

MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ JUNE 21, 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 Robyn Dawson, followed by the Pledge of Allegiance led by Director Kevin Settle.

On roll call, the following members of the Board were physically present: Directors Jarred Rego, Andre' Good, George Catsavis, Robyn Dawson, Kevin Settle, and Neal Martin. Director Lavon Morton 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 June 7, 2022 regular meeting was presented for approval. Settle, seconded by Good, moved adoption of the minutes as written. The members present all voting aye, the Mayor declared the motion carried.

Item No. 1 was presentation of the 2021 Audit.

Director of Finance Andy Richards briefed the Board on the item advising the Audit Advisory Committee reviewed the preliminary results of the 2021 Annual Comprehensive Financial Report at its meeting on June 15, 2022. Although the 2021 Audit is not finalized, there were no findings to be reported. It was anticipated to present the final audit this evening; however, the audit firm is still in the process of completing their engagement quality review. Due to such, he recommended the subject presentation be tabled to the July 12, 2022 regular meeting.

Mayor McGill and City Administrator Carl Geffken extended much appreciation to

June 21, 2022 Regular Meeting

Mr. Richards and Finance Department staff for their efforts associated with the 2021 Audit, specifically denoting that the subject Audit contains no material findings.

Martin, seconded by Dawson, moved to table presentation of the 2021 Audit to the July 12, 2022 regular meeting. In order to ensure transparency, the motion also included a provision that the 2021 Audit be published and available for release to the public immediately upon finalization and prior to its formal presentation at the July 12, 2022 regular meeting. The members present all voting affirmatively, the Mayor declared the motion carried.

Item No. 2 was an ordinance to establish a temporary moratorium on the issuance of new residential housing building permits in a described area associated with the Fort Smith Regional Airport, to provide findings of fact, definitions, application, and duration provisions related to the temporary moratorium, and for related purposes ~ *Dawson/Good placed on agenda at the June 14, 2022 study session ~ (Planning)*.

Director of Development Services Maggie Rice briefed the Board on the item advising the proposed item establishes a temporary moratorium on residential construction within a delineated area around the Fort Smith Regional Airport. Because of the selection of the Fort Smith Regional Airport as a potential site for a pilot training center to be housed at the Ebbing Air National Guard Base at the Airport, sound impacts especially on residential uses require study and, potentially, the development of additional sound regulations. A previous noise study and the Airport's 2020 Master Plan contain pertinent information. It is anticipated that the draft Environmental Impact Statement (EIS) associated with the increased military use of the Airport will be available later in 2022. It

June 21, 2022 Regular Meeting

is also anticipated that the Federal Aviation Administration (FAA) will require and participate in a new noise study for the Airport in the calendar year 2023. Due to the timing of receipt of the pertinent information and the time required to develop and obtain citizen input regarding future sound regulations, the proposed temporary moratorium on the issuance of building permits for new housing residential construction is recommended. Upon adoption, such extends through 2023 or until adoption of additional sound regulations. The proposed temporary moratorium does not prohibit any of the following:

- ▶ Demolition, repair, or remodeling of a residential structure.
- ▶ The addition of accessory structures, fencing or decks, etc. on residential property.
- ▶ Commercial or industrial development.
- ▶ Additions to existing single-family homes as long as it does not increase the gross square footage by more than twenty-five percent (25%).
- ▶ Planning Commission or Planning Department review of developments within the identified area.

The land area proposed for inclusion contains 5,945 acres, which 2,297 acres maintain residential zoning classifications.

The following individuals were present to address the Board:

- Chad Cox, developer

Re: Advised he has been working on a residential development project for approximately one (1) year. Such is located in the vicinity of South 91st and Houston Streets, which is included within the moratorium area; however, it's "*right on the border.*" Due to such, he inquired if the proposed boundary of the moratorium can be amended to exclude his project area.

June 21, 2022 Regular Meeting

Administrator Geffken and Mrs. Rice expressed concern with such citing the boundaries were drawn to coincide, as much as possible, with the Fort Smith Regional Airport Master Plan. The City is hopeful and anticipates the aforementioned sound study will be completed by September 2022. Once accomplished, such will determine if the City's existing building regulations will require amendment to ensure new residential structures are constructed with adequate sound protections. In the event regulatory amendments are necessary, it was clarified that such does not require Planning Commission approval, but only approval by the Board of Directors. Due to such, much assurance was conveyed that any necessary amendment(s) will be presented for consideration as soon as possible. Although the proposed moratorium results in potential construction delays, Administrator Geffken humbly requested developers exude patience to allow the City to complete the process.

