant eligible expense, but not the purchase of vehicles. He further advised the subject purchase is to replace an existing vehicle.

With regard to estimated delivery, Solid Waste Services Fleet/Grounds Maintenance Division Manager Terry Rankin advised delivery is one-hundred-fifty (150) days from order placement; therefore, such is expected near the end of the year.

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Director Settle simply extended much appreciation for the Solid Waste Department transitioning to CNG vehicles citing it's a "*great day.*"

The motion remaining on the floor to adopt Item No. 8 and the members present all voting affirmatively, the Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-50-22.

Martin, seconded by Settle, moved adoption of Item No. 9. There being no director commenting and the members present all voting affirmatively, the Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-51-22.

At this point, Director Dawson temporarily left the meeting and was not present for the vote on Item No. 10, but returned soon thereafter.

Settle, seconded by Martin, moved adoption of Item No. 10. There being no director commenting and the members present all voting affirmatively, the Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-52-22.

Item No. 11 was a resolution authorizing the purchase of a large, heavy duty transit bus from Gillig, LLC (\$576,284.00 / Transit Department / Budgeted - Capital Outlay-Vehicles).

Director of Transit Ken Savage briefed the Board on the item advising such authorizes the purchase of one (1) thirty-five foot (35') large heavy duty transit bus with factory CNG from Gillig, LLC. The new bus will replace a 2016 model Cut-away and will operate on the downtown shuttle route. Such will also serve as a back-up to the new larger buses slated for the fixed route fleet. The subject purchase is a purchase option of the ArDOT contract the Fort Smith Board of Directors previously approved by Resolution No. R-55-20, adopted on May 19, 2020.

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Settle, seconded by Morton, moved adoption of the resolution. Prior to the vote, Director Settle simply extended much appreciation for the proposed purchase and excellent work associated with such.

The motion remaining on the floor and the members present all voting affirmatively, the Mayor declared the motion carried and the resolution was adopted and given Resolution No. Resolution No. R-53-22.

Item No. 12 was an ordinance amending the 2022 Operating Budget and authorizing the appropriation of funds from the unrestricted Solid Waste Fund balance for equipment repair (*Solid Waste Services*).

Deputy Administrator Dingman briefed the Board on the item advising the Landfill Division of the Solid Waste Services is in need of a new engine for the Cat D8 dozer. The engine has 13,000 hours on it and is using approximately two (2) gallons of oil each day indicating piston ring failure. The final drive on the machine is also in need of repair. Through an oil analysis, large amounts of metal were discovered inside the final drive indicating imminent failure. The cost of the necessary repairs is estimated to be \$117,372.15. The intent is to proceed with repair in order to keep the machine in service until the new D8 arrives and beyond. Once the new D8 is in service, staff intends to complete a powertrain overhaul (excluding the engine and final drive) adding an additional five (5) years of life to the dozer. This dozer will be used as a backup for the new D8 dozer that was purchased February of this year for \$837,350.00. Riggs Cat in Fort Smith will make the repairs as they are the only vendor who can supply OEM parts for the engine and final drive, and offer a one-year warranty. This dozer is a mainline piece of equipment

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utilized daily by moving trash to be compacted and redistributing the dirt necessary to provide daily cover. It is also used in building/repairing roads to the active cell as well as routine landfill slope maintenance. Per State Regulation 22.607 section (j) adequate backup equipment shall be available within twenty-four (24) hours in the event of breakdowns. Once necessary repairs are completed, such should satisfy the aforementioned regulation. Since Riggs Cat in Fort Smith is the only vendor to supply the OEM parts, the requirements of competitive bidding must be waived; therefore, the ordinance has been revised to include the required verbiage to accomplish such and the motion to adopt should include *“as revised.”*

Morton, seconded by Settle, moved adoption of the ordinance as revised to include verbiage to waive the requirements of competitive bidding. There being no director commenting and the members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 31-22.

Item No. 13 was an ordinance amending the 2022 Operating Budget and authorizing the appropriation of funds from the unrestricted working capital of the Water and Sewer Fund for capital purposes (*Utility*).

Director of Finance Andy Richards briefed the Board on the item advising once a year, the Utilities Department submits a ten-year Capital Improvement Plan (CIP) for approval by the Board of Directors. The CIP includes Water Projects, Wastewater Non-Consent Decree Projects, and Consent Decree Projects. Projects that do not meet the Bond Revenue requirements must be funded by the Water/Sewer Capital Improvement Fund. The Water/Sewer Capital Improvement Fund balance as of December 31, 2021, was

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\$50,441,046 which includes \$39,720,628 of bond proceeds available for capital purposes. The Water & Sewer Operating Fund had \$22,630,000 in working capital, as of December 31, 2021, which represents 45.5% of actual operating expenditures for the year (\$49,725,722). Therefore, the Water & Sewer Operating Fund had working capital of approximately \$10,200,000 in excess of the City's 25% contingency reserve. Based upon discussion with the Director of Utility Lance McAvoy, it's recommended the excess be transferred to the Water/Sewer Capital Improvement Fund to assist in funding CIP projects, and that the appropriation be accomplished via two (2) installments. The proposed accommodates the first installment of \$5,200,000. The second installment, presumed to be \$5,000,000, will be evaluated further and brought to the Board for consideration after the mid-year budget review in June 2022.

