

MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ AUGUST 2, 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 Neal Martin, followed by the Pledge of Allegiance led by Director Andre' Good.

On roll call, the following members of the Board were physically present: Directors Andre' Good, Lavon Morton, George Catsavis, Kevin Settle, and Neal Martin. Director Robyn Dawson was present via electronic means and Director Jarred Rego 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 July 19, 2022 regular meeting and July 27, 2022 special meeting were presented for approval. Morton, seconded by Martin, 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 zoning identified property and amending the zoning map (*Not Zoned to a Planned Zoning District (PZD) by classification at 8055 and 8101 Massard Road*) ~ *Ordinance defeated at the July 12, 2022 regular meeting; Catsavis/Martin placed on agenda at the July 19, 2022 regular meeting ~ (Planning).*

Director of Development Services Maggie Rice briefed the Board on the item advising such is per the request of Andy Brown, agent for Chaffee Commercial Properties, LLC. The subject property is located on the east side of Massard Road and south of

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McClure Drive, and contains approximately twenty-one (21) acres. The purpose of the proposed is to allow a mixed-use development that could consist of multi-family residences, commercial development, and other uses listed within the land use chart of the project booklet. A neighborhood meeting was held on June 6, 2022 with no neighboring property owners in attendance. The Planning Commission held a public hearing on June 14, 2022 with no individual present to speak either in favor or in opposition to the proposed. The Planning Commission voted nine (9) in favor and zero (0) opposed to recommend the matter to the Board of Directors for consideration. The proposed ordinance was initially presented for consideration at the July 12, 2022 regular meeting whereby such was amended to require site plan approval by the Planning Commission prior to issuance of any building permit. The matter was defeated at said regular meeting; however, at the July 19, 2022 regular meeting, Directors Catsavis and Martin placed the item on the subject agenda for Board reconsideration. Additionally, it was recently discovered that the development associated with Tract 2, containing 6.13 acres, as provided in the Project Booklet does not comply with the Chaffee Crossing Design Guidelines; therefore, staff recommends the proposed ordinance be amended to remove Tract 2.

The following individuals were present to address the Board:

- Andy Brown, agent

Re: Extended appreciation to the Board for placing the matter on the agenda for consideration. The purpose of the proposed zoning is to accommodate the forthcoming construction of a retaining wall along the east property line, adjacent to the west property line of the Sebastian County walking trail. Once constructed, the property can be better marketed for light commercial, retail development. A multi-family development is proposed for the northern portion of the subject property.

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- Dalton Person, representing the Fort Chaffee Redevelopment Authority (FCRA)

Re: Simply spoke in favor of the recommended amendment to remove Tract 2 citing that if such is not accomplished, the proposed will be non-compliant with the FCRA land use regulations.

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 Settle questioned if the proposed retaining wall is to “*sure-up*” the adjacent walking trail, and requested a brief summary of the design, i.e. height, in-ground, above-ground, etc.

Mr. Steve Beam, representing Chaffee Commercial Properties, LLC, advised the final design has not yet been completed. Upon approval of the proposed, such will be initiated. Due to the topography of the area, the retaining wall height will vary citing some areas will be “*pretty tall*” and some construction will be in-ground and some above-ground. Due to discussions with Sebastian County, the proposed retaining wall must not be within fifteen (15) feet of their walking trail adding fencing and landscaping is anticipated to be included.

Director Morton extended much appreciation to Mr. Brown for submission of information regarding anticipated development of the subject property citing such would have been helpful if provided when first considered at the July 12, 2022 regular meeting. With regard to Tract 2, he requested confirmation that such is anticipated to remain in its current natural state and that the applicants concur with its recommended removal from the proposed. He further inquired if it’s preferred that such remain included in the

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ordinance and possibly include verbiage in the Project Booklet to ensure the tract remain undeveloped.

Mr. Brown and Mr. Beam noted the topography of Tract 2 would make it difficult to develop and conveyed much assurance that such would not occur; however, they further conveyed no objection to the recommended amendment to remove the tract from the proposed.

Mr. Dalton clarified that it's the FCRA's preference that the Project Booklet not be amended to prohibit development on Tract 2 and that said tract be removed in its entirety.

Upon approval, Director Martin inquired if the property will be sold or leased to accommodate future development whereby Mr. Brown and Mr. Beam confirmed the property will be leased to commercial tenants. He further inquired if the proposed ordinance is presented as previously amended at the July 12, 2022 regular meeting.

City Attorney Jerry Canfield confirmed the proposed ordinance is offered as originally presented; therefore, if the Board desires Planning Commission approval of the development plan prior to issuance of a building permit, an amendment authorizing same must be offered.

