

MINUTES

BOARD OF DIRECTORS MEETING

APRIL 7, 2008, AT 7:00 P.M.

The regular meeting of the Board of Directors was held on Monday, April 7, 2008, at 7:00 p.m., Board Chambers, City Hall, with Mayor Mike Bush presiding.

The invocation was given by Ms. Gwin Horton, 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, Bill Edwards, Tom Daniel, and Mike Bush, total 7.

2 Approval of Agenda

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

3 Approval of Minutes of March 18, 2008 Board Meeting

A motion was made by Director Edwards, duly seconded by Director Weatherford, that the minutes of the March 18, 2008 Board Meeting be approved; and upon voice vote, the motion unanimously carried.

4 Recognition of Guests

Mayor Bush recognized Mr. Adam Roberts, director of the Hot Springs/Garland County Beautification Commission, who stated that he is present on the behalf of Trash Bash, Inc. and the Beautification Commission to thank the City's Sanitation Department for many years of exemplary service to the environment. He noted that over a few weekends ago, more than 4,000 pounds of litter was collected by volunteers.

Sanitation Director Bill Burrough expressed appreciation to everyone who participated and said it would not be possible for his department to take part in these events without the commitment of the Board, City Manager, upper staff, and the Sanitation crews.

Director Weatherford noted that Sanitation Director Bill Burrough received the Patriot Award last week from the Guard for supporting his employees who serve in the Guard.

5 Acknowledgment of Financial Statements for February 2008

Mayor Bush announced that the Financial Statements for February 2008 are on file in the Finance Department for review by the Board and the public.

CONSENT AGENDA

The Consent Agenda consisted of the following:

- 6 Public Safety Report** (March 19, 2008).
- 7 Proposed Resolution No. R-08-70** Approving Certain Bid Awards (a) Re-roof Hangar A-4 - Airport [awarded to L.D.T. General Contractor in the amount of \$22,000].
- 8 Proposed Resolution No. R-08-71** Authorizing the Filing of a Grant Application with the Arkansas Forestry Commission for the Purpose of Educating and Training the Urban Forestry Tree Board.
- 9 Proposed Resolution No. R-08-72** Authorizing the Filing of a Grant Application with the Federal Emergency Management Agency 2008 Fire Act Grant Program.
- 10 Proposed Resolution No. R-08-73** Authorizing Revisions to the 2007 Budget.

- 11** **Proposed Resolution No. R-08-74** Declaring of Certain Real Property as Surplus and Authorizing the Sale Thereof (Property ID No. 84013 - Convention Boulevard and Palm Street).
- 12** **Proposed Resolution No. R-08-75** Adopting a Permit Fee Schedule Pursuant to Ordinance No. 5378 (Stormwater Management); and Repealing Resolution No. 5992.
- 13** **Proposed Resolution No. R-08-76** Designating a “Free-Ride Day” for Hot Springs Intracity Transit; and for Other Purposes Related Thereto.
- 14** **Proposed Resolution No. R-08-77** Authorizing the Filing of a Grant Application with Arkansas Historic Preservation Program for Training and Travel Expenses for the Historic District Commissioners and Staff.

A motion was made by Director Daniel, duly seconded by Director Edwards, that the Consent Agenda be approved; and upon roll call, the following voted “aye”: Directors Maruthur, Jones, Smith, Weatherford, Edwards, Daniel, and Bush, total 7; motion unanimously carried.

PUBLIC HEARING

- 15** **Public Hearing Authorizing the Issuance of Tax-Exempt Bonds Pursuant to Section 147(f) of the Internal Revenue Code of 1986.**

This being the time and date set for a public hearing on the issuance of tax-exempt bonds pursuant to Section 147(f) of the Internal Revenue Code of 1986, Mayor Bush declared the public hearing.

There being no comments, Mayor Bush declared the public hearing closed.

NEW BUSINESS

- 16** **Proposed Resolution No. R-08-78**

A resolution entitled, "A RESOLUTION AUTHORIZING THE ISSUANCE OF TAX-EXEMPT BONDS PURSUANT TO SECTION 147(f) OF THE INTERNAL REVENUE CODE OF 1986," was taken from the agenda and read by title only.

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

Upon discussion, City Attorney Brian Albright advised this is a request from Colorado Educational and Cultural Facilities Authority, owner of an FCC license for various frequencies across the United States. He stated the one locally is K LOVE, and that tower is located on West Mountain. He explained the purpose of this public hearing and authority to issue the tax-exempt bonds is to authorize this nonprofit corporation to finance up to \$52 million for the refinancing of their FCC license to continue their operations on a noncommercial status. He pointed out there is no obligation on the part of the City, and no assets of the City are being pledged in any way. The City is acting as a conduit for the purpose of having this tax-exempt bond issue.

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, Edwards, Daniel, and Bush, total 7; motion unanimously carried. Whereupon the resolution was declared adopted.

17 Special Public Safety Report Regarding the Installation of a Crosswalk and Pedestrian Crossing Signs at Fros-T-Treat Between 107 Cypress and 1020 East Grand

Public Works Director Steve Mallett advised the owner of the Frost-T-Treat at 1020 East Grand is requesting a mid-block crosswalk, and the history of the Public Safety Committee is to deny those type of requests because they are routinely located at intersections whereby the vehicles provide a way to slow down so that it will provide some type of safe crossing. Therefore, staff does not recommend granting this. He stated if it had been located at an intersection, staff probably would have recommended installing it.

