

MINUTES

BOARD OF DIRECTORS MEETING

SEPTEMBER 17, 2007, AT 7:00 P.M.

The regular meeting of the Board of Directors was held on Monday, September 17, 2007, at 7:00 p.m., Board Chambers, City Hall, with Mayor Mike Bush presiding.

The invocation was given by Ms. Paula Childs, and Pledge of Allegiance to the Flag was led by Mayor Bush.

Mayor Bush called the meeting to order at 7:00 p.m.

1 Roll Call

Roll call was as follows: Present: Directors Peggy Maruthur, Elaine Jones, Steve Smith, Carroll Weatherford, Tom Daniel, and Mike Bush, total 6. Absent: Director Bill Edwards.

2 Approval of Agenda

A motion was made by Director Weatherford, duly seconded by Director Daniel, that the agenda be approved; and upon voice vote, the motion unanimously carried.

3 Approval of Minutes of September 4, 2007 Board Meeting

A motion was made by Director Daniel, duly seconded by Director Jones, that the minutes of the September 4, 2007 Board Meeting be approved; and upon voice vote, the motion unanimously carried.

4 Recognition of Guests

City Manager Kent Myers recognized Ms. Drew Terry, with the Hot Springs Women of Prayer, who announced that the Garland County Leadership Prayer Breakfast will be held on Tuesday, October 2, at 6:20 a.m., Hot Springs Civic and Convention Center (Horner Hall). Guest speaker will be Retired Major General Doug Bunger. Tickets are \$15 or host a table for \$150, which includes eight seats. Tickets

are available through B&F Engineers or Mr. Gary Welch at Jordan, Woosley, Crone and Keaton.

CONSENT AGENDA

The Consent Agenda consisted of the following:

- 5 Public Safety Report** (September 5, 2007).
- 6 Proposed Resolution No. R-07-213** Accepting Certain Bid Awards (a) Lot Clearing and Cutting - Code Compliance [annual supply contract awarded to Tru Cut Lawn Maintenance; (b) Pavement Marking - Public Works [annual supply contract awarded to Time Striping Inc.]; (c) Sanitation Equipment Sale - Sanitation [awarded to Jim Bill Disposal in the amount of \$22,775]; and (d) Painting Light Poles - Public Works [awarded to K & R Services in the amount of \$20,245].
- 7 Proposed Resolution No. R-07-214** Accepting a Grant from the Homeland Security Administration/Transportation Security Administration to Reimburse the Hot Springs Police Department for Airport Security.
- 8 Proposed Resolution No. R-07-215** Authorizing an Agreement with Jordan, Woosley, Crone and Keaton, Ltd. for Audit Services for the City of Hot Springs, Arkansas. **(Removed from the Consent Agenda for Separate Consideration)**

A motion was made by Director Smith, duly seconded by Director Jones, that the Consent Agenda be approved.

Upon discussion, Director Maruthur requested that Item No. 8 (Proposed Resolution No. R-07-215 Authorizing an Agreement with Jordan, Woosley, Crone and Keaton, Ltd. for Audit Services for the City of Hot Springs, Arkansas) be removed from the Consent Agenda for separate consideration.

Mayor Bush then called for a vote on the motion to approve the Consent Agenda, with the deletion of Item No. 8; and upon roll call, the following voted "aye": Directors Maruthur, Jones, Smith, Weatherford, Daniel, and Bush, total 6. Absent and not voting: Director Edwards; motion unanimously carried.

PUBLIC HEARING

9 Public Hearing on Salazar Annexation

This being the time and date set for a public hearing on the annexation of the Salazar property, Mayor Bush declared the public hearing open. There being no comments the public hearing was declared closed. The ordinance annexing said property will be considered at the October 1, 2007 Board Meeting.

UNFINISHED BUSINESS

10 Proposed Ordinance No. O-07-79

An ordinance entitled, "AN ORDINANCE AUTHORIZING EMINENT DOMAIN CONDEMNATION PROCEEDINGS FOR THE ACQUISITION OF A CERTAIN REAL PROPERTY IN GAINES ADDITION OWNED BY MARVIN A. RODGERS LIVING TRUST; AND FOR OTHER PURPOSES," was taken from the agenda for consideration.

A motion was made by Director Daniel, duly seconded by Director Weatherford, that the rules be suspended and the ordinance be read for the first time by title only; and upon voice vote, the motion unanimously carried. The ordinance was then read for the first time by title only; and upon the question "Shall the ordinance be passed as read?" and upon motion of Director Daniel, duly seconded by Director Weatherford, that the ordinance be passed as read.

