

BELLA VISTA CITY COUNCIL REGULAR MEETING

February 26, 2024 6:00 P.M.

Bella Vista District Court, 2483 Forest Hills Boulevard, Bella Vista, AR 72715

MINUTES

Call to Order by Mayor John Flynn at **6:00 PM**

Roll of Council called by Clerk Lepillez Krug. Council Members Snow, Hughes, Wozniak, Wilms, Fowler and Honchell present. Mayor Flynn present.

Pledge of Allegiance recited

Public Comment: Six people signed up to speak. Mayor Flynn explained the 3-minute rule and called the first person on the list.

Tim Pschierer, 40 Knighton Dr. He came to bring awareness to the litter problem on 71B Bella Vista Way. He explained history of Positively Bella Vista "SIX IN SIXTY" efforts to gather community to clean highway of litter. This year interest has tripled, with the sixth event. He wants to encourage businesses along 71B to be litter aware by proposing fun, positive publicity through local and social media pages, with City recognition when they commit to clean storefronts. Ideas for the City: 1. Designate April Litter Awareness month 2. Police hyper aware of potential litter problems and notify public this month 3. Official "City of Bella Vista" certificates to participating businesses 4. Picture of Mayor Flynn, Council Members, with Business owners, staff, or managers. Ideas for Businesses: 1. 15-30 minutes per month commitment to clean their storefront along 71B. 2. Take pictures, post on Social Media, and cc the City. Timeline would be Saturday, March 30 Annual "Six in Sixty" Litter Pick-up. Requests Mayor Flynn to announce April as "Litter Awareness Month" at the event gathering.

Chris Nelson, 1 Herrington Dr. He came to express concern about the proposed Bella Vista election legislation on agenda. He feels Council Member proposing it brought up accusations during Work Session about people who made legal contributions to a political candidate. He questioned Council Member Fowlers' motive with an election coming up. He believes the best approach is to work with the Benton County Election Commission and state representatives to change election law for Arkansas, if this is for the public good.

Kelly Strain, 4 Mary Ann Ln. He came to speak about needed street repair on Mary Ann Ln. He reports repairs were made about 2 ½ years ago and asphalt was added, but now it is torn up again. The pothole is a nuisance and needs to be avoided by cars. He complained about the lack of attention from the Street Dept. He said he doesn't understand how things are run at City

Hall, but he would like to know who City Council Members are accountable to, if someone would be willing to explain to him. He provided his number: 760-802-3775. He cited Council Member Snow as an example of how to do business.

Christian Henning, 7 Longview Ln. He came to speak about the proposed Ordinance concerning campaign contribution filing before early voting begins. He thinks it should be tabled indefinitely. He agrees with the Resolution proposing Arkansas Code modification and Municipal League incorporation into its 2025 Legislative package. He also ran in the past election, and agrees that early filing of campaign contributions is a good idea, but belongs in the hands of the State. He does not agree with attaching “out of town contributions” to the proposed I. Resolution. He thinks it alienates candidates who can’t fund their own campaigns, such as younger people whose voice needs to be heard in Bella Vista.

Ellen Creakbaum, 50 Churchill Dr. She came to speak in favor of full disclosure of who is funding election campaigns – local, state, and national. She supports Council Member Fowler and the proposed Ordinance and the two proposed Resolutions. She thinks all information must be reported, recorded, and available for review by voters prior to any first vote being cast. She thinks when early voting was started, these requirements should have been put into place.

Randy Murray, 2551 Forest Hills. He came to speak against the proposed Ordinance and Resolution regarding filing of campaign contributions with the City before early voting begins and the influence of out-of-town contributions. He agrees with the Resolution proposing Arkansas Code modification and Municipal League incorporation into its 2025 Legislative package. Since the U.S. Constitution gives the power to the State for the elections, that’s the way to do it, he said. It is the way to keep the City from being sued, and follows the advice of the AML. Another way to do this is to become partisan, if the State doesn’t provide what is wanted. He thinks if we really want to educate voters, we would become partisan, since the State has a legal path set out to do that. He agreed with Mayor Flynn’s comment at Work Session that voters need a plethora of information about candidates, and finances is only one piece.