Director Edwards pointed out that it is only 40 feet from an intersection, and Public Works Director Mallett stated by that time, cars have not totally slowed down. He added by the nature of the business with children and families crossing the street, staff is concerned with the pedestrians crossing at that location.

Director Jones commented this is in District 2; and for many years, the children have been crossing there, as well as adults. She said she believes it would be more beneficial to install a crosswalk there, and they would at least be cautioned before crossing there because they have always used that to go across to the Fros-T-Treat.

Director Edwards pointed out this is an unusual intersection and going across the street to the benches without some safety, the children will be in danger.

Deputy City Manager Lance Hudnell pointed out that the City has denied these type of crosswalks, and most recently is Oaklawn Methodist Church on Leonard Street and Garland County Courthouse where they had a parking lot across the street. He noted over the years, there have been a few mid-block crosswalks, but they are generally discouraged. He explained they are permitted by the MUTCD if there are significant pedestrian crossings; however, they caution at a location where a motorist is not expected to be. He stated the Board has the power to make whatever policy decision it wishes, but it is incumbent on staff to bring the technical requirements. However, it is to the Board's discretion to waive those requirements if it believes the policy decisions outweigh the technical decisions.

Director Smith questioned where the crosswalk would be moved, and Public Works Director Steve Mallett stated that it is 40 feet from Grand Avenue. Director Smith asked if there have been any negotiations with the people who want this done about moving it to that location, and Public Works Director Steve Mallett said that he has not.

Director Maruthur said in regard to this location, this could give the children a false sense of security; and the MUTCD has specific regulations to protect the public. She stated she would like to see the intersection have the crosswalk instead of 40 feet away. She added it only makes sense because once the children see the lines, they are going to assume it is safe and that could result in a fatality.

Ms. Dorothy Geddings, owner of Fros-T-Treat, and Mr. Stephen Graham, spoke in support of the request. Mr. Graham stated the property directly across from where the crosswalk is supposed to be is going to be the dining park.

City Attorney Brian Albright pointed out the vacant lot that is referenced as 107 Cypress Street is no longer vacant, and there is a building there with public restrooms servicing the Fros-T-Treat. He added there are outdoor eating facilities, concrete pads with painted picnic benches, and water fountain. He pointed out there is no

sidewalk on the eastern side of Cypress to be able to access a crosswalk that would be at the intersection of Grand and Cypress or farther down at Cypress and Spring. Also, there is no sidewalk for children or adults to access the outside pavilion for the restaurant.

Director Daniel said he believes with proper signage with iridescent signs would catch the motorists' eye.

Deputy City Manager Lance Hudnell pointed out that there is an assumed crosswalk at all intersections, but they are not necessarily marked.

Ms. Geddings stated if the crosswalk were at the actual intersection, it is not the natural place for people to cross the street but would be where they get their food and then walk across the street.

Mr. Graham said they are trying to figure out a way to protect the public and let the traffic know there are people around.

Director Daniel made a motion, duly seconded by Director Jones, to approve the mid-block crosswalk and the signage to be installed in accordance with the MUTCD; and upon roll call, the following voted "aye": Directors Jones, Smith, Weatherford, Edwards, and Daniel, total 5. Voting "no": Director Maruthur and Mayor Bush, total 2; motion carried.

18 Proposed Resolution No. R-08-79

A resolution entitled, "A RESOLUTION AUTHORIZING THE OFFERING OF MUNICIPAL AIRPORT REVENUE BONDS; AND PRESCRIBING OTHER MATTERS PERTAINING THERETO," was taken from the agenda and read by title only.

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

Upon discussion, City Manager Kent Myers advised that the Airport Advisory Committee and staff are recommending that the Board adopt this resolution to authorize the offering of Municipal Airport Revenue Bonds. Mr. Carey Smith; Mr. Kevin Faught from Stephens, Inc.; and the City's bond counsel Mr. Ryan Bowman are present.

Mr. Carey Smith, with Stephens, Inc., explained there were two series of bonds sold in 1999, and it is most advantageous to look at refinancing those bonds. He stated the interest rate on those 1999 bonds are higher than current market rates, and one of the series of bonds carries about a 6.4 percent interest rate on it at the present time. The other series of bonds, which is the largest series of bonds, carries an interest rate of about 8.25 percent. He explained if they were to sell these bonds today, they would have to sell them in multiple series; and the overall blended interest rate would be in the range of 6.25 percent to 6.35 percent. He said it is most beneficial to look at refinancing the old bonds when borrowing the new money for these airport improvements, and they are looking at a 20-year repayment term on the new bonds.

Director Smith questioned the maturity on the bonds, and Mr. Smith advised that one of them matures in 2011; the other one matures in 2020. Director Smith asked how much is coming due in 2011, and Mr. Smith advised that it is \$500,000; the larger piece is about \$875,000 and goes out to 2020. Director Smith pointed out if the refinancing is done, it is not a large savings on the rate but would generate some new funds. Mr. Smith stated that is correct and will make it where the Airport can more easily cashflow the new payments. Director Smith asked much new funds are being generated, and Mr. Smith replied that it is about \$3,300,000 in new construction money.

Airport Director George Downie advised these will be for the expansion of the hangars at the Airport to meet the flying public needs. He said the Airport will generate revenues from this and will relocate businesses to Hot Springs based on the construction of these hangars.

Mayor Bush questioned how many hangars he anticipated, and Mr. Downie replied that they anticipate constructing three, 12,000-square foot hangars and an 8,000-square foot hangar; and ten storage units that will house ten aircraft.