The following individual was present and addressed the Board:

- Kristen Kitchens
Fort Smith, Arkansas

Re: Alleged that per a Consent Decree report, the City is not authorized to utilize funding for pump stations.

Director Morton clarified that her comments are not related to the proposed item whereby Ms. Kitchens ceased to address the Board.

Morton, seconded by Dawson, moved adoption of the ordinance. Prior to the vote, Director Morton requested confirmation that the proposed excess is result of normal operations, not Consent Decree funding, whereby Mr. Richards responded affirmatively.

Director Settle inquired if projects have been identified for the proposed reallocated funds, and if such will require additional Board approval. If so, he further requested that

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when such are presented for Board approval, that information be included that funding is from the proposed allocation.

Mr. McAvoy advised that no specific projects have been identified; however, such will be water related capital projects, which will require future Board approval for each project.

The motion remaining on the floor and the members present all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 32-22.

Item No. 14 was a resolution accepting the project as complete and authorizing final payment to Forsgren, Inc. for the Highway 255 Utility Relocations (*\$52,445.57 / Utility Department / Budgeted - 2018 Revenue Bonds and 6505 Capital Improvement Fund*) ♦ *Future Fort Smith Item • Consent Decree Item*

Director of Utility Lance McAvoy briefed the Board on the item advising the subject project consists of relocating approximately 3,391 linear feet of 12-inch PVC water lines and 1,399 linear feet of 12-inch sanitary sewer lines related to the Arkansas Department of Transportation (ArDOT) project, which will realign and widen Arkansas Highway 255. The Utility Department is currently working with ArDOT to determine the final amount to be reimbursed. Currently, it is expected that ArDOT will reimburse the Utility Department approximately 85% of the project's total cost. The subject project was completed 44.6% above the original contract amount and completed in 505 days, which is 385 days longer than the original contract amount. The contractor was impacted by ArDOT's changes in design and by ArDOT's delays in the ROW acquisition. The changes, along with material

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shortages, resulted in significant delays and cost increases. The project is now complete; therefore, the proposed authorizes final payment for the project.

- Kristen Kitchens
Fort Smith, Arkansas

Re: Inquired of the amount of reimbursement from ArDOT whereby Director Martin advised 85% of the total project cost of \$1.2 million.

Settle, seconded by Martin, moved adoption of the resolution. Prior to the vote, Director Martin inquired how and when reimbursement will be accomplished.

Mr. McAvoy noted that paperwork must be submitted to request the reimbursement citing the typical process is to initiate the aforementioned immediately upon approval of the final pay for the project.

The Mayor extended much appreciation for the work accomplished and partnership between the City of Fort Smith and ArDOT.

The motion remaining on the floor and the members present all voting affirmatively, the Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-54-22.

Item No. 15 was a resolution authorizing the Mayor to execute Amendment No. 1 with Aqualaw, P.L.C. for providing assistance with Consent Decree related matters (*\$271,302.69 / Utility Department / Budgeted - Program 5590 Non-Capital Projects*) •
Consent Decree Item

Mr. McAvoy briefed the Board on the item advising in March 2020, the Board of Directors entered into an agreement with Aqualaw to provide assistance with Consent Decree related matters in the amount not to exceed \$100,000.00. The Utility Engineering

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Department budgeted \$108,574.48 in 2020; \$150,000.00 in 2021; and, \$200,000.00 in the 2022 Water and Sewer 5590 Non-Capital Project funds for such; however, Amendment No. 1 to the agreement was inadvertently overlooked and not presented to the Board. Due to such, the \$100,000.00 authorized by the original agreement was exceeded and determined to be out of compliance. At the time the expenditures exceeded the agreement amount, personnel responsible for oversight of such was out of the office on Family Medical Leave Act (FMLA), and then subsequently retired. Although, the Utility Department was not in compliance with the terms of the agreement, the Utility Department complied with the funding approval. The Contract/Bond Specialist for the Utility Department reviewed the contract during the transition of the retired personnel and discovered the City has exceeded the authorized agreement amount. The proposed authorizes Amendment No. 1, which includes the overage of the original agreement, i.e. \$71,302.69, as well as the \$200,000 currently budgeted for 2022.

- Kristen Kitchens
Fort Smith, Arkansas

Re: Advised she's requested a copy of all payments to Aqualaw from the Finance Department and alleged the amounts provided by the Utility Department are not the same. Due to such, she alleged impropriety and requested an explanation.

Mayor McGill, Director Morton, and Mr. McAvoy all provided a detailed explanation of the matter as aforementioned in the briefing.

Morton, seconded by Settle, moved adoption of the resolution. There being no director commenting and the members present all voting affirmatively, the Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-55-22.

