

December 26, 2018
Six o'clock P.M.
North Little Rock City Hall Council Chambers
300 Main Street
North Little Rock, Arkansas

The regular meeting of the North Little Rock City Council scheduled for Monday, December 24, 2018, and rescheduled to Wednesday, December 26, 2018, due to the Christmas Holidays, was called to order at 6:02 p.m. by the Honorable Mayor Joe A. Smith.

The roll having been called and the following Council Members answered to their names: DEBI ROSS, BETH WHITE, MAURICE TAYLOR, LINDA ROBINSON, STEVE BAXTER, RON HARRIS, CHARLIE HIGHT and MURRY WITCHER (8/0). City Clerk Diane Whitbey and City Attorney Amy Fields were also present.

The prayer and pledge of allegiance were led by Council Member Witcher.

On the motion of Council Member Witcher and seconded by Council Member Ross and by consent of all members present, the minutes from the North Little Rock City Council meeting held on Monday, December 10, 2018, were approved, accepted and filed as prepared by the City Clerk (8/0).

On the motion of Council Member Hight and seconded by Council Member Witcher, and by consent of all members present, communications #1, 2, 3, 4, 5, 6, 7, and 9 were not read, but were accepted and filed (8/0).

1. Todd Larson, Director North Little Rock Economic Development – Corporation Contract Progress Report April – June 2018.
2. Karen Scott, Finance Director – Chair Energy Risk Management Committee memorandum re: Power Cost Adjustment (PCA) rate – December, 2018 [.0013/kwh (positive)].
3. Anita Paul, Mayor's Office memorandum re: *Retail Beer off Premises – NEW* for New Blue Star, 2511 Highway 161, by Balwinder Singh.
4. Anita Paul, Mayor's Office memorandum re: *Retail Beer off Premises & Small Farm Wine – NEW* for CVS/Pharmacy #10975, 2501 McCain Boulevard, by Johnathan S. Muse.
5. Anita Paul, Mayor's Office memorandum re: *Retail Liquor & Retail Beer off Premises – Replacement from Mahendra Dudhia* for Highway 70 Liquor Store, 5921 Highway 70, by Paramjit Singh.
6. Anita Paul, Mayor's Office memorandum re: *Restaurant Mixed Drink – NEW* for Mojitos & Margaritas Grill & Bar, 2629 Lakewood Village, by Andrea Tobon.
7. Carolyn Mallett, wife of retired North Little Rock Police Sergeant Bill Mallett, letter to Chief Mike Davis re: appreciation for members of Police Department for their support during Mr. Mallett's illness and passing.

9. Karen Scott, Finance Director – City of North Little Rock Financial Statements and Supplementary Information with Independent Auditor’s Report, December 31, 2017.

Opinion: In our opinion, based on our audit and the report of other auditors, the financial statements referenced to above present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information of the City of North Little Rock, Arkansas, as of December 31, 2017, and the respective changes in financial position and where applicable, cash flows thereof, and the respective budgetary comparison for the General Fund, thereof for the year ended in accordance with accounting principles generally accepted in the United States of America.

On the motion of Council Member Witcher and seconded by Council Member Taylor, and by consent of all members present communication #8 was read, accepted and filed (8/0).

8. Rear Admiral B. P. Fort, U. S. Navy – letter to AIMM re: commending museum’s collection and the condition of USS Razorback and USS Hoga.

Council Member Witcher said Rear Admiral Fort is the commander of the Pacific Fleet (of the U. S. Navy) stationed in Hawaii.

UNFINISHED BUSINESS

None.

CONSENT AGENDA

On the motion of Council Member Hight and seconded by Council Member Taylor, and all members present having voted “aye”, consent items, R-18-238, R-18-240, R-18-241, R-18-242, R-28-243, R-18-244, R-18-245, R-18-246, and R-18-249, were adopted (8/0). Item R-18-239 was withdrawn, items R-18-247 and R-18-248 were pulled and called under new business.

Ms. Whitbey swore in the following Board/Commission members and gave each a copy of their Oath of Office: Council Member White, Mr. Robert Barnes, Mr. Steve Sparr and Mr. Mike Abele.