Upon discussion, Ms. Jean Wallace, Parks and Recreation Director, stated this ordinance provides for the purchase of approximately 29,055 square feet of total land near the intersection of Valley and Runyon east of Hot Springs Creek for fair market value through eminent domain. She said this land is the last needed parcel for the Valley Street Creekwalk portion of the Hot Springs Creek Greenway and is currently owned by Marvin A. Rodgers, Living Trust. She added this purchase will culminate over 2½ years of negotiations with Mr. Rodgers by the Friends of the Parks and the Parks and Recreation staff. Negotiations have included a donation request, a conservation easement request, a property trade, and a formal offer based on appraised value. The purchase of this parcel, which is the east side of the creek, will put the trail route in place and connect three finished sections of the Hot Springs Creek Greenway Trail. She advised that Friends of the Parks vice president Dr. John Simpson appeared before the Parks and Recreation Advisory Committee on June 21,

2007, and asked them to recommend to the Board of Directors the purchase of Mr. Rodgers' property through eminent domain. She noted Mr. Rodgers will be paid the appraised value, and he has three years to reinvest in order to avoid capital gain taxes. The Parks and Recreation Advisory Committee members unanimously voted to approve the recommendation to the Board. She mentioned Friends of the Parks paid for a certified appraisal of the property, and the appraisal has been delivered to City Attorney Brian Albright. Friends of the Parks developed several key points in illustrating the need for this action, and this will continue the Greenway in this area and connect completed portions on the north and south. She stated work is already underway in this section from Grand to Belding, and the other property that is needed in this area is either in City ownership or has been promised with an intent to donate document. She noted the conceptual drawing of the Valley Street Creekwalk Trail for this section is complete, and the construction drawings are near complete. Also, a fund-raiser for construction is being planned by several local organizations. She stressed that the property is critical to continue with the Grand to Belding section, and the property is not currently used and is located in a floodplain. She advised that the property is historically unkempt and has been utilized by vagrants in the past. Also, the building on the property encroaches 20 feet or 2,200 square feet onto City property on the east border, and every effort has been made to procure property through other means over several years. She commented the landowner will receive the appraised value for the property, and funds are already in place for this purchase. She added that the landowner has three years to reinvest to avoid capital gains, and federal recreational trails grant funds are now available. She noted this portion of the Valley Street Creekwalk Trail is eligible if the City has ownership. The fiscal impact to the City is \$46,500, which is the appraised fair market value; and \$7,400 of that will come from Friends of the Parks; \$7,400 will also come from Parks and Recreation Department general account; and the remaining \$31,700 will come from State Legislative General Disbursement Funds that were given to the City in 2005 by Representative Rick Saunders and former Representative Bob Mathis for acquisition and/or developments costs associated with the Valley Street Creekwalk.

Director Smith commended Ms. Wallace, her staff, and the Parks and Recreation Advisory Committee for working on this project. He pointed out there is only \$7,400 city money, coming out of the Parks capital account, which is designed for this type of purpose.

Mr. Orville Poole, a member of the Parks and Recreation Advisory Committee, commented this property is in the middle of this phase of the Greenway; and other businesses along the way have donated property. The Sanders Family has agreed to

donate the land at the Belding Street end so it can be carried on through, and another business on the northern end is looking at providing lighting for it. He stated this particular property is an eyesore and has been for decades. He noted part of it sits on City-owned property, and derelicts are using the vegetation that has grown up on this property and along the creek. He pointed out this will be an opportunity to clean out this eyesore and the vegetation. Also, it will be beneficial to downtown Hot Springs because all of the vegetation and underbrush holds back a tremendous amount of water when there is a heavy rain. He stated once the Greenway is completed all the way to Lake Hamilton and all of this underbrush out, there will probably not be another flood like the one in 1990. The Parks and Recreation Advisory Committee unanimously supports this, and he recommended that the Board pass the ordinance.

Mr. Ned Skoog, current president of Friends of the Parks, said he endorsed this action. He pointed out the owner does get the appraised value, and it is not currently in use and cleans up the area and allows continuation of improving the Greenway. He stated that their interaction with Mr. Rodgers has been cordial and commended him on that.

Mr. Marvin Rodgers, owner of the property at 331 Valley Street, stated on August 13, 2007, he sent a letter to the Board expressing his feelings concerning the condemnation of the property and read the letter. He said that he was in receipt of the City's letter concerning the eminent domain condemnation of the east portion of his property located at 331 Valley Street. He stressed it is not his wish to lose this property and has owned it for approximately 35 years and ran a lumber company there for many of those years. Part of the time he has stored materials in the building on Runyon and used the building on Valley Street as an office. He stated he still has plans to use both properties. He added the City's letter states its desire to purchase the property on Runyon Street at a very low price. He advised that both properties need to remain together as one property, pointing out the property on Valley has no place to store materials, which would limit the number of people who would have use for the building and respectfully requested that the Board allow him keep his property. He stated if the Board proceeds in taking it, he would request that the City purchase both locations and not just half of the property. He said he would be willing to meet with the City and try to come to an agreement that would be suitable for everyone. After reading the letter, Mr. Rodgers mentioned he has use for this building, and he is a contractor and has plans to put building materials in the rear building (one on Runyon Street). If the City has to have the east side, he requested that the City purchase both the east and west side. He pointed out if the property is cut in half and he is left with just the office building on Valley Street, the value of that property will be greatly

diminished. He noted that Valley Street businesses are construction- related, such as the air conditioning supply business, steel supply, and milk and water distributors, which all require warehouses; and they each have warehouses. He said the office building on the corner of Valley and Runyon, without a warehouse, will become of little value on its own and will be of little use to him and will be hard to sell. He mentioned he agreed in a meeting to take \$150,000 for the entire property and agreed to take \$50,000 down and \$50,000 a year, plus interest for two years. Therefore, he is requesting that the City purchase the entire property instead of cutting it in half.