Director Maruthur asked if the storage units will be limited to the storage of what the intent is, and Mr. Downie advised that it is. He stressed it is a requirement by the FAA.

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, Edwards, Daniel, and Bush, total 7; motion unanimously carried. Whereupon the resolution was declared adopted.

19 Proposed Resolution No. R-08-67

A resolution entitled, "A RESOLUTION APPROVING THE SCHEMATIC DESIGN AND PRELIMINARY COST ESTIMATE FOR THE HISTORIC DOWNTOWN FARMERS' MARKET PERMANENT FACILITY," was taken from the agenda and read by title only.

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

Upon discussion, Ms. Terry Payne, Public Information Officer, stated in 2007, a USDA Farmers' Market Promotion Program Grant was used to contract with Arnold & Associates Architects to create conceptual plans and a cost estimate for the permanent facility for the Historic Farmers' Market, which is planned to be constructed on the south side of Orange Street in the Transportation Plaza. She stated those plans were completed and approved in 2007; and following a public input meeting earlier this year, the conceptual plans were updated to reflect the needs of the vendors and the community. Also, this update is funded by the USDA Grant. She asked that Mr. Doug Arnold of Arnold & Associates describe the plan update.

Mr. Doug Arnold, whose office is located at 901 Central, stated about a year ago, he presented the preliminary plans; and there has been input from the vendors and the users of the Farmers' Market. He pointed out they do not have all of the money to proceed with this project; therefore, they are trying to make the project fit the available funds. He explained the drawing included in the Board packet is an open-air pavilion, and this site will be immediately south of Orange Street. In this plan, there will be an open-air pavilion currently with room for about 20 vendor stalls, which is the equivalent of 20 parking spaces; some stalls might be larger and some smaller. He stated the center area indicates an elevated stage that can be used for entertainment, demonstration or education events; and the remainder will be covered areas for the vendors and shoppers. If there is additional money remaining at the end of the bid process, he may be able to expand the covered pavilion and add more vendor stalls if funds permit.

City Manager Kent Myers noted there are two items on the agenda related to the Farmers' Market. The first item is the plan that Mr. Arnold explained and following discussion, the Board will vote on a resolution supporting these plans in order to finish out the USDA Grant and submit request for payment for the federal government. The second item is the grant application to the Department of Agriculture that will help fund this project.

Director Maruthur questioned the elevation of the platform, and Mr. Arnold advised that it is approximately three feet higher than the elevation of the grade, which will be about six steps. Director Maruthur asked if there are any security measures, and Mr. Arnold stated there will be lighting on the site and under the structure. He pointed out there will be some lighting for use in early morning hours while the market is open and also in the evening for security, protection, and observation by police or other emergency personnel. Director Maruthur mentioned that it is covered, open air, which means there will be access. Mr. Arnold replied that it is completely open, and part of that is driven by the fact that they are in a floodplain and keeping the structure as simple and as open as they can.

Director Maruthur questioned if the stage is ADA accessible, and Mr. Arnold replied that it is. He added there will be ramps at the rear of the stage on either side.

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, Edwards, Daniel, and Bush, total 7; motion unanimously carried. Whereupon the resolution was declared adopted.

20 Proposed Resolution No. R-08-80

A resolution entitled, "A RESOLUTION AUTHORIZING THE FILING OF A GRANT APPLICATION WITH THE ARKANSAS AGRICULTURAL DEPARTMENT PURSUANT TO THE FARMERS' MARKET GRANT PROGRAM," was taken from the agenda and read by title only.

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

Upon discussion, Parks and Recreation Director Jean Wallace stated this resolution authorizes staff and the Friends of the Farmers' Market to prepare and submit the grant application to build the structure, which is due on April 15. She said the total cost of the project is estimated at \$476,900; and the requested grant amount from the Agriculture Department will be \$425,000. She said there is a difference of \$51,900; and it is projected to be contributed by fund-raising efforts from the Friends of the Farmers' Market, as well as in-kind contributions from City crews for the site grading and paving labor. She added the City's Engineering Department estimates ten working days for the Street Department to accomplish the in-kind assistance; and if they

get full funding, the entire project will be built provided the bids come in affordable. She mentioned if the project is partially funded, then they will either scale it back or increase fund-raising efforts from Friends of the Farmers' Market. She advised that a grant requirement is that the City must commit to this permanent location for a period of not less than five years. She added the Arkansas Agricultural Department Grant is funded at 100 percent.

Director Smith questioned what would be scaled back if the project is not fully funded, and Parks and Recreation Director Jean Wallace advised that what would be scaled back would be after they met with the Friends of the Farmers' Market; and everybody agreed they would scale it back. She stated it could be some vendor stalls or the stage area, but it is not definitely set what will be scaled back. However, whatever is scaled back will be to the advantage of the farmers.

City Manager Kent Myers advised they have discussed that possibility, and there is a possibility that they will not be fully funded. He said according to Mr. Doug Arnold, they can reduce the stalls in sections of four. He said probably cutting back from 20 stalls to 16 stalls is the first thing they would look at. However, the farmers may not support that idea.

Director Maruthur said if all of the funding does not come through, they will cut back on the quantity, not the quality of this project. Ms. Wallace replied that is correct, but she believes there will be additional fund-raising efforts from the Friends of the Farmers' Market.

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, Edwards, Daniel, and Bush, total 7; motion unanimously carried. Whereupon the resolution was declared adopted.

