BELLA VISTA CITY COUNCIL REGULAR MEETING

June 26, 2023 6:30 P.M.

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

MINUTES

Call to Order by Mayor John Flynn **at 6:30 PM**

Pledge of Allegiance recited

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

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

Kent Estes, 16 Cambria Drive. He came tonight opposed to the Sewer Ordinance Amendment. After talking to several Council Members, he realized there was a lack of clarity in the way it was written and reported. He asked Council if he will be required to hook up to the existing sewer system, which is within 10 paces of his home, if he stays in his home until he dies. Staff Attorney Kelley said no, it only applies if you sell the home, and added the only change to the Ordinance is the added verbiage regarding availability and location of sewer connection hook-up.

Council Reply:

No comments at this time.

Action on the Minutes:

May 22, 2023 – Regular Meeting. Motion made by Council Member Fowler to approve as prepared by Clerk Lepillez Krug, second by Council Member Honchell. Roll Call Vote. (Yea: 6/Nay: 0) Unanimous to approve.

Reports:

April Financial Report – provided to Council under separate cover, and available on the City Website under Departments, under Finance. There are several paper copies available on the back table. Mayor Flynn stated the financials are very good so far this year. Our revenue is up 17% over budget, and our expenditures are down 11% below budget through April 30.

Mayor Flynn 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 Snow. Roll Call Vote was unanimous to approve. (Yea: 6/Nay: 0) Motion passed unanimously.

Old Business:

ORDINANCE 2023-34: AMENDING SECTION 28-1 *SEWER CONNECTIONS-REQUIRED* OF THE CODE OF ORDINANCES OF THE CITY OF BELLA VISTA TO REQUIRE A SANITARY SEWER CONNECTION WHEN SERVICE BECOMES AVAILABLE IN FRONT OF, OR ON THE SIDE OR REAR OF A HOUSE OR ADJOINING LOT, AND FOR OTHER PURPOSES *Mayor Flynn completed the third and final reading. Council Member Wilms asked for clarification that this is the amended version, and Mayor Flynn affirmed that it is. Council Member Fowler made a motion to approve the Ordinance, second by Council Member Honchell. Roll Call Vote: (Yea: 6/Nay: 0) Motion passed unanimously.*

New Business:

ORDINANCE: PROVIDING FOR THE INAPPLICABILITY OF OCCUPANCY LIMITS IN SHORT-TERM RENTALS FOR UP TO FIVE (5) RESERVATIONS OR LEASE ARRANGEMENTS MADE ON OR BEFORE DECEMBER 19, 2022, DECLARING AN EMERGENCY, AND FOR OTHER PURPOSES *Mayor Flynn read the Ordinance, and said he believed it was rendered moot by today's court ruling. Staff Attorney Kelley explained that today the Court granted preliminary injunction to plaintiffs in the Short-Term Rental Lawsuit challenging the Ordinance. Based on that, his recommendation is to let this amendment rest as is and wait for the lawsuit to play out. He stated his disappointment that the judge did not provide a lot of rationale for the ruling. The judge determined the plaintiffs have a private property right protected by the Arkansas and U.S. Constitutions, and that Ordinance 2022-18 as currently written violates plaintiff rights as individual property owners. But the judge did not go into how or what particular property right is violated. With a little more guidance, Staff Attorney Kelley could be in a better position to tell Council some things they may want to do, but he is not in a position to do that right now. CDS will not be taking permits or making inspections. We will continue in Court and when circumstances change Council will be told.* ***Member Hughes made a motion to table indefinitely this Ordinance, second by Council Member Fowler. Roll Call Vote: (Yea: 6/Nay: 0) Motion passed unanimously.*** *Council Member Snow asked if a refund to STR owners would be in order at this time, and if not, when that would be. Staff Attorney Kelley explained no, it is not in order, because the Ordinance is not yet repealed and in ongoing litigation. Everything is on hold, because if we get a ruling favorable to us in the future, then STR owners will pay and things will move ahead. If we get a negative ruling in a higher court, then his recommendation at that time would be to repeal the Ordinance, and consequently set up a mechanism to refund the permits. But we are not there yet. Council Member Wilms asked if we would be getting more details back from the judge on this decision. Staff Attorney Kelley doesn't expect to get further explanation on the ruling from the local judge. We have many arguments to make and fully expect the Supreme Court will provide detailed rationale. There was no "why" given and he cannot explain that. Once the judge signs the order, we will have 30 days to appeal. Council Member Fowler asked how long it will take the appeal process to get to the Courts. Staff Attorney Kelley responded that it would easily be six months. Council Member Wilms asked if the social behavior rules in our Code like parking, noise,*

and all would be enforced. Staff Attorney said all of the code is still in effect: parking and noise violations, taxes still need to be paid on STRs.