Director Maruthur said she is normally not in favor of condemnation under the right of eminent domain; however, this property has been an eyesore for many years and will provide beautification while contributing to the health, welfare and safety to everyone who visits this area. She stated she believes this is for the public good and should have been addressed years ago and expressed her regret that negotiations did not work.

Mayor Bush then called for a vote on the motion to adopt; and upon roll call, the following voted "aye": Directors Maruthur, Jones, Smith, Weatherford, Daniel, and Bush, total 6. Absent and not voting: Director Edwards; motion unanimously carried. Whereupon the ordinance was declared passed.

Mr. Rodgers then distributed photos of neighboring properties on Valley Street.

11 Proposed Resolution No. R-07-171

A resolution entitled, "A RESOLUTION APPROVING THE SALE OF THE HISTORIC HOT SPRINGS HIGH SCHOOL PROPERTY TO THE ARC ARKANSAS," was taken from the agenda and read by title only.

A motion was made by Director Jones, duly seconded by Director Maruthur, that the resolution be adopted as read.

Upon discussion, Ms. Cynthia Stone, chief operating officer for The ARC Arkansas, 138 South Lakeland Point, acknowledged that Mr. Steve Hitt, CEO for The ARC Arkansas, is also present. Ms. Stone said they have been talking with Parks and Recreation Director Jean Wallace for over a year regarding the Youth Center and believe this building has a lot of value to them because it is adjacent to their property with the Hot Springs High School and the Junior High School. Also, it is a historic building because of the nature of the other two buildings with the high school already being significant structures and on the Historic Register. She stated this building could

also be placed on the Historic Register, and there would be historic tax credits that could help in restoring and renovating that building. She said that she spoke last month to Director Weatherford, who was not in favor of this sale.

Director Weatherford commented that he will not vote to sell it for \$1,500.

Director Daniel said that Ms. Stone spoke of the historic value of the building and the tax credits and questioned where they based the \$1,500. He questioned why it is only worth \$1,500 if the building is that historic and they are going to be able to get tax credits for it. Ms. Stone replied that to restore the building is going to cost a large sum of money. He asked if they were going to get tax credits, and Ms. Stone said they would if they use tax credits to do that. Director Daniel questioned how much the tax credits are percentage-wise, and Ms. Stone advised that it would be 20 percent of the total restoration if it were restored. She said at the present time, it needs a new roof, which will cost \$60,000 to \$120,000 to replace. Director Daniel asked if the City put a new roof on it, would they be willing to give \$135,000 to \$140,000; and Ms. Stone said they would not, pointing out that they are nonprofit and want to save that building. She noted they plan to work with the Festival and any other groups that would like to use that building. She stressed that the tax credit projects are not put together overnight, but it is a tool that would be available to restore the building.

Director Daniel questioned how soon they would replace the roof if the Board were to approve the sale of the building for \$1,500; and Ms. Stone said it would be within the next year. Director Daniel questioned who would pay for it, and Ms. Stone replied that The ARC would have to pay for it if they owned the building. Director Daniel pointed out if the City installed a new roof, they would not be willing to reimburse the City. Ms. Stone said they would not have a way to do that, pointing out they would have the building to use as collateral to get a loan to install a roof.

Director Daniel asked if they would not have collateral if they were buying it from the City with a new roof on it, and Ms. Stone said they would not pay \$150,000 for it. She explained they do not have the money and are nonprofit. She stressed they are willing to pay \$1,500 for the building in honor of the agreement that the City has with the Music Festival.

Director Maruthur questioned the City's maintenance cost; and Ms. Jean Wallace, Parks and Recreation Director, advised that at the present time, the building is just about "mothballed." She noted it costs approximately \$27,500 annually to maintain the building, which includes building insurance; minimal utilities, such as heat in the winter

to keep the pipes from freezing; water; a security system; annual roof patching on a regular basis; weekly building inspections; cleaning up after every rain from water on the floor and in the bleachers; some staff time when the Music Festival is there; and grass mowing.

Director Maruthur asked that she explain “mothballing,” and Parks and Recreation Director Jean Wallace advised that it means the building is kept in very low maintenance, such as minimum utilities and the building being protected from vagrants.