R-18-238 (RESOLUTION NO. 9571 – MAYOR SMITH)

A RESOLUTION APPOINTING CITY COUNCIL MEMBER BETH WHITE TO THE POSITION PREVIOUSLY HELD BY COUNCIL MEMBER MURRY WITCHER ON THE SENIOR CITIZENS COMMISSION; AND FOR OTHER PURPOSES, was unanimously adopted (8/0).

R-18-239

A RESOLUTION REAPPOINTING VIRGINIA RAUM TO THE NORTH LITTLE ROCK SENIOR CITIZENS COMMISSION; AND FOR OTHER PURPOSES, was withdrawn by the sponsor, Mayor Smith.

R-18-240 (RESOLUTION NO. 9572 – MAYOR SMITH)
A RESOLUTION REAPPOINTING DOROTHY ROMES TO THE NORTH LITTLE ROCK SENIOR CITIZENS COMMISSION; AND FOR OTHER PURPOSES, was unanimously adopted (8/0).

R-18-241 (RESOLUTION NO. 9573 – MAYOR SMITH)
A RESOLUTION REAPPOINTING ROBERT BARNES TO THE NORTH LITTLE ROCK SENIOR CITIZENS COMMISSION; AND FOR OTHER PURPOSES, was unanimously adopted (8/0).

R-18-242 (RESOLUTION NO. 9574 – MAYOR SMITH)
A RESOLUTION REAPPOINTING RICHARD (DICK) GIDDINGS TO THE NORTH LITTLE ROCK SENIOR CITIZENS COMMISSION; AND FOR OTHER PURPOSES, was unanimously adopted (8/0).

R-18-243 (RESOLUTION NO. 9575 – MAYOR SMITH)
A RESOLUTION REAPPOINTING TIM GIATTINA TO THE PLANNING COMMISSION BOARD OF ADJUSTMENT AND APPEALS; AND FOR OTHER PURPOSES, was unanimously adopted (8/0).

R-18-244 (RESOLUTION NO. 9576 – MAYOR SMITH)
A RESOLUTION REAPPOINTING STEVE SPARR TO THE PLANNING COMMISSION BOARD OF ADJUSTMENT AND APPEALS; AND FOR OTHER PURPOSES, was unanimously adopted (8/0).

R-18-245 (RESOLUTION NO. 9577 – MAYOR SMITH)
A RESOLUTION REAPPOINTING MIKE ABELE TO THE PLANNING COMMISSION BOARD OF ADJUSTMENT AND APPEALS; AND FOR OTHER PURPOSES, was unanimously adopted (8/0).

R-18-246 (RESOLUTION NO. 9578 – MAYOR SMITH)
A RESOLUTION CONFIRMING THE REAPPOINTMENT OF BRETT RUSSELL TO THE NORTH LITTLE ROCK HOUSING AUTHORITY BOARD OF COMMISSIONERS; AND FOR OTHER PURPOSES, was unanimously adopted (8/0).

R-18-249 (RESOLUTION NO. 9579 – MAYOR SMITH)
A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A RIGHT-OF-WAY EASEMENT FROM THE CITY OF NORTH LITTLE ROCK TO ENTERGY ARKANSAS, LLC FOR ACCESS TO ENTERGY'S LEVY 2 SUBSTATION; AND FOR OTHER PURPOSES, was unanimously adopted (8/0).

NEW BUSINESS

R-18-247 (RESOLUTION NO. 9580 – MAYOR SMITH)

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO AN AGREEMENT ON BEHALF OF THE CITY OF NORTH LITTLE ROCK, ARKANSAS WITH AUDUBON ARKANSAS FOR THE PAINTING OF SIX STORM DRAINS FOR THE DRAIN SMART ENVIRONMENTAL EDUCATIONAL PROGRAM; AND FOR OTHER PURPOSES, was

read. A motion to adopt was made by Council Member Ross and seconded by Council Member White. Council Member Ross asked where the drains would be located. Mayor Smith said there will be at least one in each ward and a draft (of the image) will be presented to him, prior to the painting for approval. On the previous motion, and by consent of all members present, the resolution was unanimously adopted (8/0). (\$3,000.00)

R-18-248 (RESOLUTION NO. 9581 – MAYOR SMITH)

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO SIGN ON BEHALF OF THE CITY OF NORTH LITTLE ROCK, ARKANSAS ANY DOCUMENTS RELATING TO THE INVESTMENT OF FUNDS WITH ARVEST WEALTH MANAGEMENT; AND FOR OTHER PURPOSES, was read.

