

MINUTES OF THE REGULAR MEETING OF
THE BOARD OF DIRECTORS OF THE
CITY OF SILOAM SPRINGS, BENTON COUNTY,
ARKANSAS, HELD MARCH 03, 2009

The Board of Directors of the City of Siloam Springs, Arkansas, met in regular session at the City of Siloam Springs Administration Building, March 03, 2009.

The meeting was called to order by Mayor Allen.

Attendance Roll Call:

Wasson, Smiley, Fuller, Turner, Nation, Wiles, Long – Aye.

Mayor David Allen, City Administrator David Cameron, City Clerk Peggy Woody, City Attorney Jay Williams, Police Captain Geoff Lewis – Present.

Opening prayer was led by Turner.

Mayor Allen led the Pledge of Allegiance.

A copy of the February 17, 2009, minutes of the regular meeting had previously been given to each Director. A motion was made by Long and seconded by Wiles that the minutes of the February 17, 2009, meeting be approved. Mayor Allen called for a voice vote on the motion, and it was approved unanimously.

The next agenda item was the open hearing for citizens present. There being none, Mayor Allen continued with the agenda.

The next agenda item was Ordinance No. 09-01. A motion was made by Smiley and seconded by Fuller to place Ordinance No. 09-01, Legal Correction on Rezone 831 South Mt. Olive, on its third reading suspending the rules and reading title only.

Roll Call:

Wasson, Smiley, Fuller, Turner, Nation, Wiles, Long – Aye.

No Nay.

Seven Ayes. No Nays. Motion Carried.

An ordinance entitled:

AN ORDINANCE AMENDING SECTION 102-21 OF THE SILOAM
SPRINGS MUNICIPAL CODE (CITY ZONING MAP); REPEALING
ORDINANCE NO. 99-16 AND REZONING FROM R-2 TO C-1A THE
PROPERTY DESCRIBED AS 831 SOUTH MOUNT OLIVE STREET

was read for its third reading.

A motion was made by Smiley and seconded by Nation to adopt Ordinance No. 09-01, Legal Correction on Rezone 831 South Mt. Olive.

Roll Call:

Smiley, Fuller, Turner, Nation, Wiles, Long, Wasson – Aye.

No Nay.

Seven Ayes. No Nays. Motion Carried.

The next agenda item was Ordinance No. 09-02. A motion was made by Turner and seconded by Wasson to place Ordinance No. 09-02, Amend Municipal Code Regarding Home Occupation Businesses, on its third reading suspending the rules and reading title only.

Roll Call:

Fuller, Turner, Nation, Wiles, Long, Wasson, Smiley – Aye.

No Nay.

Seven Ayes. No Nays. Motion Carried.

An ordinance entitled:

AN ORDINANCE AMENDING BUSINESS REGULATIONS OF THE CITY;
AMENDING SECTION 22-68 REGARDING HOME OCCUPATION BUSINESSES

was read for its third reading.

A motion was made by Fuller and seconded by Wasson to adopt Ordinance No. 09-02, Amend Municipal Code Regarding Home Occupation Businesses.

Roll Call:

Turner, Nation, Wiles, Long, Wasson, Smiley, Fuller – Aye.

No Nay.

Seven Ayes. No Nays. Motion Carried.

The next agenda item was Ordinance No. 09-05. A motion was made by Smiley and seconded by Wiles to place Ordinance No. 09-05, Rezone Development Permit A-1 to C-2 Corner of Progress Ave. and Future Tahlequah Street Extension/Siloam Springs School District, on its first reading suspending the rules and reading title only.

Roll Call:

Nation, Wiles, Long, Wasson, Smiley, Fuller, Turner – Aye.

No Nay.

Seven Ayes. No Nays. Motion Carried.

An ordinance entitled:

AN ORDINANCE AMENDING SECTION 102-21 OF
THE SILOAM SPRINGS MUNICIPAL CODE (CITY
ZONING MAP); REZONING FROM A-1 TO C-2 THE
PROPERTY DESCRIBED AS THE CORNER OF PROGRESS
AVENUE AND FUTURE TAHLEQUAH STREET EXTENSION

was read for its first reading.

The next agenda item was Resolution No. 12-09. A motion was made by Turner and seconded by Nation to table Resolution No. 12-09, Significant Development Permit Corner of Progress Ave. and Future Tahlequah Street Extension/Siloam Springs School District, to the April 7, 2009, regular meeting. Cameron stated the rezone has to be approved before the Significant Development Permit can be approved.

Roll Call:

Wiles, Long, Wasson, Smiley, Fuller, Turner, Nation – Aye.

No Nay.

Seven Ayes. No Nays. Motion Carried.