Council Reply: Council Member Fowler responded to Mr. Pschierer and agreed with his assessment of the litter on 71B. He feels that litter is hard to legislate and hard to “fix.” He wishes people would be more mindful of what they do with their trash, and he thanked Mr. Pschierer for his comments. Then he spoke to Mr. Strain’s request to know about a Council Member’s role and accountability. He offered to spend time with Mr. Strain and take him along on a work day to see how much effort goes into preparing for Council Meeting decisions. He offered to sit down with him and explain the homework and responsibilities that go into being a Council Member. He challenged Mr. Strain to consider this, and run for City Council if he wanted to handle these responsibilities. Next, he spoke about his proposed Ordinance and two Resolutions that address disclosure of campaign funds. He feels this proposed legislation will simply rectify an issue that should have been handled long ago. Council Member Hughes thanked everyone who spoke today. She praised Mr. Pschierer for his efforts to reduce litter,

and hopes the City will be able to follow through on his requests. She told Mr. Strain that she will direct him to the right people in the Street Department to get his street repaired. Council Member Wilms thanked the citizens for speaking up. He concurred with the litter problem on 71B, and feels most people aren't intentional enough about the way they contain litter. He doesn't see any issue with the proposed Ordinance and Resolutions conflicting with State requirements for candidate campaign filing prior to early voting. He generally supports the proposals. Council Member Wozniak believes that the Ordinance and Resolution for early voting make sense and should take care of knowing where the money is coming from for candidates in time for early voters to make their decisions. Council Member Honchell spoke in response to Mr. Strain, stating his reason for serving on Council is to represent the residents of this community and to be accountable to them. He takes great honor in sitting on the Council. He financed his own campaign, and understands the challenge of campaign fund-raising. He agrees with transparency and finds the language to be clear in the proposed Ordinance and Resolutions. Mayor Flynn spoke in favor of Litter Awareness month, recognized the problem on 71B, and thanked Mr. Pschierer for addressing it.

Action on the Minutes:

January 22, 2024 – Regular Meeting, Motion made by Council Member Wilms to approve as prepared by Clerk Lepillez Krug, second by Council Member Fowler. **Roll Call Vote unanimous to approve. (Ayes: 6/Nays: 0)**

Reports: The Mayor gave a preliminary year-end 2023 Financial Report. He mentioned that City Sales Tax went up 5%, County Sales Tax went up 12%, Total Operating Revenue went up 12%. The year became stronger as it progressed. Total Revenue was \$22.9 million and that was up about \$3 million from the previous year. Expenses were \$500,000 below budget at \$18.4 million. The complete report will be ready next month.

The Mayor asked for a motion to suspend the rules and read all Ordinances and Resolutions on the agenda by title only. Council Member Wilms made a Motion to approve, second by Council Member Honchell. Roll Call Vote was unanimous to approve. (Ayes: 6/Nays: 0)

New Business: See meeting packet for complete ordinances and resolutions.

ORDINANCE 2024-04: AMENDING CHAPTER 105 FLOOD DAMAGE PREVENTION OF THE CODE OF ORDINANCES OF THE CITY OF BELLA VISTA TO PROVIDE FOR PLANNING COMMISSION CONSIDERATION OF WAIVERS OF CERTAIN REQUIREMENTS, AND FOR OTHER PURPOSES *Mayor Flynn read the ordinance by title only. Council Member Fowler described this as a "clean-up" and not a big change, which Planner Robertson confirmed. Council Member Fowler made a motion to suspend the rules and move to third and final reading, seconded by Council Member Honchell. Roll Call Vote unanimous to approve. (Ayes: 6/Nays: 0) Mayor Flynn read the ordinance again. Council Member Fowler made*

*a motion to approve, second by Council Member Honchell. **Roll Call Vote unanimous to approve. (Ayes: 6/Nays: 0)***

ORDINANCE 2024-05: AMENDING THE BELLA VISTA ZONING ORDINANCE AND MAP TO REZONE COUNTY PARCEL NOS. 16-16926-000 AND 16-16927-000 FROM R-1, RESIDENTIAL SINGLE-FAMILY DISTRICT TO P-1, CONSERVATION DISTRICT *Mayor Flynn read the ordinance by title only. Council Member Fowler said this ordinance makes sense, after looking at these well-hidden properties. Council Member Fowler made a motion to suspend the rules and move to third and final reading, second by Council Member Wilms. **Roll Call Vote unanimous to approve. (Ayes: 6/Nays: 0)** Mayor Flynn read the ordinance again. Council Member Honchell made a motion to approve, second by Council Member Fowler. **Roll Call Vote unanimous to approve. (Ayes: 6/Nays: 0)***