21 Proposed Ordinance No. O-08-25

An ordinance entitled, "AN ORDINANCE CALLING A SPECIAL ELECTION IN THE CITY OF HOT SPRINGS, ARKANSAS, ON THE QUESTION OF ISSUING BONDS UNDER AMENDMENT NO. 62 TO THE CONSTITUTION OF THE STATE OF ARKANSAS FOR THE PURPOSE OF FINANCING ALL OR A PORTION OF THE COST OF CAPITAL IMPROVEMENTS; AND PRESCRIBING OTHER MATTERS PERTAINING THERETO," was taken from the agenda for consideration.

A motion was made by Director Smith, 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 Jones, duly seconded by Director Daniel, that the ordinance be passed as read.

Upon discussion, Mr. Steve Arrison, executive director of the Advertising and Promotion Commission, said if the Board approves the election, it will be held on June 10, 2008, and would mean no new taxes to the residents of Hot Springs. He stated it would enable them to upgrade the systems that are 30 years old at the Mid-America Science Museum. With the \$1.2 million worth of proceeds, they would upgrade and replace heating, ventilation and air conditioning systems, and modernize some other systems, such as the fire safety system and fix these essential systems that if they do go out, it would cripple and could close the entire facility. He said he believes it is important to the future of the Mid-America Science Museum, and the Advertising and Promotion Commission is requesting that the Board allow them to hold this special election to fund these bonds that would be paid for out of their current operating budget.

Director Maruthur questioned the vote from the Advertising and Promotion Commission, and Mr. Arrison advised that it was a unanimous vote.

Mr. Bob Driggers, #3 Stonegate, stated the Mid-America Museum deserves everyone's support and is a wonderful asset to the community, especially since it is being operated by so many people who volunteer their time and money. He pointed out several inaccuracies in what is being proposed so that the Board and the public can be aware of the facts prior to voting. He said he first became suspicious when a figure of \$1.2 million was used for HVAC repairs; and many times he has seen alarm systems and complete HVAC systems installed completely new for much larger facilities than the Museum that cost much less than \$1.2 million. After doing a survey of the facilities at the Museum last week, he advised that he discovered there are no safety issues as reported in the newspaper. He commented the fire alarm system works quite well, and there are no safety issues at the Museum, pointing out that the Museum has a state-certified fire marshal on staff. He mentioned the reported 30-year old air conditioning equipment that can fail at anytime turned out to be fairly modern and is functioning quite well. He stated the chiller and cooling tower are only slightly over eight years old, and the chiller is a double-ended unit with 290 tons of capacity. He said only one end is used typically because only 145 tons are needed 99 percent of the time, which means there is also sufficient air conditioning capacity; therefore, the Museum

could be expanded greatly without requiring additional capacity. He noted the cooling tower is also only slightly over eight years and is in good condition and has a modern variable frequency drive control; therefore, it is quite efficient. He mentioned the Museum maintenance staff is doing a great job with preventive maintenance; and all piping, duct work, and equipment is properly maintained and kept very clean, which is not to say that no improvements are needed. He added the VFD controls are needed for all five of the air handlers, and these devices would allow for proper control of air speeds and volumes which would allow for much better control of humidity. He stated the devices would greatly improve efficiency which means lowering utility costs, and these devices should be installed before the upcoming summer season and would only cost about \$25,000. He said there are several other items that need to be repaired or replaced, but most of these are less expensive and not critical for the summer season. He added he has a list of all of these if the Board would like to see them, and the total cost for the necessary modifications is \$88,000. He stated the Board does not need to take his word for the costs but ask the museum staff or the experts. He added that they should add a new boiler (\$95,000). He commented if they can put in a 2 million BTU water boiler with an efficiency rating of about 99 percent and replace those current, it is probably less than 70 percent efficient. He stressed that they do not need \$1.2 million and only need about \$165,000 even if they include everything that the Museum maintenance department would like to have. He noted there are too many inaccuracies and too many cost differences to make an informed decision. He recommended that the Board table this and postpone a vote until they have the true facts.

Ms. Diane Silverman pointed out the disparity between \$165,000 and \$1.2 million. She questioned the point of having a bond issue for \$1.2 million for stated repairs to HVAC and the other things that were discussed. She noted if the Advertising and Promotion Commission is going to fund the \$165,000, they can do it out of revenue they already have and spend it without a bond issue. She said it appears the discussion about the bonds has not disclosed to the public that the three percent "hamburger" tax as it stands cannot legally be pledged for capital improvements at the Museum. She pointed out that Arkansas Code §26-75-613 makes that clear, and the "hamburger" tax cannot be pledged on these bonds. She questioned how the Advertising and Promotion Commission arrived a cost of \$1.2 million, or why they chose that amount since it relates to nothing and appears to be an attempt to deceive the three boards that operate the Museum, the Advertising and Promotion Commission members, the City Directors, and the public with erroneous fear tactics to get needed approval to float this bond. She pointed out there is no emergency since the fire sprinklers and fire alarms work, and the HVAC is not in imminent danger of collapse. She stated if they received the \$1.2 million bond issue and paid \$165,000 for

the needed repairs, that would leave \$1 million remaining that the Advertising and Promotion Commission would control; and it is unknown what that would be used for. She noted it has not been stated that it would be to the benefit of the Museum. She commented that the idea of a bond election should be a moot point at this time, and this should be the end of any action to schedule the bond election. She added this should be the start of an investigation to determine how and why this apparent "scam" has gotten to this point. She said if there is some hidden agenda that the Advertising and Promotion Commission has that has prompted it to try to pull an apparent "scam" of this magnitude, she does not know what that hidden agenda is. However, the Board has an obligation to tell the truth to the Museum Boards, the Advertising and Promotion Commission, and the public. She stressed that the public should be concerned that this proposed bond scheme to borrow \$1.2 million for the Museum HVAC and fire alarm sprinkler that should only cost \$165,000 has been subverted, and that the Arkansas law is not going to be subverted as well by obligating the three percent hamburger tax to this outrageous action. She urged the Board to deny this ordinance and start investigating what is happening.