City Attorney Jerry Canfield added that the Board maintains authority to realign said boundaries; however, he cautioned that such action could be subject to challenge. He further noted that the proposed does not prohibit any required actions or considerations before the Planning Commission. Due to such, any potential and forthcoming development may proceed with all necessary actions excluding issuance of the building permit, which may be issued upon expiration of the subject moratorium.

Upon adoption and expiration of the moratorium, Director Dawson requested that any development that is currently in process "*go to the front of the line*" for permitting.

Regarding the subject residential development, Director Rego inquired if such is "*still in process*" whereby Mr. Cox indicated everything is completed and ready for submission and issuance of the required building permit.

Director Good empathized with Mr. Cox, but expressed concern that any deviation or adjustment of the

June 21, 2022 Regular Meeting

proposed boundaries could impact or “bog down” the process. He further noted that if the Board opted to realign the boundaries to accommodate Mr. Cox’s development, the Board would then be obligated to do the same for others, which could prove to be detrimental to Fort Smith being the selected site for the training center.

- Dalton Person, representing the Chamber of Commerce

Re: Denoted the proposed moratorium is not permanent and limited both in time and space; therefore, he spoke in favor of the item. The Chamber of Commerce is actively working on the F35 project to ensure Fort Smith is the selected site. Much concern was expressed that failure to impose the subject moratorium could delay the EIS thereby resulting in a less than favorable outcome for the city.

- John Alford, representing Massard Business Park, LLC

Re: Regarding the impact of the proposed on his client’s forthcoming residential development, which is within the proposed moratorium area, he conveyed much hope for a resolution. He further submitted multiple questions to the Board regarding the City’s contact with property owners, developers, and homebuilders; when the “danger” zone will be defined; and, when it’s anticipated that his client will be advised the residential development may proceed.

With regard to the “danger” zone, Administrator Geffken clarified that the end of the runway is sufficient; therefore, such is not a concern citing the only issue is the noise impact. Additionally, he conveyed much confidence and assurance that notifications to proceed with residential developments will be extended “*as soon as possible.*”

Settle, seconded by Good, 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

June 21, 2022 Regular Meeting

caption for its readings. Prior to the vote, Director Dawson requested confirmation that no properties within the proposed moratorium area are located within any “danger” zone whereby Mrs. Rice responded affirmatively.

Director Settle conveyed the importance of Fort Smith being selected as the site for the aforementioned training center advising such is anticipated to result in an approximate \$1 billion impact for the city. Although much focus was initially on training the Singapore military, Germany has now also conveyed interest in training in Fort Smith. The proposed training center will not only benefit the city of Fort Smith, but the entire State of Arkansas as well. He stated, *“this is a big deal”* and necessary for the future of the city. Due to such, he conveyed his intent to vote in favor of the item.

Director Rego concurred with the comments of Director Settle and also spoke in support of the item. He conveyed much assurance that he recognizes the sacrifices being asked of the developers, but implied said sacrifice is necessary to ensure Fort Smith is the selected site for the training center.

Mayor McGill also spoke in favor of the item citing the City of Fort Smith, as well as the State of Arkansas, has committed and dedicated funding that will assist in making Fort Smith the most desirable site for the military mission. Regardless of the aforementioned, military representatives have indicated that it *“was the people”* of Fort Smith that tipped the scale in the city’s selection as one of the potential sites for the subject training center, which he extended much appreciation to the residents. With regard to the residential development by Massard Business Park, LLC, he conveyed much confidence that *“common ground”* can be reached and urged a comparable resolution be attained.

June 21, 2022 Regular Meeting

The motion remaining on the floor and the members present all voting affirmatively, the Mayor declared the motion carried. Settle, seconded by Martin, moved adoption of Section 4 the emergency clause. The members present all voting affirmatively, the Mayor declared the motion carried and the ordinance and emergency clause were adopted and the ordinance was given Ordinance No. 44-22.

Due to adoption of Ordinance No. 44-22, Director Settle requested City staff utilize the decreased workload period to address flooding issues on Massard Creek, near the Meandering Way area.

Item No. 3 was an ordinance for the purpose of adopting the 2021 International Mechanical Code and amending the City of Fort Smith Municipal Code (*Building*).

Director of Building Services Jimmie Deer briefed the Board on the item advising the Arkansas Department of Labor HVACR Section has completed the process of adoption of the 2021 International Mechanical Code. Such replaces the 2010 Arkansas Mechanical Code, which was based on the 2009 International Mechanical Code currently being enforced. Upon approval of the proposed, such amends the Fort Smith Municipal Code to reflect the changes included in the 2021 International Mechanical Code. Adoption of the such will provide consistency for the construction and design community as they are required to comply with both City and State Codes. The City of Fort Smith Mechanical Board of Adjustments and Appeals reviewed the proposed on June 9, 2022 and voted four (4) in favor and zero (0) opposed to recommend such to the Board for consideration. Upon approval, the proposed will go into effect on August 1, 2022.