ORDINANCE 2023-35: AMENDING SECTION 109-42 *VARIANCES* OF THE CODE OF ORDINANCES OF THE CITY OF BELLA VISTA TO PERMIT ADMINISTRATIVE REVIEW AND APPROVAL OF THE INCREASE IN SIZE OF PERMANENT SIGNS UP TO TEN PERCENT, AND FOR OTHER PURPOSES *Mayor Flynn read the Resolution and said staff requests third and final reading, because there were no questions or protests at the Work Session. Council Member Wilms commented that he thinks this is being done later than necessary and the Zoning Board failed to follow their own procedures. Council Member Fowler added that we already grant minor modifications to the heights of building which may be increased up to 10%, we have setback situations for residential homes where staff has authority to grant modifications. This is simply adding this ability to do the same thing with the signs. Council Member Wilms made a motion to suspend the rules and move to 3rd and final reading, second by Council Member Fowler. Roll Call Vote: (Yea: 6/Nay: 0) Motion passed unanimously. Mayor Flynn completed the 3rd reading. Motion to approve by Council Member Wozniak, second by Council Member Fowler. Roll Call Vote: (Yea: 6/Nay: 0) Motion passed unanimously.*

ORDINANCE 2023-36: AMENDING SECTION 109-185 *DOCKS, BOATHOUSES, AND DOCKSIDE RECREATIONAL IMPROVEMENTS* OF THE CODE OF ORDINANCES OF THE CITY OF BELLA VISTA TO REMOVE THE CITY-IMPOSED RESTRICTION ON THE NUMBER OF DOCKS, BOATHOUSES OR DOCKSIDE RECREATIONAL IMPROVEMENTS ALLOWED PER PARCEL, AND FOR OTHER PURPOSES *Mayor Flynn read the Ordinance and stated that staff recommends moving to third and final reading. Council Member Fowler made a motion to suspend the rules and move to 3rd and final reading, second by Council Member Wozniak. Roll Call Vote: (Yea: 6/Nay: 0) Motion passed unanimously. Mayor Flynn read the ordinance for the 3rd time. Motion to approve by Council Member Wilms, second by Council Member Wozniak. Roll Call Vote: (Yea: 6/Nay: 0) Motion passed unanimously.*

RESOLUTION R2023-37: AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A THREE-YEAR LEASE CONTRACT WITH STRONGHOLD DATA, LLC, IN AN AMOUNT NOT TO EXCEED $32,540.61, FOR THE LEASE OF DELL COMPUTERS AND ASSOCIATED EQUIPMENT *Mayor Flynn read the Resolution. Council Member Wilms asked about the total number of leased computers. Mayor Flynn said he asked IT Director Moeckel how many computers this included, and the answer was 31. Council Member Wilms concluded that on a 3-year rotation that would be roughly 93 computers, and he thinks this is a low price. Council Member Wilms made a motion to approve, second by Council Member Fowler. Roll Call Vote: (Yea: 6/Nay: 0) Motion passed unanimously.*

RESOLUTION R2023-38: APPROVING A CODE ENFORCEMENT OFFICER POLICY FOR THE POLICE DEPARTMENT *Mayor Flynn read the Resolution. Council Member Wozniak made a motion to approve, second by Council Member Wilms. Roll Call Vote: (Yea: 6/Nay: 0) Motion passed unanimously.*

RESOLUTION R2023-39: APPROVING AN ORGANIZATIONAL CHART FOR INCLUSION IN POLICY FOR THE POLICE DEPARTMENT *Mayor Flynn read the Resolution and referred to the attached Chart for Council approval. Council Member Wozniak made a motion to approve, second by Council Member Fowler. Roll Call Vote: (Yea: 6/Nay: 0) Motion passed unanimously.*

ANNOUNCEMENTS: *Mayor Flynn read through the upcoming meeting schedule.*

- Next City Council Work Session: 5:30 pm Monday, July 17, 2023 at Bella Vista District Court
- Next City Council Regular Meeting: 6:30 pm Monday, July 24, 2023 at Bella Vista District Court
- Planning Commission Work Session: 4:30 pm Thursday, June 29, 2023 at Bella Vista District Court
- Planning Commission Regular Meeting: 4:30 pm Monday, July 10, 2023 at Bella Vista District Court
- Board of Construction Appeals: 3 pm Tuesday, July 11, 2023 if necessary, at Bella Vista District Court

Mayor Flynn adjourned the meeting at 6:54 p.m.

CITY CLERK BELLA VISTA A place to call home ARKANSAS

City Clerk Wanda Lepillez Krug

Mayor John D. Flynn