A motion to adopt was made by Council Member Witcher and seconded by Council Member White. Council Member Ross asked the reason for the legislation. Finance Director Karen Scott said the (city's) Investment Committee released an RFP (Request for Proposals). There were three (3) responses (Arvest Investments, Crews & Associates and Raymond James). The city has funds invested with Crews & Associates and Raymond James. The Committee chose to invest Electric Department funds with Arvest Investments. Their (Arvest) auditors requested this legislation. The Mayor and City Clerk sign all city banking documents. On the previous motion, and by consent of all members present, the resolution was unanimously adopted (8/0).

Mayor Smith announced citizen public comment on legislation and invited Mr. Robert Fureigh to come forward. Mr. Fureigh asked the status of the preliminary design (and) plans and who developed them related to R-18-254. There being no one else wishing to be heard, Mayor Smith asked that (remaining) new business be called.

R-18-250 (RESOLUTION NO. 9582 – MAYOR SMITH)

A RESOLUTION DETERMINING AND ESTABLISHING THE NORTH LITTLE ROCK ELECTRIC DEPARTMENT'S 2019 AVOIDED COST OF SOLAR POWER; AND FOR OTHER PURPOSES, was read.

A motion to adopt was made by Council Member Witcher and seconded by Council Member Ross. Council Member Ross asked what Avoided Cost is. Mr. C. Jason Carter, Attorney at Law, advised it is the cost (North Little Rock Electric) avoids when power is purchased from its customers that generate power. Mayor Smith said L'oreal and the VA are solar power customers and he sees there being more in the future. Mr. Carter said this (item or policy) should be evaluated annually. On the previous motion, and by consent of all members present, the resolution was unanimously adopted (8/0).

R-18-251 (RESOLUTION NO. 9583 – MAYOR SMITH)

A RESOLUTION AUTHORIZING AND RATIFYING THE SUBMISSION OF A PETITION FOR REVIEW AND MOTION FOR STAY OF THE FCC’S RECENT SMALL CELL ORDER; AND FOR OTHER PURPOSES,

was read. A motion to adopt was made by Council Member Baxter and seconded by Council Member Harris. Mr. Carter said the city adopted a Small Cell Ordinance last summer. Since then, the FCC (Federal Communications Commission) has adopted a Small Cell Order, some of which contravenes the city’s ordinance. The National League of Cities, American Public Power Association and the U. S. Conference of Mayors are now involved. This resolution ratifies North Little Rock’s action in the 8th Circuit (Court of Appeals). Many of the cases that were filed did not pursue a stay of the order which is scheduled to become effective January 14 (2019). Mr. Carter said the City is engaging in the case with Missouri Public Utilities Alliance (which is a collection of cities in Missouri). Council Member Hight asked what the conflicts were. Mr. Carter advised regarding a permit application (to attach to North Little Rock Electric poles), the city has said an applicant must be an FCC entity. The FCC has said anyone can apply. The city controls the flow of permits. Under FCC rules an applicant can submit unlimited permit applications. The city’s application fees are several times higher than the FCC’s *Safe Harbor* application fee. Mr. Carter said the city cannot process a fee for the amount provided by the FCC. The FCC has set a maximum height of 35 feet. The presumed size of the device (and equipment) is about the size of a refrigerator – 28 cubic feet. Mr. Carter said (other) cities have filed similar requests in the 9th, 10th and DC Circuit. On the previous motion, and by consent of all member present, the resolution was unanimously adopted (8/0).