Mayor Bush asked if she thought the citizens should be able to vote on this issue, and Ms. Silverman said that she did not think they should be able to because the bond issue is a "sham" and questioned the use of the \$1.2 million when the cost is \$165,000.

Mr. Pat Patterson, 129 Buster Reed Drive, read a statement from Ms. Barbara Anable. He said that he may or may not agree with all or any part of this statement but is reading it on her behalf. The letter stated "the Mid-America Museum deserves the City's strong support and is an asset to the community. However, the item before the Board tonight should be either defeated or postponed until certain questions can be answered. Ten of the most important questions and possible answers that should be asked by the Museum Board and the Advertising and Promotion Commission and especially the Board of Directors before voting to take this item to the public are (1) why the sudden interest in helping the Museum and the haste in getting the issue on the ballot? The Advertising and Promotion Director has never before pressed an interest in helping the Museum. In 2004, he convinced the Board to close the Museum. He proposed selling the multi-million dollar asset for \$400,000; (2) are there really life threatening or safety issues at the Museum and could the 30-year old air conditioner fail at any moment? No, there are absolutely no safety issues. In fact, if there is a fault of any kind, it is that the fire alarm system is somewhat too sensitive. The reported 30-year old air conditioning system is actually based on a cooling tower and is slightly

more than eight years old and can handle expansion; (3) why have an expensive special election rather than including the item on the General Election? A special election allows the special interest voters a better opportunity to pass a single item due to not having those other voters at the polls; (4) wasn't there any election where the people voted to increase the "hamburger" tax so that the Museum would be funded and if so, why did that funding stop? The "hamburger" tax was raised one cent in 1978 so that the Museum could be funded, but the additional one-cent tax has now been diverted to the Advertising and Promotion Commission General Fund. Why the Advertising and Promotion Commission feels they are not obligated to either cease charging that one-cent tax or provide this funding of approximately \$2 million a year to the Museum is not clear; (5) is \$1.2 million needed by the Museum and will all of that money go only to the Museum? Possible answer, no, only about 1/10 of that amount is needed. The initial justification included a fire alarm system that has now been determined to be unnecessary. Some lighting change-outs that have already been made and HVAC equipment that does not need to be replaced; (6) what is the net amount available from the proposed \$1.2 million? Considerably less than \$1 million is actually available once the attorneys, banks, consultants, financial people, origination costs, bond preparation and sales fees, election costs, and other related fees are extracted; (7) who will administer the proposed expenditures to the Museum and where does the excess money go if all of the available bond proceeds are not used at the Museum? Answer: we have been unable to determine these answers, but it appears that the Advertising and Promotion Commission would administer the program and keep all excess money not actually spent at the Museum; (8) are there other financing methods available to the Museum that would not require the expensive election and bond issue? Answer: Absolutely. Conditional financing can always be used. However, it appears that the most cost-effective method to provide necessary upgrades will be through a performance contract because this method requires no capital up-front costs, and all payments would be made from the guaranteed energy savings; (9) are there other advantages to not having a bond election and sale? Answer: Yes. The sooner building ownership is transferred from the Advertising and Promotion Commission to the Museum, the sooner the Museum can use the asset for conventional funding especially for short-term projects. It appears there are also some grants that can only be obtained if the Museum owns its own facilities; (10) could the voters or the City initiate an election to adjust the three-cent Advertising and Promotion tax in the future if the proposed election passes? Answer: The Advertising and Promotion Director informed his Board that they could have whatever future elections they chose to have to provide funding for Advertising and Promotion projects; however, the public cannot initiate elections to adjust the tax because these funds are encumbered. The actual facts including the answers to these questions seem to reveal that the intention of

the Advertising and Promotion Commission may not be to help the Museum at all. The real purpose behind the proposed tax or sale of bonds appears to be primarily designed to encumber the existing three-cent "hamburger" tax such that any initiative to provide an election on the tax would be invalid for the next ten years. In other words, the voters would have the right to vote to adjust the three-cent tax eliminated. It should be obvious that this item is nothing more than a poor disguised sham, a shenanigan that is deceptive and deceitful. It is totally improper and highly unethical to misuse the good intentions of those who support the Museum for such an obvious and devious purpose." She asked that the Board consider delaying its vote until it has obtained answers to her questions.

Mr. Pat Patterson stated if the Board knows with uncertainty the Museum needs this money, then it needs to vote for the ordinance; however, if it is unsure, then the Board needs to vote against it. He said if the Board feels there has been some deception, then there needs to be some disciplinary action.

Mayor Bush asked if he thought the citizens should be able to vote on this, and Mr. Patterson replied that he did, if this is necessary.