Director Maruthur pointed out the building is not being utilized at the present time, and there is an agreement with the Music Festival regarding the air conditioning; and in an effort to adhere to the agreement, the City would have to repair the roof, which would be a total cost of \$90,417. She pointed out there are other buildings that have been declared surplus and just to get rid of the liability and expenses, the City has sold buildings prior to this for very little. She asked how much the Clinton Cultural Center was sold, and City Manager Kent Myers advised that it was sold for \$1.00. Director Maruthur also questioned the price on the Math and Science School, and City Manager Kent Myers advised that it also was leased for \$1.00, but the City still owns it. Director Maruthur noted this group has the resources to get the tax credits and develop this historic building in conjunction for needs for the Clinton Cultural Center to facilitate supplemental activities that would benefit the people who are using this residential complex. She mentioned it would relieve the City of unnecessary expenses, and she cannot see any reason why the City should not allow this nonprofit to go ahead and restore and develop this for the Clinton Cultural Center. She stressed that the City does not have that much money in its budget to throw around and needs to protect all of its old buildings. She said she is going to support this and is glad that The ARC has the desire to save this building and that they are able to.

City Manager Kent Myers noted that the Board declared this as surplus property in March 2007 and went through a public bidding process in April and May but did not receive any bids. He then contacted City Attorney Brian Albright, who indicated the City could start negotiating with whoever wanted to acquire the building. The ARC Arkansas had an interest in the building and rather than donating it to them, the City came up with \$1,500. He pointed out there are three alternatives (1) sell the property to The ARC Arkansas; (2) rebid the sale of the property; or (3) retain ownership of the property. He advised if the City retains ownership of the property, in the 2008 budget, it will have to budget around \$90,000 for the maintenance and roof repairs. At the present time, there is very limited amount in the budget because the City is doing roof

patching. However, next year, the City will have to do a major repair and replacement.

Director Maruthur stated that some of the concerns Director Weatherford had during the last discussion on this item were related to the option the City had on the DHS property; and he wanted to see this as a parking lot. She pointed out the City no longer has that option, and this site is not feasible for public parking.

Director Weatherford commented there is a fire station across the street from it that belongs to the City. Director Maruthur replied if this goes back to bid and someone were to outbid them, the City could end up with someone who might not restore or preserve the building; and she did not think the City should risk that.

Director Jones pointed out this is in District 2 and questioned if The ARC Arkansas could expedite this, and Ms. Stone advised they have not seriously looked at how soon they could replace the roof since they did not know what action the Board was going to take. She stated if they acquire this property from the City, then it becomes their responsibility; and they do not like for any property they own to sit and start falling into more disrepair. She added they would address it rather quickly because they will want to use it. She mentioned that Director Daniel had questioned her about the tax credits; and to be able to put that type of funding package together, takes quite sometime and a lot of money. She added there is a large amount of predevelopment-type money that has to be spent. With the tax credits, she explained those dollars do not come to The ARC but go into a building in Hot Springs. She noted it brings in an investor usually from outside the State to put money into Hot Springs' economy.

Ms. Laura Rosenberg, executive director of the Hot Springs Music Festival, 634 Prospect Avenue, stated for the last few years, she has observed The ARC Arkansas during the course of their activities in the Youth Center. They have seen the stewardship that The ARC has provided in the form of historic Hot Springs High School building and the Junior High School annex. She said they have started to do some small projects together in anticipation of their being able to work in a closer relationship with The ARC. She stated they are committed to this building, and their board of directors raised the money to install the air conditioning system. She noted the roof situation has become an increasing concern at the Music Festival over the last several years, and they have narrowly averted having to cancel concerts because of the roof leaking. She mentioned they have had a collaboration with the Steinway Corporation terminated unilaterally because Steinway would not continue to place pianos in that facility when

they were going to be potentially endangered. She stressed that their experience with The ARC is everything they have said they will do, they have done.

Director Smith commented that next year, the Music Festival is in June (1-14) and said that is the time line from now to get the work done.

City Attorney Brian Albright said that the next agenda item relates to the assignment of the Music Festival agreement and questioned if they are in support of that and will consent to that assignment. Ms. Rosenberg replied that she and her husband, as co-directors of the Music Festival, have recommended to their board of directors that the assignment be accepted and have received no objection.

Mayor Bush then called for a vote on the motion to adopt; and upon roll call, the following voted "aye": Directors Maruthur, Jones, Smith, Daniel, and Bush, total 5. Voting "no": Director Weatherford. Absent and not voting: Director Edwards; motion carried. Whereupon the resolution was declared adopted.

12 Proposed Resolution No. R-07-172

A resolution entitled, "A RESOLUTION ASSIGNING AN AGREEMENT WITH THE HOT SPRINGS MUSIC FESTIVAL TO THE ARC ARKANSAS (HOT SPRINGS YOUTH CENTER, 228 ORANGE STREET)," was taken from the agenda and read by title only.

A motion was made by Director Jones, duly seconded by Director Maruthur, that the resolution be adopted as read; and upon roll call, the following voted "aye": Directors Maruthur, Jones, Smith, Weatherford, Daniel, and Bush, total 6. Absent and not voting: Director Edwards; motion unanimously carried. Whereupon the resolution was declared adopted.

NEW BUSINESS

8 Proposed Resolution No. R-07-215

A resolution entitled, "A RESOLUTION AUTHORIZING AN AGREEMENT WITH JORDAN, WOOSLEY, CRONE AND KEATON, LTD. FOR AUDIT SERVICES FOR THE CITY OF HOT SPRINGS, ARKANSAS."