R-18-252 (RESOLUTION NO. 9584 – MAYOR SMITH)

A RESOLUTION AMENDING THE 2018 BUDGET FOR THE CITY OF NORTH LITTLE ROCK TO INCLUDE ADDITIONAL EXPENSES IN CERTAIN DEPARTMENTAL BUDGETS; AND FOR OTHER PURPOSES,

was read. On the motion of Council Member Ross and seconded by Council Member Witcher, and by consent of all members present, the resolution was unanimously adopted (8/0). (*Health - \$3,400.00, Parks - \$18,000.00, UAD - \$35,000.00*)

R-18-253 (RESOLUTION NO. 9585 – MAYOR SMITH)

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO AN AGREEMENT WITH THE NORTH LITTLE ROCK CHAMBER OF COMMERCE FOR ECONOMIC DEVELOPMENT SERVICES; AND FOR OTHER PURPOSES,

was read. A motion to adopt was made by Council Member Hight and seconded by Council Member Ross. Council Member Hight said he is proud of the relationship between the City of North Little Rock, City Council and North Little Rock Chamber of Commerce. All work together for the benefit of the city. Council Member White asked about a second position included in the legislation. Mayor Smith referred to offices and said only one is needed. Council Member Ross said the Chamber is required to provide quarterly reports. She asked if Economic Development Director Todd Larson is required to provide

reports. Mayor Smith said Mr. Larson will provide monthly reports to him. On the previous motion, and by consent of all members present, the resolution was unanimously adopted (8/0). (\$75,000.00)

R-18-254

A RESOLUTION EXPRESSING AN INTENT TO ISSUE REVENUE BONDS FOR THE PURPOSE OF FINANCING CONSTRUCTION OF A POLICE AND COURTS BUILDING AND FOR IMPROVEMENTS TO THE NORTH LITTLE ROCK AIRPORT; AUTHORIZING THE MAYOR TO EXECUTE AN ENGAGEMENT LETTER WITH BOND COUNSEL AND UNDERWRITERS; AND FOR OTHER PURPOSES, was called and held by the sponsor, Mayor Smith (\$15,000,000.00).

Note: this item will be removed from the agenda due to change in council January 1, 2019.

R-18-255 (RESOLUTION NO. 9586 – COUNCIL MEMBER HIGHT)

A RESOLUTION ACCEPTING THE LOW BID OF AND AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A CONTRACT WITH GENE SUMMERS CONSTRUCTION FOR THE LEVY TRAIL (PHASE III) PROJECT, IN THE AMOUNT OF \$336,084.23; APPROPRIATING FUNDS; AND FOR OTHER PURPOSES, was read. A motion to adopt was made by Council Member Witcher and seconded by Council Member Hight. Council Member Hight said this will extend the Levy Trail to Kierre. On the previous motion, and by consent of all members present, the resolution was unanimously adopted (8/0).

O-18-95

AN ORDINANCE AMENDING THE SMALL WIRELESS COMMUNICATION FACILITY REGULATION TO APPROVE DESIGN FOR INSTALLATION OF SMALL WIRELESS FACILITIES ON DECORATIVE POLES; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES, was called and withdrawn by the sponsor, Mayor Smith.

O-18-96 (ORDINANCE NO. 9063 – MAYOR SMITH)

AN ORDINANCE GRANTING A ~~CONDITIONAL~~ SPECIAL USE TO ALLOW A PARKING LOT IN A C-6 ZONE FOR CERTAIN REAL PROPERTY LOCATED AT THE SOUTHEAST CORNER OF NORTH OLIVE STREET AND 6TH STREET IN THE CITY OF NORTH LITTLE ROCK, ARKANSAS; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES, was read. On the motion of Council Member Hight and seconded by Council Member Witcher, and by consent of all members present, the readings were suspended (8/0). A motion to adopt was made by Council Member Witcher and seconded by Council Member Hight. Mayor Smith said Mrs. Loretta Edgar owned and operated Star Bolt and Screw for a number of years. Her two (2) nephews now own and operate the company. They have been parking cars on an (unpaved) lot next door for (Verizon) Arena events. Recently, an out of state contractor approached the owners and advised he had asphalt and cement left from another job and that he could pave the lot for a reduced price. The contractor paved the entire parking lot up to the curb covering sidewalks and the right of way. Mayor Smith said the owners plan to add on to their building in the (near) future. It would be expensive to remove the