Director Dawson questioned if the property owners have filed a development plan with the FCRA.

Mr. Brown and Mr. Beam confirmed that no development plan has been filed with the FCRA citing such is not required. The only requirement is construction of the retaining wall; therefore, upon approval of the proposed, application for the building permit will be submitted.

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Settle, seconded by Catsavis, moved to amend the ordinance to remove Tract 2 and require site plan approval by the Planning Commission prior to issuance of a building permit excluding the building permit required for the retaining wall. The members present all voting aye, the Mayor declared the motion carried and the ordinance stood amended.

The motion remaining on the floor to adopt the ordinance as amended, the members present all voted affirmatively with the exception of Director Dawson who voted “no.” The Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 57-22.

Item No. 2 was an ordinance amending the 2019 Unified Development Ordinance of the City of Fort Smith (*accessory residential dwelling units*) (*Planning*).

Mrs. Rice briefed the Board on the item advising the proposed amendment adds the land use accessory residential dwelling unit (ARDU) as a permitted use in Industrial zoning districts. Presently, an ARDU is only permitted by-right in Transitional and Commercial zoning districts. An accessory residential dwelling unit is defined as an independent dwelling unit which is subordinate and incidental to an attached principal use located on the same lot. Upon approval, the proposed will permit property owners in Industrial zoning districts to construct an ARDU. The Planning Commission held a public hearing on July 12, 2022 and voted eight (8) in favor and zero (0) opposed to recommend the proposed amendments to the Board for consideration.

Settle, seconded by Morton, 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 if the proposed

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amendment was initiated due to an ongoing issue and if so, he further inquired of the location that prompted such.

Mrs. Rice advised that a property owner conveyed desire to “live on site” at his industrially zoned property located in Regions Park. Currently, the UDO does not permit such; therefore, the proposed amendment was initiated to allow accessory residential dwelling units within the aforementioned zoning classification.

The motion to adopt the ordinance remaining on the floor and the members present all voting affirmatively, the Mayor declared the motion carried. Morton, seconded by Martin, moved adoption of Section 3 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. 58-22.

Item No. 3 was a resolution authorizing the lease buyout of a 2019 Caterpillar 349F excavator from Caterpillar Financial Services Corporation (*\$216,561.00 / Solid Waste Services Department / Budgeted - Solid Waste Landfill Construction and Sinking Fund*).

Director of Solid Waste Services Nicole Riley briefed the Board on the item advising that on January 22, 2019, the Board of Directors approved Ordinance No. 7-19, which authorized a three (3) year lease agreement for a 2019 Caterpillar 349F excavator. Such was executed with the intent to purchase said equipment at the end of the lease term. The lease payments total \$334,366.05 or \$111,455.35 per year. Upon approval, the proposed authorizes the purchase at the optional buy-out price of \$216,561, which is the fair market value agreed upon at inception of the aforementioned lease. Recently obtained price comparisons indicate the average purchase price of similar equipment is \$352,671. The excavator is used to maintain landfill operations as such is necessary for the movement

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of dirt utilized as daily cover and the estimated remaining useful life of the equipment is four (4) years. The proposed equipment purchase was not originally budgeted; however, funding is currently available in the equipment replacement reserve in the Solid Waste Landfill Construction and Sinking Fund.

Catsavis, seconded by Morton, moved adoption of the resolution. Prior to the vote, Director Settle requested confirmed of the anticipated life-span of the subject equipment whereby Ms. Riley advised reiterated “4 years.”

Director Catsavis inquired if a three (3) year lease is standard for like-agreements and questioned the estimated cost of the equipment if such was purchased new today. He further inquired if the subject equipment is still covered by a warranty and if not, if an extended warranty can be purchased.

Ms. Riley advised that 3 years is the standard time-frame for a lease of like nature. If the City were to purchase the subject equipment new today, such would presently cost just under \$700,000 and would maintain an estimated life-span of seven (7) years. The subject equipment is no longer under warranty; however, staff will explore if an extended warranty is available for purchase.

The motion to adopt the resolution 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-118-22.

Item No. 4 was a resolution authorizing the Mayor to execute an agreement with Hawkins-Weir, Inc. for providing engineering construction observation services for the Basin 10 & 14 Capacity Improvements, Schedule 1 (*\$679,250.00 / Utility Department / Budgeted - American Rescue Plan Act Funds*) ♦ *Future Fort Smith Item* • *Consent Decree Item*

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Deputy Director of Utility Business Administration Joshua Robertson briefed the Board on the item advising the subject project is to accommodate the needed increase in capacity in accordance with the requirements of the Consent Decree. The capacity increase is part of the continuing construction projects developed to alleviate sanitary sewer overflow problems. Schedule I will connect the recently completed Sub-Basin P002 and P003 interceptor to the previously completed Basin 7 Capacity Improvement. Eventually, Schedule 2 will then continue southward toward Rogers Avenue. The proposed construction observation engineering services agreement will provide a system for documenting construction costs and provide inspections to ensure the project is completed in accordance with the plans and specifications. The services also provide for the record drawings.