ORDINANCE 2024-06: AMENDING THE BELLA VISTA ZONING ORDINANCE AND MAP TO REZONE PROPERTY DESCRIBED IN REZONING PETITION NO. 2023-52821 (COUNTY PARCEL NO. 16-37442-000) FROM P-1, CONSERVATION DISTRICT TO R-1, RESIDENTIAL SINGLE-FAMILY DISTRICT *Mayor Flynn read the ordinance by title only. Council Member Fowler made a motion to suspend the rules and move to third and final reading, second by Council Member Honchell. **Roll Call Vote unanimous to approve. (Ayes: 6/Nays: 0)** Mayor Flynn read the ordinance again. Council Member Wilms made a motion to approve, second by Council Member Fowler. **Roll Call Vote unanimous to approve. (Ayes: 6/Nays: 0)***

ORDINANCE 2024-07: AMENDING THE BELLA VISTA ZONING ORDINANCE AND MAP TO REZONE PROPERTY DESCRIBED IN REZONING PETITION NO. 2023-52794 (COUNTY PARCEL NO. 16-40224-000) FROM R-2, RESIDENTIAL TWO-FAMILY DISTRICT, TO C-1, NEIGHBORHOOD COMMERCIAL DISTRICT *Mayor Flynn read the ordinance by title only. Council Member Honchell made a motion to suspend the rules and move to third and final reading, second by Council Member Wilms. **Roll Call Vote unanimous to approve. (Ayes: 6/Nays: 0)** Mayor Flynn read the ordinance again. Council Member Honchell made a motion to approve, second by Council Member Fowler. **Roll Call Vote unanimous to approve. (Ayes: 6/Nays: 0)***

ORDINANCE: AMENDING THE CODE OF ORDINANCES OF THE CITY OF BELLA VISTA TO ADOPT A NEW ARTICLE X *OUTDOOR LIGHTING* TO CHAPTER 109 *ZONING* TO PROVIDE FOR OUTDOOR LIGHTING REGULATIONS FOR NEW COMMERCIAL DEVELOPMENTS, AND FOR OTHER PURPOSES *1st reading. Mayor Flynn read the ordinance by title only. Council Member Wilms explained his proposed Amendment to this Ordinance. He wants to add details and change some definitions. Planner Robertson explained Staff response to Council Member Wilms proposed Amendment, detailing the need for conformity to the current code language. After lengthy discussion between Planner Robertson and Council Member Wilms, Council Member Fowler proposed they meet separately to talk through*

these changes, and bring a “clean” version to next month’s Council Meeting. **Ordinance moves to 2nd reading.**

ORDINANCE 2024-08: AMENDING CHAPTER 107 SUBDIVISIONS AND OTHER DEVELOPMENTS OF THE CODE OF ORDINANCES OF THE CITY OF BELLA VISTA TO PROVIDE ADDITIONAL CLARITY REGARDING THE INTENT AND APPLICABILITY OF DRAINAGE PERMITS AND THE DRAINAGE MANUAL, AND FOR OTHER PURPOSES *Mayor Flynn read the ordinance by title only. Council Member Wilms brought up questions for clarification of this amendment to Chapter 107. Planner Taylor responded with detailed explanations. Council Member Fowler made a motion to suspend the rules and move to third and final reading, second by Council Member Honchell. **Roll Call Vote unanimous to approve. (Ayes: 6/Nays: 0)** Mayor Flynn read the ordinance again. Council Member Wilms made a motion to approve, second by Council Member Fowler. **Roll Call Vote unanimous to approve. (Ayes: 6/Nays: 0)***