Catsavis, seconded by Settle, moved adoption of the ordinance. The motion

June 21, 2022 Regular Meeting

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 inquired if there were any significant changes to the existing Arkansas Mechanical Code whereby Mr. Deer responded “no.”

The motion remaining on the floor and the members present all voting affirmatively, the Mayor declared the motion carried and the ordinance and emergency clause were adopted and the ordinance was given Ordinance No. 45-22.

Item No. 4 was an ordinance amending Ordinance No. 38-20 and granting a non-exclusive franchise to Jerry Burnett and Kyle Empsall d/b/a Payless Taxi, LLC to operate a taxicab service in the city of Fort Smith (*City Clerk*).

City Clerk Sherri Gard briefed the Board on the item advising that in 2020, the Board of Directors granted a non-exclusive franchise to Jerry Burnett and Kyle Empsall d/b/a Payless Taxi, LLC to operate a taxicab service in the city of Fort Smith. Such was granted per adoption of Ordinance No. 38-20 on May 19, 2020, and said franchise was granted for a two (2) year period. Payless Taxi, LLC did not commence operation until July 1, 2022; therefore, the existing non-exclusive franchise will expire on June 30, 2022. On May 27, 2022, Mr. Burnett and Mr. Empsall submitted a formal request for renewal of the subject franchise, and provided copies of the current insurance verification for vehicles and the required \$5,000 surety bond. Although the initial franchise granted in 2020 was for a two (2) year period, the current submission includes a request that the renewal be granted for a five (5) year period. Payless Taxi, LLC remains registered with the Secretary of State to

June 21, 2022 Regular Meeting

conduct business in Arkansas. Although Payless Taxi, LLC is located in West Fork, Arkansas, they do not presently maintain a business office in Fort Smith; however, several of their vehicles are stored at an existing business at 2012 Towson Avenue. The Fort Smith Municipal Code requires that the Fort Smith Action Center phone number, i.e. 479-785-2800 (answered by City Clerk's Office), be posted in each vehicle. In the two (2) years of operation, the City Clerk's Office has not received any complaints against the subject taxicab service.

Good, 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. There being no director commenting and the members present all voting affirmatively, the Mayor declared the motion carried. Settle, seconded by Martin, moved adoption of Section 4 the emergency clause. The members present all voting affirmatively, the Mayor declared the motion carried and the ordinance and emergency clause were adopted and the ordinance was given Ordinance No. 46-22.

Item No. 5 consisted of the following items regarding abandonment and acquisition of sewer utility easements associated with the 2018 Sub-Basin Remedial Measures ♦*Future*

Fort Smith Item • Consent Decree Item (Utility)

- A. Resolution authorizing execution and delivery of a partial release of sewer easement
- B. Resolution authorizing acquisition of permanent sewer utility easement for construction and maintenance of the 2018 SSA Remedial Measures (\$1.00 / Utility Department / Budgeted - 2018 Revenue Bonds)

June 21, 2022 Regular Meeting

Director Rego announced that he is employed by Saint Edward Mercy Medical Center; therefore, he recused himself from voting on the matter and left the room. He was not present for the staff briefing, discussion, or vote on the subject resolutions.

Director of Utility Lance McAvoy briefed the Board on the items advising such is associated with the 2018 SSA Sub-Basins Remedial Measures. The City of Fort Smith is requesting a sewer utility easement from Saint Edward Mercy Medical Center on their property located on South 74th Street, north of the hospital. The aforementioned sewer easement will replace an existing sewer easement that was shown in the wrong location on its original plat. The proposed will correct the aforementioned error. Item No. 5A releases the erroneous easement and Item No. 5B authorizes execution of a new executed easement in the correct location.

Catsavis, seconded by Martin, moved adoption of Items No. 5A and 5B. Prior to the vote, Director Settle simply inquired of the location of the subject easements whereby Mr. McAvoy advised such were located behind the hospital.

Director Dawson acknowledged the entity is identified as Saint Edward Mercy Medical Center on all documentation; however, they are actually now referred to simply as "Mercy." Due to such, she questioned if the matter needs to be addressed.

Mr. McAvoy advised Saint Edward Mercy Medical Center is still the legal name of the entity; therefore, all documentation must remain as noted.

The motion to adopt Items No. 5A and 5B remaining on the floor and the members present all voting affirmatively, the Mayor declared the motion carried and the resolutions were adopted and given Resolutions No. R-97-22 and R-98-22 respectively.