A motion was made by Director Daniel, duly seconded by Director Weatherford, that the resolution be adopted as read.

Upon discussion, Finance Director Dorethea Yates stated that the City has an annual adopted budget of over \$80 million. In addition to the formally adopted budget, which includes 17 funds, there are approximately 33 other funds in which many transactions are recorded. At last count, there were 9,477 general ledger accounts and over 34,000 utility accounts. She said an independent audit is an examination of records of financial accounts by independent third parties to check their accuracy. Each year the City engages the services of a certified independent public accountant to come in and review all of the 50 funds and related transactions and issue of professional opinion on whether those records are accurate. There are strict standards that govern the required credentials of the auditor, the way the financial transactions are recorded, the way the financial transactions are audited, and the exact way the financial report is written. Those standards are set by local, state and federal governments. They are also set by various accounting standards boards. There are a number of reasons why an independent audit is important to the City. She stated in her opinion, the most important and compelling reason is that an audit is a tool for ensuring accountability to the citizens and ratepayers. With a favorable audit opinion rendered by a reputable, certified public accounting firm, a citizen can have a high level of confidence that financial records are accurate and that their dollars are being spent in the way the City says they are being spent. Other reasons are (1) the State of Arkansas requires an audit of all municipalities; (2) if the federal government is giving the City funds, they require an audit. The City receives federal funding for its bus company, Community Development Block Grant, and Airport Funds, and others (3) the City's agreements with its bondholders require that it have an annual audit; (4) in order to borrow new money, potential borrowers will look at the City's audit report to assess the risk level that will drive the interest rate that the City pays. In this respect, the value of a favorable audit opinion by a reputable certified public accounting firm is immeasurable; and (5) in order for the City to issue a Comprehensive Annual Financial Report, it has to have an audit. The City is a very diverse entity in that it is a water company, a wastewater company, a solid waste company, an airport, a fire and police department, a fleet service company, a bus company, and a district court, etc. The knowledge and effort to review all of these funds and transactions and then assume the liability for telling the citizens, ratepayers, bondholders, the State of Arkansas and the federal government that the City's books are in order is a great responsibility. She mentioned the City has had a favorable audit opinion for a number of years, which is a very positive reflection on the Board of Directors and also on the city management team. The previous audit contract expired after completion of the 2006 audit. As required

by laws governing the procurement of professional services, the City solicits a Statement of Qualifications from certified public accounting firms that had an interest in performing the audit. The City received a response from two firms (Jordan, Woosley, Crone and Keaton, which is a local firm and they had a five-year audit commitment. The other accounting firm was Baird, Kurtz and Dobson). These two firms were evaluated using the standard evaluation criteria for professional services. Staff recommendation is to award the 2007 audit contract to Jordan, Woosley, Crone and Keaton; and they proposed an audit fee of \$74,700. Of this \$74,700, approximately \$31,000 would be paid by the water, wastewater, sanitation and utilities, which is \$31,000 out of a \$27 million budget. Approximately \$17,500 would be paid out of the General Fund, which is \$17,500 out of a \$20 million budget. The remaining of these would be paid in different proportions by the District Court Fund, the Street Fund, the bus company, the Airport and a few other small funds. If the Board desires, Jordan, Woosley, Crone and Keaton has also agreed to provide audit services in 2008 and 2009 at the same rate. This extension can be written by either party if they so desire subject to certain notification restrictions. The staff recommendation is to award the 2007 audit contract to Jordan, Woosley, Crone and Keaton.

Director Maruthur said that she and Ms. Yates spoke several times, and there was never a question about the need for auditing. When this was reviewed at the agenda meeting, their increase was mentioned and she asked how many people responded to the bid. She commented that her question to Ms. Yates concerned the turnover in Finance, and there is some instability that is currently being corrected and if this would provide continuity. She said that she told Ms. Yates on the telephone that she would support this. She stated her question was only regarding a commitment and the City's ability to review on what was in the contract. She said that when she contacted Ms. Yates about information included in the Board packet, she replied that she was going to check with Deputy City Manager Lance Hudnell about when the Board could review this again and possibly make another decision after maintaining some stability and continuity within the Finance Department.

Deputy City Manager Lance Hudnell explained that the contract as it is written (Letter of Engagement) is for the 2007 audit only, and the resolution that the Board is approving gives the Board the option to extend that letter for 2008 audit and 2009 audit if it so desires each year. However, the initial contract is only for the first year. He added the Board would have to approve it for any subsequent years, and Jordan, Woosley, Crone & Keaton would have to agree to it also. A year from now, the Board can decide what to do with regard to future years. If the Board desires to go on with Jordan, Woosley, Crone & Keaton, it could. However, if it wanted to rebid, it could.

Director Maruthur asked if this will be up for reconsideration next year at this time, and Deputy City Manager Lance Hudnell replied that it will be up for reconsideration by the Board; and at that time, if the Board so chooses, it can rebid; or if it does not want to, it can go on and do the other two years. If the Board does the other two years, at the end of that time, it must rebid.