ORDINANCE: REQUIRING CANDIDATES FOR ELECTION TO ANY MUNICIPAL OFFICE OF THE CITY OF BELLA VISTA, IN ADDITION TO ANY OTHER REQUIREMENT OF STATE LAW, TO FILE CAMPAIGN CONTRIBUTION AND EXPENDITURE REPORTS WITH THE BELLA VISTA CITY CLERK IN SUFFICIENT TIME FOR VOTERS TO MAKE USE OF SUCH INFORMATION PRIOR TO THE BEGINNING OF EARLY VOTING, AND FOR OTHER PURPOSES *1st reading. Mayor Flynn read the ordinance by title only. Council Member Fowler explained he would like to propose tabling Resolutions H. and I. for a future time. After speaking with Attorney Kelley, he wants to change the wording of Resolution I. He explained that public disclosure in time for early voting is at the heart of this Ordinance. The FOIA holds City officials to a high level of accountability, and this goes hand-in-hand with FOIA. He said the intent is not to target any candidate or donor. An article in the Weekly Vista that shed light on campaign contributions in the last election peaked his attention with the following: “When the final votes are tallied my only concern is where the loyalty lies. Is the loyalty to the person or group giving the most money, with out of state donors, or is the loyalty with the constituents on the home front, the ones a race winner is charged with representing?” He also stated that following phone calls today, there is a State House legislator that will bring this proposal to the State Attorney General for an opinion, so the City will have feedback. He asked Staff Attorney Kelley to speak to the legalities of this proposed Ordinance. Attorney Kelley mentioned state law does not prohibit cities from legislating in the area of campaign disclosures and donations in terms of FOIA requirements. State law does not clearly say that cities have the authority to provide for additional filing and disclosure with the City Clerk. In summary, state law doesn’t say we can specifically, but it doesn’t say we can’t, and it is unclear. The Arkansas Municipal League is of the same opinion, and it is their hope that our City does not act on this until we receive the opinion of the State Attorney General. Council Member Hughes asked if we know the timetable on requests to the State Attorney’s office. Attorney Kelley says we do not. Council Member Snow said it could take up to six*

months, citing a different situation. Council Member Fowler said he has no problem with setting a precedence, as he feels this should have been done already, and he has no problem waiting on the State Attorney General's response. Council Member Honchell expressed his support of this Ordinance as it is written, and he has no problem with the timetable. Council Member Hughes likes the transparency piece of this proposal, but prefers to defer this responsibility to the State and pass H. Resolution tonight. Council Member Wilms said he has no issues with this proposal and the rationale behind it. He feels every candidate must be able to defend where he receives his campaign funds. Council Member Snow feels this is election interference, and any change to election law should be placed in the hands of the state. He thinks our City will have additional litigation if adopted, and could discourage candidates from filing in Bella Vista. **Council Member Snow made a motion to table indefinitely, second by Council Member Hughes.** Council Member Fowler raised a debate, stating that several false claims were just made. He reiterated several previous statements, saying the only change is moving the timeline back to before early voting. Council Member Wozniak added that all over the country people are buying elections, and that is what some people are afraid of. Council Member Honchell requested that the personal rhetoric be held down. **Roll Call Vote: (Ayes: 2 Snow, Hughes/Nays: 4 Honchell, Wozniak, Wilms, Fowler) Motion failed.** Mayor Flynn added he thinks H. is a lot more rational. He thinks it is up to the county and the state to run elections, not the city. It would cause us to be an outlier – there is no other city in the whole state who has passed legislation like this. He respects the head of the Municipal League and his many years of experience. He believes it is a good idea to think about it before 2nd and 3rd readings.

RESOLUTION R2024-11: REQUESTING THE ARKANSAS GENERAL ASSEMBLY MODIFY ARK. CODE ANN. § 7-6-208 TO REQUIRE CAMPAIGN CONTRIBUTION AND EXPENDITURE REPORTS FOR MUNICIPAL AND LOCAL OFFICES BE FILED PRIOR TO THE BEGINNING OF ANY EARLY VOTING PERIOD, AND FURTHER REQUESTING THE ARKANSAS MUNICIPAL LEAGUE INCORPORATE THIS REQUEST INTO ITS 2025 LEGISLATIVE PACKAGE Mayor Flynn read the resolution. Council Member Hughes stated her support of this proposal and believes it is a logical way to solve this issue. Council Member Fowler gave further comment in support of this proposal. Council Member Honchell wants to move this conversation forward. Council Member Wilms supports this proposal. He thinks it may help other cities to consider the same issue. Council Member Fowler asked how quickly this resolution would be sent to Little Rock and legislators, if passed tonight. Staff Attorney Kelley said it would be in the hands of the City Clerk and it wouldn't take long. Council Member Honchell made a motion to approve, second by Council Member Fowler. **Roll Call Vote unanimous to approve: (Ayes: 6/Nays: 0)**