Director Daniel questioned if there was anyone present who represents the Museum, and Mr. Anthony Taylor, 111 Newtonwood, chairman of the board of the operating board of the Mid-America Science Museum, said he has been a practicing architect for 29 years and commented it is impossible to repair 169 tons of air conditioning for \$165,000. He said they have a lot more ills than what Mr. Driggers has found, and it is true that the system is very well maintained. He explained they have a retired navy man who has kept dampers open with channellock pliers. He stated all six air handlers are due to be replaced, and the units have been installed for 30 years and must be replaced. He advised the chiller is only eight years old, but that is only one component of a very complex system. He mentioned the representative from Pettit and Pettit, who actually designed the original installation, admitted that the initial system was not as sophisticated as what they had originally designed. He said this lack of sophistication lends them a lack of control over the temperature and humidity. He emphasized they are a Smithsonian affiliated museum and cannot get Smithsonian exhibits because they cannot control the humidity and temperature within the range limits that they require. He reported the Museum's finances have turned around 180 degrees since three years ago, and they ended the month of February with over \$170,000 in the bank and a \$50,000 Certificate of Deposit. He announced they are bringing a large blockbuster exhibit to Hot Springs this summer and anticipate they will have at least 80,000 people attending. He advised that they will get a Deed if this

goes the same course and will have a Deed to the building in two years. However, they have many improvements to make, such as an elevator, a new laser theater, and many things to update the Museum. If they have to take their new Deed in two years and mortgage it to get a new heat and air system, they are going to be put at a disadvantage. He advised all three of the boards that have purview over the Museum are in agreement that this bond issue is a blessing for them. He commented it will allow them the freedom to take care of other issues they know are necessary to bring that Museum into the 21st Century. He stressed it is not a tourist attraction but is an educational facility and has impacted students from across the southwest part of the state who come here on field trips. He stated they are expanding that program daily and encouraged the Board to vote for this bond issue. He said it is necessary, and the people will decide.

Director Daniel asked if the board members formally met and voted on this, and Mr. Taylor said they did. He introduced the new executive director, Andy Marquart, who has been on the job for 90 days and is very dedicated and qualified for this position. He stated there are representatives present from the volunteer board and the operating board who met as soon as they learned of the proposal and voted in favor of accepting this proposal. He noted there was some discussion and if they are due in two years to be deeded over a \$7 million facility because they have turned it around, that was a consideration. He said after due consideration, they firmly believe this bond issue is in the Museum's best interest.

Director Maruthur commented there are many ways of reporting numbers. She questioned in his opinion, what amount is needed to realize, not only the maintenance of the existing operational equipment, but the additional features that are needed to bring the Mid-America Museum up-to-date. Mr. Anthony said he did not believe he could give a total number, but they have looked over the past two years at the heating and air conditioning system and the other life safety systems, which are working quite well. However, they are 30 years old. He added the fire alarm system is not addressable and could not be installed today because it does not meet the current fire codes, although it does meet the code for when it was built; and it is safe. He said they have looked at all of that, and those items appear to be around \$750,000. He stated to add onto that the cost of retrofitting some of the lighting fixtures and control systems, the cost of engineering, and the cost of the bonds, it will amount to approximately \$1.2 million.

Director Maruthur asked if that includes the existing maintenance and future provisions for other exhibits, and Mr. Taylor replied it is not future provisions for other

exhibits, just the heating and air conditioning system and controls. Director Maruthur pointed out that he had mentioned the Smithsonian exhibits, and Mr. Taylor said that it does include the ability to maintain the temperature and humidity within the range that the Smithsonian requires.

Director Maruthur asked if he believed \$1.2 million would cover it, and Mr. Taylor said that he did.

Director Maruthur questioned the vote of the Museum Board, and Mr. Taylor stated there was one abstention, and everyone else was in favor. He noted there were no "nays."

Director Daniel asked that Mr. Steve Arrison be recognized.

Mr. Steve Arrison, executive director of the Advertising and Promotion Commission, said they hired Pettit and Pettit with over 40 years' reputation as the engineering firm, which actually built this system. As far as the fire system, he stated it works and is safe; but it is not up to current code. He mentioned the Advertising and Promotion Commission still owns this asset and needs to make sure it is safe for the people who use it, not only now but 30 years from now. As far as the bond money, Stephens, Inc. is present tonight who assured him that approximately \$1 million will be available to use on the Museum. He pointed out the ordinance specifically states it has to be used at the Museum. He stressed this is a straight-up proposal to help the Museum, which is an asset to the community. He added they had hired Pettit and Pettit, and they said this is what it will take; they also hired the Friday Law Firm, which advised this is a legal use of their tax money; they hired Stephens, Inc., which told them this is what the bonds will be used for. He stressed this is above-board and is for the Museum, and there is no secret agenda. He pointed out this is to keep the Museum going so when that board takes it over when these bonds pay off, it will last forever.

Director Maruthur commented that four years ago, the Museum was in a different situation; and four years ago, the economy was in a different situation. She stated they need to look at everything that has changed environmentally and economically. She pointed out a committee has just have reviewed and assessed the City buildings. She noted things change, and she does not appreciate a reference back four years ago because there are things that people do not remember. She added there are ways to produce numbers to make things look like they are not aboveboard, and that is what she is hearing. She commented there is a unanimous vote from the Advertising and Promotion Commission. As far as a verbal vote, there were 13 people out of 14 who

voted “yes” on the Museum Board. She said that she received numerous e-mails, telephone calls and written letters. She commented the Advertising and Promotion Commission, Pettit & Pettit, the governing board at Mid-America Museum, and the community value this wonderful facility. She stated she is disappointed at the manipulation of the numbers and the way things are being viewed because this looks like a win-win.

At this time, Director Maruthur made the following amendment to the ordinance: “any and all funds produced from this bond issue shall be totally dedicated to the use and benefit of the Mid-America Museum.”