The next agenda item was Resolution No. 13-09. A motion was made by Nation and seconded by Fuller to adopt Resolution No. 13-09, Assign Street Name in Memory of Sue Anglin. Wiles requested that it not be called street, but drive or lane. Long asked about fire department 911 regulations. David Williams, Community Development Director, stated the City follows the American Planning Association. Our two choices are to not put anything after the name or if it is a cul-de-sac to call it court. Our current ordinance sets only two choices. After further discussion, it was recommended to drop the North from the street name, and to get the Anglin families' input for the name of this street. A motion was made by Wasson and seconded by Nation to table Resolution No. 13-09 to the March 17, 2009, regular meeting.

Roll Call:

Long, Wasson, Smiley, Fuller, Turner, Nation, Wiles – Aye.

No Nay.

Seven Ayes. No Nays. Motion Carried.

The next agenda item was approval of a Carnival/First Assembly of God Church. A motion was made by Fuller and seconded by Wasson to approve a Carnival/First Assembly of God Church for April 5, 2009. Gary Wheat, Pastor, stated this is the church's 16th Easter Eggstravaganza. Cameron stated a code revision will be brought to the Board for consideration to avoid public hearings and

approval of each church's request. There are a number of churches that have carnivals and other functions. This change will allow them to have these functions without having to come to the Board for approval.

Roll Call:

Wasson, Smiley, Fuller, Turner, Nation, Wiles, Long – Aye.

No Nay.

Seven Ayes. No Nays. Motion Carried.

The next agenda item was approval of Change Order #3 for City Lake Contract III. A motion was made by Turner and seconded by Nation to approve Change Order #3/City Lake Improvements Contract Section III in the amount of \$209,560.00 to Sweetser Construction, Inc. Cameron stated there is about 50,000 cubic yards of material that is sitting on the bottom of the lake. This is for removal of this sediment. This will be placed on the City's property to the east of the lake. SWEPCO has agreed to pay some but not all of this cost. This will improve the quality of the water and increase the life of the lake. Turner stated that when you take into consideration the fact that the study says they recommended we do this, and follow up to Mark's comment about water quality and response to David, it's definitely going to be something the lake needs. We're getting ready to plan and discussed in workshops, we haven't put the pencil to it on where we're going to spend our monies, but we are all, I think, in agreement we're going to be developing City Lake to make it something the City is going to be able to take advantage of more than they have in the past, and something we're really going to be proud of. I'm in favor of this. The other thing I wanted to say is I don't believe we budgeted this, so it would have to come out of reserves I would assume. But if we're going to go to SWEPC and ask them for help in whatever they can on this, it would be my recommendation that the funds to pay for this dredging whatever balance is left would be to come out of the money we're receiving for payment of the water is actually being pulled out of there. I don't believe we designated those funds to any direction, if I'm not mistaken. Cameron stated that is correct. Cameron stated the funds are allocated in the Administration Dept., not the Water Dept. Turner asked the Administration Dept. to let us. I think that would be appropriate and that would be a good show from us as the City to SWEPCO to say, look we're getting this money from you for the sale of this water, but look we're trying to put as much of this money right back into the lake, or in this instance we're taking it out of the lake. But I think this would be my recommendation. I don't know if I need to put that in a form of an amendment or what. Long stated the intention was to make this as beautiful of a park and public friendly as possible. Paul Calloway, Finance Director, stated those funds from the proceeds of the sale of cooling water at SWEPCO are not segregated or restricted in any way. They are going in to the general fund. Long requested for the record John Turners' comments regarding funding.

Roll Call:

Smiley, Fuller, Turner, Nation, Wiles, Long, Wasson – Aye.

No Nay.

Seven Ayes. No Nays. Motion Carried.

The next agenda item was approval of Change Order #7/Progress Avenue by the Arkansas State Highway Commission. A motion was made by Nation and seconded by Fuller to approve the Change Order #7/Progress Avenue in the amount of \$16,880.32 to the Arkansas State Highway Commission. Cameron stated this is for materials utilized for this project. This is not for the timeliness of the project, but this was written into the state's contract with the contractor. Wasson called for the vote.

Roll Call:

Fuller, Turner, Nation, Wiles, Long, Wasson, Smiley – Aye.

No Nay.

Seven Ayes. No Nays. Motion Carried.

The next agenda item was the Administrator's Report:

Cameron gave an update on the storm debris cleanup. There was appx. 65,000 cubic yards of material that was collected. Our Street Dept. has now resumed their normal brush collection. Drewery Construction is now done in the City. They completed the project in two weeks instead of three. They did an amazing job. It was somewhere around \$165,000, but we had talked about an additional \$350,000. We will increase our normal pick up as more debris comes to the curb. At last meeting, Dr. Benjamin asked about a fiduciary for the Bridges to Wellness. We were notified today