RESOLUTION: EXPRESSING THE OPINION OF THE CITY COUNCIL THAT CITIZENS SHOULD BE HIGHLY VIGILANT REGARDING THE INFLUENCE OF OUT-OF-CITY CAMPAIGN

CONTRIBUTIONS DURING BELLA VISTA MUNICIPAL ELECTIONS *Mayor Flynn read the resolution. Council Member Fowler said he wants to “take the edge off” the wording and bring a revised version next week. Council Member Hughes asked for clarification and he explained it is related to Bella Vista Council being non-partisan and representing constituents of the City. Council Member Hughes commented that finances are not the only important aspect to consider when choosing a candidate. Council Member Fowler made a motion to table indefinitely, second by Council Member Honchell. **Roll Call Vote unanimous to approve: (Ayes: 6/Nays: 0)***

RESOLUTION R2024-12: ADOPTING A REVISED PLANNING APPLICATION FEE SCHEDULE *Mayor Flynn read the resolution. Council Member Honchell made a motion to approve, second by Council Member Wilms. **Roll Call Vote unanimous to approve: (Ayes: 6/Nays: 0)***

RESOLUTION R2024-13: APPROVING THE MAYOR’S REAPPOINTMENT OF DOUG FARNER TO THE BELLA VISTA PLANNING COMMISSION FOR A FOUR (4) YEAR TERM EXPIRING MARCH 1, 2028 *Mayor Flynn read the resolution. Council Member Honchell made a motion to approve, second by Council Member Fowler. **Roll Call Vote unanimous to approve: (Ayes: 6/Nays: 0)***

RESOLUTION R2024-14: APPROVING THE MAYOR’S INITIAL APPOINTMENTS TO THE ACTIVE TRANSPORTATION ADVISORY BOARD *Mayor Flynn read the resolution. Council Member Honchell asked for the names of the appointees to be read, as this represents a monumental moment for the City and the future of our trails. Mayor Flynn read the names of the Board appointees. Council Member Honchell made a motion to approve, second by Council Member Fowler. **Roll Call Vote unanimous to approve: (Ayes: 5/Nays: 0)***

RESOLUTION R2024-15: APPROVING THE BELLA VISTA ADVERTISING AND PROMOTION COMMISSION’S APPOINTMENT OF MURIEL GARZA AS AN INDUSTRY POSITION COMMISSIONER FOR AN UNEXPIRED TERM ENDING JULY 31, 2026, DUE TO THE RESIGNATION OF DON HARRIS *Mayor Flynn read the resolution. Council Member Fowler noted that Muriel and her husband own three AirBnb short term rentals in Bella Vista, and the A&P Commission already officially approved her. Council Member Honchell made a motion to approve, second by Council Member Wilms. **Roll Call Vote unanimous to approve: (Ayes: 5/Nays: 0)***

RESOLUTION R2024-16: AMENDING THE 2023 CITY BUDGET REGARDING THE MERCY WAY BRIDGE CONSTRUCTION PROJECT *Mayor Flynn read the resolution. Finance Director Hall said she met with Staff Attorney Kelley to clarify his questions from Work Session. Grant money and ARDOT fund timetables were discussed. Council Member*

*Wilms made a motion to approve, second by Council Member Fowler. **Roll Call Vote unanimous to approve: (Ayes: 5/Nays: 0)***

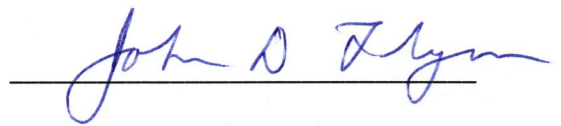
ANNOUNCEMENTS: Mayor Flynn read through the upcoming meeting schedule.

- Next City Council Work Session: 5:30 pm Monday, March 18, 2024 at Bella Vista District Police Training Room
- Next City Council Regular Meeting: 6:00 pm Monday, March 25, 2024 at Bella Vista District Court
- Planning Commission Work Session: 4:30 pm Thursday, February 29, 2024 at Bella Vista District Court
- Planning Commission Regular Meeting: 4:30 pm Monday, March 11, 2024 at Bella Vista District Court
- Board of Construction Appeals: 3 pm Tuesday, March 12, 2024 if necessary, at Fire Station #4 Conference Rm, 1639 Forest Hills Blvd.

Mayor Flynn adjourned the meeting at 8:04 p.m.



City Clerk Wanda Lepillez Krug



Mayor John D. Flynn