Director Daniel asked if this is not the way the Board has been doing it, and Deputy City Manager Lance Hudnell advised that it has been the same way for all the years he has been with the City.

Director Smith asked if the Board goes the three-year route, the only escalator in their contract is Consumer Price Index (CPI) and is the only change they are asking for; and Ms. Yates said that was correct. Director Smith added the CPI adjustment is just a token, and if it needs to be in the form of a motion, he would like to suggest that the Board engage in a three-year contract.

Deputy City Manager Lance Hudnell explained the way the resolution is written is the way the Board has to do it because one Board cannot bind another Board since it is not Amendment 62 debt or a bond issue-type debt. He noted with these kind of contracts, the Board cannot bind itself for three years other than the option to renew at the end of each year by specific action of the Board.

City Attorney Brian Albright said that is essentially correct, and the Board could enter into an agreement that had a three-year term but then had the ability to bail out. He stated the Board can either have the option to automatically extend, or it can give itself a bail-out to be able to terminate at the end of each year.

Director Smith asked if the Board could agree to a three-year deal with a one-year walk-away; and Deputy City Manager Lance Hudnell said that is essentially what it is doing with the resolution as written.

Director Maruthur said that was the reason it was decided to put this on new business and that was her question, which has been clarified.

Mayor Bush then called for a vote on the motion to adopt; and upon roll call, the following voted "aye": Directors Maruthur, Jones, Smith, Weatherford, Daniel, and Bush, total 6. Absent and not voting: Director Edwards; motion unanimously carried. Whereupon the resolution was declared passed.

13 Proposed Resolution No. R-07-216

A resolution entitled, "A RESOLUTION AMENDING THE PROCEDURAL GUIDELINES FOR THE HOT SPRINGS BOARD OF DIRECTORS REGARDING SEATING ARRANGEMENTS," was taken from the agenda and read by title only.

A motion was made by Director Maruthur, duly seconded by Director Jones, that the resolution be adopted as read.

Upon discussion, City Manager Kent Myers stated at the present time, the Board has procedural guidelines that include a stipulation with regard to the seating arrangement for the Board Members. In regard to Resolution No. 5909, this established the seating arrangement by District Nos. starting with District 1 and continuing around the table to District 6. Staff was contacted by Director Maruthur requesting that the Board reconsider that guideline.

Director Maruthur said she requested to change stations with Deputy City Clerk Janet Heath where she could be closer to the podium and get the information. She commented there is a little wiring transfer, and she would be able to see the audience in a more convenient way. She stated prior to 2005, the Directors did not have a mandated place that they had to sit and could sit where they wanted because when the Directors vote, they rotate the order and it is not district sensitive as to where they sit. She added there are also other reasons.

Director Jones stated that Deputy City Clerk Janet Heath needs to sit next to City Manager Kent Myers and pointed out that Director Maruthur always wants everything done in order. Director Maruthur replied that she was told where to sit in 2005 and was given a piece of paper, and she was sitting somewhere else. Director Jones commented when she came on the Board, Director Maruthur was sitting in the same place she is at the present time. Director Maruthur said that was prior to the Board Chambers being redone, and there were very specific requests in that; and they were changed due to the ADA. She added all she is requesting is for the right to sit where she wants.

Director Maruthur mentioned that possibly Director Edwards would change places with her. Director Daniel stated that he would change with her, but he thinks

they should be in order. Director Maruthur said she does not think there is a reason for order.

Director Weatherford said he has been on the Board for five years, and it has been the same seating arrangement. Director Maruthur stated that everything in the Board Chambers has changed; and when one of the Directors came on the Board, she was given a handwritten piece of paper telling her that she had two options as to where to sit. She said that she still has that piece of paper, and all she is asking for is the right to sit where she wants; but it has nothing to do with sitting next to Director Jones. She commented after that is when the Board adopted a resolution so that she would be forced to sit in one place.

Mayor Bush then called for a vote on the motion to adopt; and upon roll call, the following voted "aye": Director Maruthur. Voting "no": Directors Jones, Smith, Weatherford, Daniel, and Bush, total 5. Absent and not voting: Director Edwards; motion failed. Whereupon the resolution was declared failed.

Director Maruthur said since she was denied the right to sit where she wants, she asked the Board Members in close proximity not to say anything when she is speaking and that way it would not be a problem.

Mayor Bush asked if someone has done that in the past, and Director Maruthur replied that someone has; but she does not want to discuss it. Mayor Bush pointed out that Director Daniel had said he would exchange stations with her.

14 Proposed Resolution No. R-07-217

A resolution entitled, "A RESOLUTION AWARDDING A CONTRACT TO COAKLEY COMPANY FOR PARK AVENUE WATER LINE RELOCATION, PHASE I," was taken from the agenda and read by title only.

A motion was made by Director Weatherford, duly seconded by Director Jones, that the resolution be adopted as read.

Upon discussion, Director Maruthur stated she needed to discuss this item with Public Works Director Steve Mallett; and he advised there is no urgency.