June 21, 2022 Regular Meeting

The consent agenda (Item No. 6) was presented for consideration, the items being as follows:

- A. Resolution authorizing the Mayor to execute Change Order No. 2 with Van Horn Construction, Inc. for the "P" Street and Massard Peracetic Acid Disinfection Improvements (\$17,458.13 decrease / Utility Department / 2018 Revenue Bonds) ♦ *Future Fort Smith Item*

- B. Resolution accepting the project as complete and authorizing final payment to Van Horn Construction, Inc. for the "P" Street and Massard Peracetic Acid Disinfection Improvements (\$66,159.86 / Utility Department / 2018 Revenue Bonds) ♦ *Future Fort Smith Item*

Martin, seconded by Settle, moved adoption of all consent agenda items. There being no director commenting and the members present all voting affirmatively, the Mayor declared the motion carried and the resolutions were adopted and given Resolutions No. R-99-22 and R-100-22 respectively.

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

▶ Mayor McGill

- Re: 1. Extended much appreciation for attendance and participation in various Juneteenth celebrations that were held over the past weekend.
2. Announced the Mayor's 4th of July Celebration is scheduled for Monday, July 4 at the Harry E. Kelley Park. Live entertainment includes RaeLynn, Who Shot JR, and more. He simply encouraged all to attend.

▶ Director Rego

- Re: 1. Regarding the Juneteenth celebrations, he, too, extended much appreciation for everyone's participation and attendance at the various events.

June 21, 2022 Regular Meeting

2. Conveyed much appreciation that Chipotle Mexican Grill is coming to Fort Smith, which prompted much surprise and excitement by Director Martin.

▶ Director Good

- Re:
1. Regarding Juneteenth, he expressed much appreciation to the Board for adoption of the ordinance formally including such as a City-recognized holiday.
 2. With regard to the various Juneteenth celebrations, he further extended much appreciation to Mayor's Assistant Jurena Storm, who worked tirelessly to plan and oversee many of the scheduled events.

▶ Director Dawson

- Re: Noted that Whataburger is also coming to Fort Smith and simply inquired of the proposed location.

Multiple responses were provided citing such will be located on Phoenix Avenue, near the Blue Ember Smokehouse.

▶ Director Settle

- Re: Announced the Fort Smith Juniors Volleyball Club, which his daughter Rachel plays, will soon be traveling to Indianapolis, Indiana to participate in a national volleyball tournament. He simply noted that Fort Smith is being well-represented.

▶ Director Martin

- Re: Regarding the 2021 Audit, he noted that the City has experienced multiple challenges in years past; however, the City is "on time" this year with no findings. He attributed such to the leadership and oversight of the Director of Finance Andy Richards citing he and his staff are doing a great job, and such assures the City maintains a "*solid financial footing.*"

June 21, 2022 Regular Meeting

Mayor McGill also commended Mr. Richards and his staff for their hard work to assure the City's finances are in good shape.

Administrator Geffken also conveyed much appreciation to Mr. Richards and his staff citing the transition to Munis was challenging, but the City persevered. Although some challenges remain, such are being addressed. Regardless, the 2021 Audit is the first to be "*completely clean*" and after two (2) years of such, the City can be considered a low-risk audit. He further extended much gratitude to the Board for the "*hard decisions*" that has resulted in the City's current excellent financial standing.

▶ Administrator Geffken

- Re:
1. Reminded all of the forthcoming Ward 2 Neighborhood Meeting scheduled for 6:00 p.m., Thursday, June 23rd at the University of Arkansas Fort Smith Reynolds Room.
 2. Advised he met with the Department of Agriculture (DOA) today regarding potential grants for Consent Decree projects. Such was "*very positive*" and representatives of the DOA were very accommodating and offered to come to Fort Smith to meet again to further discuss.

The Board entered into Executive Session at approximately 6:55 p.m., and after reconvening, the Mayor announced the following appointment nominations:

AIRPORT COMMISSION

Dr. James E. Kelley, III (reappointment)

Dr. Justin Voris

Terms expire June 30, 2027

**FORT SMITH MUNICIPAL EMPLOYEES BENEVOLENT FUND
BOARD OF ADVISORS**

Police Department Representative

Dewey Young (reappointment)

Term expires June 30, 2025

June 21, 2022 Regular Meeting

Fire Department Representative

Darrell Clark (reappointment)
Term expires June 30, 2025

Other City Department Representative

Maria Miller (reappointment)
Term expires June 30, 2025

Note: Director Martin left the meeting immediately after reconvening from Executive Session; therefore, he was not present for the vote to accept appointment nominations or adjournment.

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

There being no further business to come before the Board, Director Settle moved that the meeting adjourn. The motion was seconded by Director Good. The members present all voting aye, the Mayor declared the motion carried and the meeting stood adjourned at 6:59 p.m.

APPROVED:



MAYOR

ATTEST:



CITY CLERK