asphalt and put the sidewalk back in. Mayor Smith advised the owners the city may paint the asphalt where the sidewalk is supposed to be located. Council Member Ross asked why the request was for a Conditional Use instead of a Special Use. A Conditional Use would be indefinite where a Special Use could have a time limit. City Attorney Fields said the request from (the) Planning (Commission) was for a Conditional Use that would stay with the property. Ms. Fields referenced the next item which requests multiple waivers related to the same property. Council Member Ross said a Special Use would be a reduction from a Conditional Use and would not require additional public notice. Council Member Ross made a motion to amend as follows: *change Conditional Use to SPECIAL USE and Section 1: strike through car sales and insert PARKING, and insert FOR A PERIOD OF TWO YEARS* which was seconded by Council Member Harris. Mayor Smith said that after two (2) years, the applicant would have to come back before the council to renew the Special Use. Council Member Taylor said anyone can do something that is against (city zoning, codes) and then ask for forgiveness. How will this look? Is this setting a precedence? City Attorney Fields said it would be based on each individual case. Council Member Ross said the owners will have to pay a Drainage Fee due to increasing the impervious surface, put in wheel stops and no parking in the public right-of-way. City Attorney Fields clarified that this Special Use will only be in effect for a period of two (2) years. On the previous motion, and by consent of all members present, with the exception of Council Member Taylor who voted no, the ordinance was amended as stated above (7/1). On the motion of Council Member Witcher and seconded by Council Member Hight, and the roll having been called and all members present having voted in the affirmative, with the exception of Council Member Taylor who voted no, the ordinance was adopted as amended (7/1). On the emergency clause all members present voted in the affirmative, with the exception of Council Member Taylor who vote no, emergency clause adopted (7/1). Mayor Smith advised a public hearing needed to be called and convened one. Mr. Fureigh said he is a retired Civil Engineer and designed a lot of parking lots. He asked what the pavement structure is, if it would hold and F-350 pickup truck, if the soil beneath the surface is of a sufficient (weight) bearing capacity. There being no one else wishing to be heard and no change in the previous vote, the public hearing was adjourned. (*applicant: Park Here LLC*)

O-18-97 (ORDINANCE NO. 9064 – MAYOR SMITH)

AN ORDINANCE GRANTING A WAIVER OF SECTIONS 12.21, 15.4, 15.6, AND 18.2 OF THE ZONING ORDINANCE FOR A PARKING LOT ON CERTAIN REAL PROPERTY LOCATED AT THE SOUTHEAST CORNER OF NORTH OLIVE STREET AND 6TH STREET IN THE CITY OF NORTH LITTLE ROCK, ARKANSAS; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES, was read. On the motion of Council Member Ross and seconded by Council Member Hight, and by consent of all members present, with the exception of Council Member Taylor who voted no, the readings were suspended (7/1). A motion to adopt was made by Council Member Hight and seconded by Council Member Ross. Council Member Ross said the previous legislation changed the request to a Special Use. She said she is willing to waive the street trees, shrubs, etc. for two years only. City Attorney Fields recommended an amendment. On the motion of Council Member Ross and seconded by Council Member Robinson, and by consent of all members present, the ordinance was

amended as follows:: *Section 2: strike through until future development of the property and insert FOR TWO (2) YEARS FROM THE DATE OF ADOPTION OF THIS ORDINANCE (8/0).* Mayor Smith convened a public hearing. There being no one present wishing to be heard, the public hearing was adjourned. A motion to adopt was made by Council Member Baxter and seconded by Council Member Harris. Council Member Ross said the previous legislation does require wheel stops, etc. On the previous motion, and the roll having been called and all members present having voted in the affirmative, with the exception of Council Member Taylor who voted no, the ordinance was adopted as amended (7/1). On the emergency clause all member present voted in the affirmative, with the exception of Council Member Taylor who voted no, emergency clause adopted (7/1). (*applicant: Park Here, LLC*) Ms. Whitbey reminded the applicants they need to obtain a Business (Privilege) License.