A motion was made by Director Maruthur, duly seconded by Director Jones, that the resolution be tabled until the next meeting; and upon roll call, the following voted

“aye”: Directors Maruthur, Jones, Smith, Weatherford, Daniel, and Bush, total 6.
Absent and not voting: Director Edwards; motion unanimously carried.

15 Proposed Ordinance No. O-07-87

An ordinance entitled, “AN ORDINANCE ACCEPTING CERTAIN STREETS AS PUBLIC STREETS (AMERICAN STREET AND FINANCIAL STREET); NAMING SAID STREETS; AND FOR OTHER PURPOSES,” was taken from the agenda for consideration.

A motion was made by Director Daniel, duly seconded by Director Weatherford, that the rules be suspended and the ordinance be read for the first time by title only; and upon voice vote, the motion unanimously carried. The ordinance was then read for the first time by title only; and upon the question “Shall the ordinance be passed as read?” and upon motion of Director Weatherford, duly seconded by Director Maruthur, that the ordinance be passed as read.

Upon discussion, Public Works Director Steve Mallett stated these are streets near the new Harley Davidson development; and they are in accordance with the City's specifications with the waiver being granted for the required right-of-way from 50 feet to 40 feet and also allowed them to build a single sidewalk on one side of the street rather than both sides as it was not conducive to do such on both sides. He added these street names have been approved by the County and Planning, and staff recommendation is to accept these streets as City streets.

Mayor Bush then called for a vote on the motion to adopt; and upon roll call, the following voted “aye”: Directors Maruthur, Jones, Smith, Weatherford, Daniel, and Bush, total 6. Absent and not voting: Director Edwards; motion unanimously carried. Whereupon the ordinance was declared passed.

16 Proposed Ordinance No. O-07-88

An ordinance entitled, “AN ORDINANCE WAIVING THE REQUIREMENTS OF COMPETITIVE BIDDING FOR THE RELEASE OF EASEMENT AND PAYMENT OF

DAMAGES (ARVEST BANK, TRACT 9.0A) RELATED TO THE HIGDON FERRY ROAD IMPROVEMENT PROJECT; AND FOR OTHER PURPOSES,” was taken from the agenda for consideration.

A motion was made by Director Smith, duly seconded by Director Daniel, that the rules be suspended and the ordinance be read for the first time by title only; and upon voice vote, the motion unanimously carried. The ordinance was then read for the first time by title only; and upon the question “Shall the ordinance be passed as read?” and upon motion of Director Weatherford, duly seconded by Director Smith, that the ordinance be passed as read.

Upon discussion, Public Works Director Steve Mallett stated staff recommendation is to pay Arvest Bank to release existing permit drive easement and all improvements built upon said easement, which would include a driveway to the business for the appraised price of \$52,775. This amount was offered and accepted by Arvest Bank.

Director Daniel asked if this is matching funds, and Mr. Mallett advised that it is 80-20 matching.

Mayor Bush then called for a vote on the motion to adopt; and upon roll call, the following voted “aye”: Directors Maruthur, Jones, Smith, Weatherford, Daniel, and Bush, total 6. Absent and not voting: Director Edwards; motion unanimously carried. Whereupon the ordinance was declared passed.

17 Proposed Ordinance No. O-07-89

An ordinance entitled, “AN ORDINANCE WAIVING THE REQUIREMENTS OF COMPETITIVE BIDDING FOR THE PURCHASE OF CERTAIN REAL PROPERTY (MEDICAL SERVICE CENTER OF HOT SPRINGS, LLC - TRACT 26, 26E) RELATED TO THE HIGDON FERRY ROAD IMPROVEMENT PROJECT; AND FOR OTHER PURPOSES,” was taken from the agenda for consideration.

A motion was made by Director Weatherford, duly seconded by Director Jones, that the rules be suspended and the ordinance be read for the first time by title only; and upon voice vote, the motion unanimously carried. The ordinance was then read for the first time by title only; and upon the question “Shall the ordinance be passed as read?” and upon motion of Director Weatherford, duly seconded by Director Daniel, that the ordinance be passed as read.

Upon discussion, Public Works Director Steve Mallett stated that staff recommendation is to purchase property for the Higdon Ferry Road widening project from the Medical Services Center of Hot Springs, LLC for the counteroffer price of \$59,085. The original offer price of \$48,550 was based on \$4 per square foot, plus damages. The property owner countered with \$5 per square foot, plus damages, or \$59,085; and this price has been agreed to and paid for by the County for similar properties owned by the property owner. Therefore, the City agreed to follow suit. He advised this counteroffer represents a 21.6 percent increase over the original offer amount and is also 80-20 matching funds. Based on that information, staff recommends purchasing this property.

Mayor Bush then called for a vote on the motion to adopt; and upon roll call, the following voted "aye": Directors Maruthur, Jones, Smith, Weatherford, Daniel, and Bush, total 6. Absent and not voting: Director Edwards; motion unanimously carried. Whereupon the ordinance was declared passed.