Upon discussion, City Manager Kent Myers pointed out that this ordinance is carefully constructed by bond counsel and asked that bond attorney Ryan Bowman address that amendment.

Mr. Ryan Bowman, bond attorney with Friday, Eldredge & Clark, advised that the bond ordinance states that the purpose of the bond issue is to finance heating and air conditioning improvements and other building improvements. He explained in Section 2 of the ordinance, this is what the voters are approving and based upon the language in the ballot, the proceeds of the bond issue can only be used for the purposes stated in the ballot. He pointed out that legally, the City can only use the money for the improvements to Mid-America Museum.

Director Maruthur asked if they are going to be earmarked for the sole purpose of the use and benefit of the Mid-America Museum, and Mr. Bowman replied that is correct. He added it can only be used for the purposes that are set forth on the ballot, and those are only for improvements at Mid-America Museum.

Director Maruthur asked if the Advertising and Promotion Commission could put in another carpet, and Mr. Bowman advised that they could not.

Director Maruthur asked why it says all or a portion of the costs, and Mr. Bowman explained that is included in case the improvements were to cost \$1.5 million, then the bond issue would only be used to finance a portion of the cost of the \$1.5 million improvements to Mid-America Museum. He added the proceeds of the bond issue will be \$1.2 million. He said if for some reason the cost escalated to \$1.5 million, this bond issue would only be used to finance a portion of those costs.

Director Maruthur questioned should it not come to \$1.2 million, if it would be held in reserve for the use and benefit for the sole purpose of, and Mr. Bowman advised that it can only be used for improvements to Mid-America Museum. He added if for some reason \$1.2 million of bonds were issued and the improvements only cost \$1 million, leaving \$200,000 in excess, that would be used to retire the bonds prior to maturity.

At this time, Director Maruthur withdrew her motion to amend the ordinance.

City Attorney Brian Albright addressed a comment by Ms. Diane Silverman that the allegation that it did not comply with Arkansas Code Annotated §26-75-607. He pointed out the Board has heard the testimony tonight that 80,000 people come to this facility per year and asked if there is any question in Mr. Bowman's mind that this is tourist-oriented facility as contemplated by that statute and being so, if it is permissible for the City to do this even though that facility is outside the city limits. Mr. Bowman advised that they have researched that issue, and they are very comfortable in opining that these bonds can be issued by the City for the purpose of financing improvements at Mid-America Museum.

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, Edwards, Daniel, and Bush, total 7; motion unanimously carried. Whereupon the ordinance was declared passed.

22 Proposed Ordinance No. O-08-26

An ordinance entitled, "AN ORDINANCE ACCEPTING A CERTAIN STREET AS A PUBLIC STREET (BELLA COURT); AND FOR OTHER PURPOSES," was taken from the agenda for consideration.

A motion was made by Director Jones, duly seconded by Director Maruthur, 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, Public Works Director Steve Mallett advised that this street has been inspected by the Engineering Department and meets all criteria.

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, Edwards, Daniel, and Bush, total 7 motion unanimously carried. Whereupon the ordinance was declared passed.

23 Proposed Ordinance No. O-08-27

An ordinance entitled, "AN ORDINANCE AMENDING THE HOT SPRINGS SOLID WASTE ORDINANCE (ORDINANCE NO. 5400) REGARDING THE CLEAN ATTRACTIVE PROPERTY SERVICE (CAPS) RATES AND PROCEDURES; AND FOR OTHER PURPOSES," was taken from the agenda for consideration.

A motion was made by Director Daniel, duly seconded by Director Edwards, 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 Smith, duly seconded by Director Jones, that the ordinance be passed as read.

Upon discussion, Sanitation Director Bill Burrough stated there have been several requests to increase the number of free CAPS collections for city residents. He said the City currently offers one free collection per year, and the current revenue from the residential CAPS collection is estimated about 10,000 annually. Staff believes increasing the free collections from one to two per residence will have a positive impact on a cleaner community. He advised this will not have an impact on units containing refrigerants, which have to be managed in a different manner and require much more resources to manage. This will ordinance will go into effect 30 days after publication.

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, Edwards, Daniel, and Bush, total 7 motion unanimously carried. Whereupon the ordinance was declared passed.

24 Proposed Resolution No. R-08-81 Approving a Multiple Building Site Plan for the U Store It Self-Storage Facility Located at 566 Files Road. **(Appeal)**

City Attorney Brian Albright advised that a letter was received from Attorney Brian Reis on behalf of the applicant to table this resolution until the next Board Meeting.

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

voted "aye": Directors Maruthur, Jones, Smith, Weatherford, Edwards, Daniel, and Bush, total 7; motion unanimously carried.

25 Proposed Ordinance No. O-08-28

An ordinance entitled, "AN ORDINANCE AMENDING THE ZONING CODE OF THE CITY OF HOT SPRINGS, ARKANSAS, BY REZONING PROPERTY AT 540 AIRPORT ROAD AND 124 STOVER ROAD FROM R-4, MEDIUM HIGH DENSITY RESIDENTIAL, TO C-4, REGIONAL COMMERCIAL/OPEN DISPLAY DISTRICT, AND AMENDING THE FUTURE LAND USE MAP BY RECLASSIFYING CERTAIN REAL PROPERTY LINEAR COMMERCIAL CORRIDOR," was taken from the agenda for consideration.

A motion was made by Director Smith, 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 Daniel, that the ordinance be passed as read.