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The consent agenda (Item No. 16) was presented for consideration, the items being as follows:

- A. Resolution granting a temporary revocable license for the expansion of an existing portico within a right of way and authorizing the Mayor to execute agreement (*Planning*)
- B. Resolution authorizing a change order for a time extension and assessing liquidated damages for the 2020 Street Overlays/Reconstruction, Phase D, Project No. 20-03-D (\$5,000.00 Liquidated Damages & add 141 days / Engineering Department / Budgeted - Sales Tax Program) ♦ Future Fort Smith Item
- C. Resolution accepting completion of and authorizing final payment for the 2020 Street Overlays/Reconstruction, Phase D, Project No. 20-03-D (\$70,832.22 / Engineering Department / Budgeted - Sales Tax Program) ♦ Future Fort Smith Item
- D. Resolution authorizing the Mayor to enter into an agreement with the Western Arkansas Tennis Association for operation of the Tennis Center at Creekmore Park (*Parks*)
- E. Resolution authorizing the Mayor to execute a lease agreement with JM Food Service d/b/a Cheese Junkies Smoothie and Snack Shop for operation of the miniature golf course and concession at Creekmore Park (*Parks*)
- F. Resolution accepting bid for the purchase of solid waste containers for the Solid Waste Services Department (\$117,913.98 / Solid Waste Services Department / Budgeted - Capital Outlay, Front Load Containers)
- G. Resolution accepting project as complete and authorizing final payment to Clean Energy of California, Inc. for Solid Waste Services Maintenance Shop Compressed Natural Gas Upgrades (\$192,549.10 / Solid Waste Services Department / Budgeted - Solid Waste Sinking Fund)
- H. Resolution authorizing the purchase of bus stop shelters from Brasco International, Inc. (\$76,950.00 / Transit Department / Budgeted - Capital Outlay-Improvements Other)

April 5, 2022 Regular Meeting

- I. Resolution authorizing the execution of a memorandum of understanding between the City of Fort Smith Police Department and the Office of Secure Transportation, National Nuclear Security Administration, Department of Energy (11408 Roberts Boulevard) (Police) ~ *Withdrawn from the March 15, 2022 regular meeting agenda* ~

Deputy Administrator Dingman announced that Item No. 16A was withdrawn from consideration, and Item No. 16B had been revised to correct the amount of liquidated damages from \$5,000 to \$2,500. Due to such, the motion to adopt must acknowledge the withdrawal of Item No. 16A, and include “*as revised*” for Item No. 16B.

Martin, seconded by Catsavis, moved adoption of all consent agenda items as aforementioned. There being no director commenting on any item and the members present all voting affirmatively, the Mayor declared the motion carried and the resolutions were adopted and given Resolutions No. R-56-22 through R-63-22 respectively.

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

▶ Director Morton

- Re: 1. Regarding forthcoming appointments to the Sales Tax Review Committee, he inquired if applications are still being accepted, and how many applications have been received.

Director Dawson also inquired of the application deadline, which prompted Director Rego to advise appointments are scheduled for consideration at the April 19, 2022 regular meeting whereby he requested confirmation.

City Clerk Sherri Gard advised the application process is overseen by the Administration Department, but it was her understanding that applications are still being accepted. At present time, the number of applications received is not sufficient to fill the subject Committee. She

April 5, 2022 Regular Meeting

further confirmed that appointments are currently scheduled for consideration at the April 19, 2022 regular meeting.

2. Regarding the upcoming May 24, 2022 special election in which the electorate will consider continuation of the existing 0.25% Sales and Use Tax for Fire Department, and Parks Department purposes; and, the potential renewal of a 0.75% Sales and Use Tax for Police Department and Consent Decree purposes, he advised that representatives from each City Department impacted by the aforementioned will provide presentations regarding such at the Board of Directors study session scheduled for 6:00 p.m., Tuesday, May 24, 2022, at the Blue Lion, 101 North 2nd Street.

▶ Director Dawson

Re: Noted her recent utility billing included a flyer regarding the City of Fort Smith's various billing cycles, which was provided in both English and Spanish. She merely extended much appreciation to City leadership for providing such to residents.

▶ Director Settle

Re: Announced that at 12:36 p.m. on April 8, 2024, a total lunar eclipse will occur with approximately 96% to 100% totality impacting the entire state of Arkansas. Visitors from all over the world are expected to visit Arkansas to view the total eclipse. There have been discussions about multiple day festivals, events, etc., which will result in increased tax revenues. Due to such, he urged the City of Fort Smith to take advantage of said opportunity and encouraged the marketing of such to draw visitors to the city. He further requested the Advertising and Promotion Commission (A&P) to contact local hotels and request they accept reservations for April 2024.

Mayor McGill, a member of the A & P, confirmed he will relay the aforementioned as requested.

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Director Morton simply noted the city of Fort Smith maintains multiple, open green spaces that will be great for viewing the eclipse.

There being no further business to come before the Board, Settle moved that the meeting adjourn. The motion was seconded by Catsavis, and the members present all voting aye, the Mayor declared the motion carried and the meeting stood adjourned at 7:46 p.m.

APPROVED:


MAYOR

ATTEST:


CITY CLERK