O-18-98 (ORDINANCE NO. 9065 – COUNCIL MEMBER ROBINSON)

AN ORDINANCE VACATING AND ABANDONING CERTAIN UNUSED EASEMENTS ON PROPERTY LOCATED AT 12209 HIGHWAY 70 IN THE CITY OF NORTH LITTLE ROCK, ARKANSAS; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES, was read. On the motion of Council Member Robinson and seconded by Council Member Ross, and by consent of all members present, the readings were suspended (8/0). On the motion of Council Member Taylor and seconded by Council Member Robinson, and the roll having been called, and all members present having voted in the affirmative, the ordinance was unanimously adopted (8/0). Mayor Smith convened a public hearing. There being no one present wishing to be heard, the public hearing was adjourned. Emergency clause unanimously adopted (8/0). (*applicant: Eric Richardson of Richardson Engineering, PLLC*)

O-18-99 (ORDINANCE NO. 9066 – COUNCIL MEMBER TAYLOR)

AN ORDINANCE GRANTING A WAIVER OF SECTION 14.115 OF THE ZONING ORDINANCE TO ALLOW AN ELECTRONIC CHANGEABLE COPY SIGN ON CERTAIN REAL PROPERTY LOCATED AT 3205 VALENTINE ROAD IN THE CITY OF NORTH LITTLE ROCK, ARKANSAS; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES, was read. A motion to adopt was made by Council Member Taylor and seconded by Council Member Robinson. Mayor Smith convened a public hearing. The applicant said he wanted to update an outdated sign with a LED sign. This will look better and is the only one left in that area of the business that uses outdated signs. Poles have to be used to change the numbers. The only change to the sign will be the part that indicates the price electronically. On the previous motion, and by consent of all members present, the readings were suspended (8/0). On the motion of Council Member Taylor and seconded by Council Member Robinson, and the roll having been called, and all members present having voted in the affirmative, the ordinance was unanimously adopted (8/0). Emergency clause unanimously adopted (8/0). (*applicant: Neil Wilson of Petro Stopping Centers*)

PUBLIC COMMENT

Mr. Brent Treece was present with Gabe Trobis. He said they were elected officers of the International Association of Fire Fighters Local No. 35. Mr. Treece said they were present to address the handbook that was adopted at the previous (council) meeting. He said on April 2, 2018, they were told the city could not move forward with negotiations before addressing prevailing rights and insurance. Mr. Treece said in September, the negotiation team met with city officials at which time an agreement was reached on both issues. At the previous meeting, a handbook was adopted despite their concessions. The following week a draft of the handbook was received which included changes to almost all of the articles in their (proposed) contract. Mr. James Ard asked Council Member Witcher to join him at the podium. Mr. Ard thanked Mrs. Becky Witcher and Council Member Witcher for their service to the city. Mr. Ard also invited Council Member-elect Jane Ginn to come forward. Mr. Ard then wished everyone a Happy New Year. Council Member Witcher said public service involves the whole family. He introduced his son Andy Witcher who was present. Public service is also an honorable endeavor and those who serve should give back to their community. Council Member Witcher thanked the other council members for their service and support. He served on the City Council 28 years. Several council members shared their past experiences with Council Member Witcher and said he has served as a mentor to them. Mayor Smith announced a Swearing-In Ceremony to be held Tuesday, January 1, 2019, at 10:00 a.m. in City Hall and advised everyone is invited to attend. He then passed his gavel to Council Member Witcher and asked him to close the meeting.

There being no further business to come before the Council, and on the motion of Council Member Ross and seconded by Council Member White, and by consent of all members present, the meeting was adjourned at 6:53 p.m. (8/0), until the next regularly scheduled meeting to be held on Monday, January 14, 2019, at six o'clock p.m. in the City Council Chambers in City Hall, located at 300 Main Street, North Little Rock, Arkansas.

APPROVED: _____


MAYOR JOE A. SMITH

ATTEST: _____


DIANE WHITBEY, CITY CLERK