Mayor Bush asked if the City is completed with acquiring right-of-way property on Higdon Ferry Road south, and Mr. Mallett stated that the City is. He added these last two parcels represent the last parcels that the City has to purchase, but the County still has a couple that are not secured.

OTHER BUSINESS

18 Board of Directors Items

Director Jones announced that on Saturday morning, she attended a meeting in District 2 held by Director Maruthur (District 1). She announced she will have a meeting in her district since residents in her district are wanting to know about the October 9 election, and she will contact City Manager Kent Myers regarding a date. She stated that Director Maruthur's meeting focused on crime, drugs and weedy lots; and it appeared they were in a District 2 meeting instead of a town hall meeting. She stated there were no staff members in attendance at the meeting, and she always has staff present at her meetings.

Director Maruthur stated she hosted an open town hall meeting, and there were fliers distributed; and everyone was welcome. She mentioned that at the Board Meeting on September 4, she went to the podium with a sign that she made, and it was open to everyone. She added there was no set agenda; and it was about "What are

You Thinking and What is on Your Mind About Hot Springs?” She reported there was a chalkboard at the meeting, and citizens from all districts voiced what was on their minds. She stated most of the people there she did not know, and the meeting was held at St. Michael’s School in District 2 where she spent about eight years visiting and where her children went to school. She pointed out the school was gracious to open it for a town hall meeting. She commented that Director Jones and Director Weatherford did attend, but they were no part of the meeting. She added that several citizens had questions, and those Directors were given an opportunity to respond but declined. She pointed out this was an open meeting; and any staff, City Manager, and Directors were welcome to attend. She said she did not ask for any questions except for what was on their mind. She stated that people who lived in the Extraterritorial Jurisdiction (ETJ) were included since those people in the County now have to get permits and the City does inspections. She said they are stakeholders in what the Board of Directors does, and they have recently been included on the Planning Commission. She asked that at the next town hall meeting, the Directors make an effort to attend and if they did, that they would respond to the citizens’ questions. She stated at the next Board Meeting, she will give a full and detailed report about the key questions that they asked, but she had no idea what was on anybody’s mind. She added that she found it quite enlightening, and comments were made about having another one and that they were free to ask anything that they wanted. She noted there were quite a few comments about not feeling free to ask questions or be on the agenda for the Board of Directors Meeting.

Director Daniel announced there was a successful, open bike rally this past weekend; and some traveled 500 to 700 miles to ride over to Queen Wilhemina and around Highway 7 and Highway 9. He reported there were around 3,800 who registered and around 1,800 to 2,000 who did not register. He spoke of the positive effect on the economy from this event; and to his knowledge, there were not any serious accidents.

Director Smith reported that on Thursday, August 23, following conversations with residents of District 3 and his family, he notified the City Manager and The Sentinel-Record reporter that he would not be attending the National League of Cities Convention in New Orleans.

19 **City Manager’s Report**

City Manager Kent Myers gave the following report:

1. He was not able to attend the town hall meeting Saturday morning because he had made a commitment about a month ago to speak at the dedication ceremony for the George Caristianos Tennis Center located at Kimery Park. There were between 100 and 120 people in attendance, including Mr. Caristianos' family. He said that Mr. Caristianos left a message on his phone today wanting to extend his appreciation to the Board of Directors for naming that facility after him and considered it a great honor.

2. Thursday night is the International Day of Peace and is sponsored by a local organization called R.E.G.A.R.D. It will be held at 6:30 p.m., at Oaklawn School. One of the featured speakers is Judge Vicki Cook, and there will be entertainment, including a choir from Oaklawn School.

3. The Farmers' Market has been very successful and has grown from the prior years. This past Saturday, the owner of Café 1217 was featured and gave an outstanding demonstration. The next event at the Farmers' Market will be on Saturday, September 29; and they will host a health and nutrition fair. This will include some free health testing, exercise demonstrations, nutrition displays and a healthy cooking seminar.

4. The Board Work Session will be held on Tuesday, September 25, at 5 p.m., Hot Springs Civic and Convention Center. All of the work sessions are open to the public, and there are about ten items on the agenda.

5. Director Bill Edwards had a serious case of pneumonia about ten days ago and was transported to Baptist Hospital in Little Rock. He was in the hospital about a week and has been discharged.

Mayor Bush reported that he talked to Director Edwards today and is still very weak but is home. Hopefully, he will be able to attend the next Board Meeting.

Director Maruthur acknowledged that Director Weatherford is wearing an attire that he received from Hanamaki, Japan. Director Weatherford commented this was given to him by the mayor of Hanamaki after he made the opening speech at the festival, which was in Japanese and English; and he was a first non-Hanamakian or westerner to speak at the festival in 415 years. He said the Mayor of Hanamaki presented him with the jacket he is wearing, which no one has ever received before. He stated they have always allowed them to use the jackets, but they always had to return them.

20 ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 8:20 p.m., to meet again on Monday, October 1, 2007, at 7:00 p.m.

ATTEST: _____

APPROVED: _____

Lance Hudnell, City Clerk

Mike Bush,

Mayor