Settle, seconded by Martin, moved adoption of the resolution. Prior to the vote, Director Settle requested confirmation that \$1.5 million remains of the \$15 million American Rescue Plan Act (ARPA) funds whereby Administrator Geffken responded affirmatively.

Director Martin noted that information indicates that Sub-Basin 7 has already been completed; therefore, he requested confirmation.

Mr. Robertson confirmed such citing the proposed will project will actually connect to the completed Sub-Basin 7.

Director Morton noted that a map identifying the status of projects, i.e. planned, started, and completed, would be most helpful whereby Administrator Geffken advised such will be requested.

The motion to adopt the resolution remaining on the floor and the members present

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all voting affirmatively, the Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-119-22.

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

- A. Resolution setting a public hearing date on petition to vacate a portion of South 62nd Street right-of-way in the 6200 Phoenix Addition, an addition to the city of Fort Smith, Arkansas (*Planning*)
- B. Ordinance to abandon a portion of a public utility easement located in part of Tract 6 Replat, Fianna Hills II, an addition to the city of Fort Smith, Sebastian County, Arkansas (*Planning*)
- C. Resolution to accept the bid and authorize a contract for the 2022 Street Overlays/Reconstruction, Phase C, Project No. 22-03-C (\$1,477,484.65 / *Engineering Department / Budgeted - Sales Tax Program*) ♦ *Future Fort Smith Item*
- D. Resolution authorizing the Mayor to execute an administrative services agreement with the International City Management Association Retirement Corporation ("MissionSquare Retirement") (*Human Resources*)
- E. Resolution authorizing the Mayor to execute an investment manager agreement with Mesirow Financial Investment Management, Inc. (*Human Resources*)
- F. Resolution approving and authorizing the Mayor to execute Amendment No. 2 to Statement of Work with Payit, LLC regarding bill payment services (*Utility*)
- G. Resolution authorizing the execution of a non-residential solid waste collection and disposal permit and agreement with MSG Waste & Refuse, LLC (*Solid Waste Services*)

Martin, seconded by Morton, moved adoption of all consent agenda items. Prior to the vote and regarding Item No. 5B, Director Settle noted the item is an ordinance and inquired if such required a separate vote whereby City Clerk Sherri Gard confirmed a

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separate vote is not necessary. He further inquired the type of utility easement whereby Mrs. Rice simply advised such is a water utility easement.

With regard to Item No. 5C, Director Martin questioned if pavement preservation is different than a street overlay, and inquired of the location of the proposed project.

Director of Engineering Stan Snodgrass advised that pavement preservation can refer to either a street overlay or Chip Seal; however, he confirmed that the proposed is strictly an overlay project citing the City of Fort Smith does not “Chip Seal” any of its streets. The subject project includes South Waldron Road south of Grand Avenue almost to Central Mall.

Regarding Item No. 5D and 5E, Director Morton urged the importance of ease of use of the Mission Square website and appropriate training of employees to utilize such, as well as training on how to select their investment options. He further conveyed multiple inquires regarding statement options, fees, etc., and spoke in favor of the proposed item citing such provides an “*excellent service*” and at a “*very reasonable*” cost.

Director of Human Resources Rick Lolley and Jennifer Perry with Mission Square advised the company actually has a new website that is anticipated to go-live on August 29, 2022, which will include enhanced options. It was confirmed that all employees will maintain access to receive all necessary training.

With regard to Item No. 5F, Director Morton requested a brief explanation of the proposed.

Mr. Robertson advised that on January 18, 2022, the Board of Directors approved an amendment to add pay-by-phone service that would include City Utility Billing customers and large Solid Waste Services customer transactions. The Paradigm software system,

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utilized Solid Waste Services, was set to provide an online bill pay service; however, the module upgrade was not available until late 2021. Due to such, Solid Waste Services decided to add Paylt pay-by-phone service as an option for large customer accounts as the department continued to research options for online bill pay. The Interactive Voice Response (IVR) addition to the Paylt service agreement supports efforts to increase customer service payment options and provide solutions to integrated reporting for enhanced bank reconciliation. Since that time, Paylt and City staff have been working to go live with the new IVR Pay by Phone System. The Board of Directors requested that the City pay all of the convenience and processing fees. Paylt supplied an amended agreement and scope of work that states the fees will be paid by the City of Fort Smith. The proposed amendment adjusts the scope of work with the City absorbing the fees for the IVR portion of the agreement. There is no upfront fee to the City. For the IVR system, there is a minimum transaction value of \$6,000 each month now that the City will pay all fees associated with this service.