that they did find someone to handle that responsibility. Nation asked what our attorney found about the City not being able to do this and why. Jay Williams, City Attorney, explained the Arkansas constitution provides that municipalities are not allowed to appropriate public funds for private interest. They specify individuals, corporations, entities, etc. and there are a number of Attorney General opinions as well as Arkansas State Supreme Court cases that delve into that and clearly established that non-profit entities are included within that constitutional prohibition. Our concern was that, first of all, by providing City paid for accounting and administrative services to administer the grant funds that would be received, that is one aspect that could potentially be run afoul of the constitutional prohibition. The other aspect was that by accepting grant funds, even though with the understanding that their purpose was to go to this charitable program, once we accepted them, they would be City funds to then turn around and appropriate them to a private non-profit that could also potentially violate the constitutional prohibition. So there were some pretty serious concerns about the legality of acting as a fiduciary for a non-profit. Cameron reported that he had signed an agreement for \$19,900 with Paul Smith, who is the person who has taken all the debris. We also sent a letter thanking him for his help. He has provided the City with a place to take limbs and handle them for us. Last Wednesday, we met with some residents from Oklahoma to address the EMS service in Oklahoma. One Delaware County Commissioner did attend and his name is Dave Kendrick, and a number of residents. They expressed their concerns for the EMS service which has been very well noted publicly. They did bring a proposal with them which is the first one ever submitted to the City. They are looking at a sales and property tax to go to a vote. It was only Delaware County that was interested. The City has continued to try to work to find a remedy to that situation and we have continued a dialogue. We have chosen not to do that through the paper. We understand the frustration, but we've given 18 months and more notice. They have asked for a number. We got our 2008 data out earlier this week, and it would be my recommendation that I bring it back to a Board meeting. I'd like to discuss it with the Mayor, and the timing of when we might bring that is not to exceed or to accept an offer that they would come up with the funding source of \$300,000. They are already paying \$200,000 now. Not an additional \$300,000 to the \$200,000, but a total of \$300,000 for Delaware County that would in fact restore service. To even come to the table with an idea that they would consider a property tax or a sales tax is the first step, and these residents in good faith did show up with Dave Kendrick their Commissioner. This was the first time from that perspective we've actually had a dialogue. I would ask, as long as there is no objection, that I will bring this to the March 17th meeting as a resolution. We did pass a resolution that we would not resume service in November 2007, but I would bring a resolution back that would stipulate that we would resume service pending the successful outcome of a vote of a sales tax or that's up to them how they generate those funds. I would not in any way want to stipulate that. They would also continue to work with their delegation. There are 13 or 14 counties in Oklahoma that do not have EMS service, this is not the only county. We did discuss that they could form with those other 13 or 14 counties to formulate a group and work together. There is a national EMS day in Oklahoma City the first week of May, and I would encourage them to lobby for their own state, because as much as we would like to help, it's really something for those who have been elected to represent them to help them address this issue. If the vote doesn't pass, they have no funding source. We would be back where we started. There was never a time that we asked for the full amount up front. We asked if we could work out a funding plan last February. We needed a designated funding source, but we never received that plan. We had planned that the City could meet quarterly or as necessary semi-annually to discuss the progress of meeting the difference which is a dialogue that's not occurred for quite some time. They did not think that the City would actually turn it off. These residents understand that there must be a subsidy in place. I want to be very clear at this moment that even if we charge \$300,000 and we collect that \$300,000, that just pays for the service to be there. That does not mean when we show up there is not a fee assessed as well. Just like you or me tonight, there might not be one 911 call made in this town. Regardless, we still have to have people sitting there waiting for that event to occur. And that has a cost proportionately. Passing a resolution that we would consider a \$300,000 payment understanding that is not going to cover the total cost, but they would continue to look for additional funds and at least give them a number to work for and go out to talk to their legislators. The residents who came wanted to talk, there were no mayors from the cities present, but Dave Kendrick, who is responsible for asking for a vote was present and asked for our consideration. They want a resolution. We'll still continue to go to Kansas if we pick that up as well.

The next agenda item was the Open Hearing for Directors:

Turner thanked the Walton Arts Center who extended an invitation to all elected officials of NW Arkansas, public and schools.

Fuller stated he appreciated the out of town people who came in to help us.

Nation asked Cameron to comment on the Hwy 412 widening. There is a delay and asked where we are on relocating utilities. Cameron stated the Cities' utilities are not the only ones left to be moved. Electric is about 95% complete. The issue with water and sewer is more complicated because there were 13 individual people who did not sign which required condemnation. We can not enter those properties to even begin work on that relocation. We are still about one year from being complete on this project.

Mayor Allen congratulated Diana Wright of Right Solutions for being named the Business Executive of the Year.

Smiley said it is exciting to see the remodeling going on downtown on Broadway.

Long is pleased to see the discussions going on with Oklahoma regarding the EMS.

There being no other business to come before this Board, a motion was made by Long and seconded by Nation that this meeting be adjourned. A voice vote was called for on the motion, and it was approved unanimously.

APPROVED:

David E. Allen, Mayor

(SEAL)

ATTEST:

Peggy Woody, City Clerk, MMC