Director Settle questioned the monthly average of customers that pay-by-phone, and Director Morton inquired the monthly average of customers that utilize auto-pay/bank draft.

Mr. Robertson advised that an estimated 1,500 customers pay-by-phone per month, which equates to approximately six-to-eight percent (6% to 8%) of the utility customers. With regard to auto-pay/bank draft, said option is “*starting to catch on*” citing approximately 5,000 customers now utilize said service per month.

The motion to adopt the consent agenda remaining on the floor and the members present all voting affirmatively, the Mayor declared the motion carried and the ordinance

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and resolutions were adopted with the ordinance given Ordinance No. 59-22 and the resolutions given Resolutions No. R-120-22 through R-125-22 respectively.

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

► Mayor McGill

- Re: 1. Regarding the Peacemakers Festival held over the weekend, he extended much appreciation to the event sponsor and all who attended the event citing such is estimated to have attained record attendance.
2. Advised he's received several inquiries regarding the condition of the Creekmore Park bath house whereby be encouraged replacement of such be addressed and/or initiated as soon as possible.

► Director Morton

- Re: 1. Noted a resident recently contacted him and expressed concern with the scheduled time for Town Hall Meetings, i.e. immediately following adjournment of the first regular meeting of the month. Many times, said meeting can be very lengthy thereby resulting in a long wait for residents wishing to speak in the Town Hall Meeting. Due to such, the resident requested the Board consider conducting Town Hall Meetings prior to the regular meeting. Regardless, he further noted the importance of reminding all that residents maintain the opportunity to speak on any item on a regular meeting agenda.
2. Requested an update regarding reimbursement from the Federal Emergency Management Administration (FEMA) relative to the 2019 Flood.

Administrator Geffken provided a very detailed explanation advising the reimbursement is much less than anticipated citing dispute of eligible claims relative to the "P" Street Outfall damage,

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pump stations, etc.; therefore, the City will likely choose to file an appeal on such.

Director Settle noted negotiations have “gone on too long” and adamantly requested Administration contact FEMA and invite representatives to attend a Board meeting to explain their reimbursement determinations not only to the Board, but to the citizens of Fort Smith.

3. Requested an update regarding the Consent Decree issues currently with the 8th Circuit Court of Appeals.

City Attorney Jerry Canfield advised no response has been received citing the City is having to deal with the “inner workings of the Court.” He explained that he’s “still waiting” for a response on another case that was fully-briefed in 2020. The City is at the mercy of the Court as to when such decides to respond adding civil cases unfortunately tend to take a back seat for determination.

4. Requested an update regarding other matters related to the Consent Decree.

Administrator Geffken advised the City has submitted all required documentation; however, the typical response has been that additional information is required. He’s hopeful administrative/leadership changes at the Department of Justice will prompt a more expedient resolution.

► Director Catsavis

Re: Advised concern has been conveyed regarding the closure of South 6th Street (near Wheeler Avenue); therefore, he questioned if and/or when such will reopen.

Administrator Geffken advised the street has been closed to allow traffic counts to determine if the street

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should remain open for two-way traffic, transition to a one-way street, or remain closed indefinitely. A recommendation is anticipated in the near future.

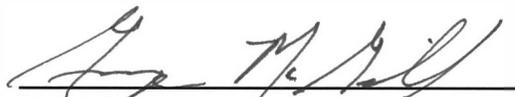
Director Settle noted he's received similar concerns and conveyed his preference that the street either be closed or remain open to two-way traffic.

▶ Director Settle

Re: Regarding the recently held Peacemakers Festival, he offered a motion to place a presentation on the August 16, 2022 regular meeting agenda to allow event representatives to address the Board and advise of what the City can do to make the event better in the future. The motion was seconded by Director Martin. Since placement of an item on a future agenda requires the concurrence of two (2) directors, the Mayor noted such will be placed on the August 16, 2022 regular meeting agenda as requested.

There being no further business to come before the Board, Director Catsavis moved that the meeting adjourn. The motion was seconded by Director Martin. The members present all voting aye, the Mayor declared the motion carried and the meeting stood adjourned at 7:09 p.m.

APPROVED:



MAYOR

ATTEST:



CITY CLERK