Upon discussion, Ms. Kathy Sellman, Planning and Development Director, stated this is a request by Brad Holmes and Leonard Buchholz to obtain C-4 zoning for their connecting properties that lie north and east of Airport Road and Stover Road. Parcel A includes the Sunshine Pet Salon and is currently zoned C-4, but there is a triangle-shaped portion at the rear of the property that is zoned R-4 and is only about 4,000 square feet. This land abuts Parcel B, and Parcel B has all of its frontage on Stover Road. Parcel A has the frontage on Stover Road in addition to some on Airport Road. The Planning Commission held a hearing on March 13 and voted unanimously to recommend that the Board approve the rezoning and also to amend the Future Land Use Map to designate the property Linear Commercial Corridor.

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, Edwards, Daniel, and Bush, total 7 motion unanimously carried. Whereupon the ordinance was declared passed.

26 Proposed Ordinance No. O-08-29

An ordinance entitled, "AN ORDINANCE ACCEPTING THE ANNEXATION OF CERTAIN TERRITORY (2255 EAST GRAND) TO THE CITY OF HOT SPRINGS,

ARKANSAS; MAKING SAME A PART OF THE CITY OF HOT SPRINGS; ASSIGNING SAID LANDS TO A ZONING DISTRICT; REVISING THE FUTURE LAND USE MAP; ASSIGNING SAID LANDS TO A BOARD DISTRICT; 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 Daniel, that the ordinance be passed as read and upon roll call, the following voted "aye" Directors Maruthur, Jones, Smith, Weatherford, Edwards, Daniel, and Bush, total 7 motion unanimously carried. Whereupon the ordinance was declared passed.

OTHER BUSINESS

27 Board of Directors Items

Director Maruthur stated that Ms. Drew Terry gave her an announcement prior to the meeting, and there will be a community-wide event to honor the 2008 National Day of Prayer on Tuesday, May 1, at 11 a.m. Men and women of all denominations will gather for one common purpose which is to pray for the nation. Also, a free leadership conference opened to the public will follow.

Director Smith expressed appreciation to all the city crews as a result of last Thursday night's storm, which resulted in flooding in the downtown area and other areas.

Director Daniel thanked all of the city departments for their efforts during the storm and to the Code Compliance Department for their assistance in helping the businesses reopen. He reported that Deputy City Manager Lance Hudnell, the Fire Chief, and Police Chief were out during the early morning hours assisting at the Command Center located at the Fire Department. He stated there was damage to some of the stores in the downtown area. He reported there was a siren that went off from the Airport notifying that the power was off.

Director Edwards said during the last three or four months, there has been a problem of nailing posters on telephone poles. He asked what the City is doing about conserving gasoline, and City Manager Kent Myers advised that is going to be a major topic at the staff meeting tomorrow. Mr. Greg Speas, Fleet Service Director, has generated a first quarter report showing the fuel costs, and all the departments will be

spending some time going through that report tomorrow at the staff meeting and looking at ways they can cut costs. He will have a report for the Board in the next couple of weeks.

Director Weatherford commended Sanitation Director Bill Burrough and his department on the two awards he received last week and the many letters to the editor. He also commended Public Works Director Steve Mallett, the Street Department, and Sewer Department for their work during the heavy rains and flooding last week. Also, he thanked the Police Officers who were directing traffic in the rain at the traffic lights. He reported that Oaklawn's numbers for February were up 50 percent from February last year.

Director Maruthur said in response to several phone calls, there was a natural disaster, and the storm made national news. She stated she received several phone calls from people who do not subscribe to the newspaper and did not see it on television. She mentioned that she spoke to City Manager Kent Myers today about the individual who will be hired to monitor and clean the grates and will be considered at mid-budget. She commented she has been pushing this for years; and for those people who called her, she made them aware of this because the City has needed additional help for its Street Department for years; and she believes there are other areas where the City can cut back.

In regard to the flooding, Public Works Director Steve Mallett stated there is not much the City can do when water gets outside the banks and goes in places where it has not been in 16 or 17 years and in areas where the water picks up tires, trees, and brush and clogs up culverts and bridges. He reported that six or eight months ago, the Street Department cleaned up Hot Springs Creek below where it comes out of the tunnel. He said that he and Mr. Denny McPhate, Public Works Operations Manager, feel that was a big part of preventing problems down the road. He mentioned there was some water over the top of the bridge at Hollywood; but had the City not cleaned it out, there would have been more significant problems. In the downtown area if there is another rain event like the last few days, right now the same thing would probably happen again. He reported the rains came off the Whittington area, but there was not any backing up in coming out of the Park Avenue side behind the Bohemia. He stated with some of the drainage improvements made through CBID 3, the property owners felt it had a big impact on the flood level versus 1990. He said the City could clean every grate, but it still would not prevent what happened last week. He pointed out there are certain specific instances where it would make a difference in cleaning out some grates; but because there are so many of them, it would be almost impossible; and the City

would have to have a large team to clean out those grates. He explained everything was coming out of the grates last time instead of going in, and they did get the grates cleaned out after it was over as quickly as possible; therefore, if there was another rain, it would operate properly.

Director Daniel recommended that he and the City Manager looked into the rescue by the Fire Department on Gulpha Creek and Ridgeway. He stated that was on national television, and Mr. Sandy King did a good job filming it. He commended the firemen in this rescue.

Director Maruthur said her point is there is just so much the City could do, and there were many people who were unaware of this natural disaster. She mentioned that more rain is expected on Tuesday and Thursday, and people who experienced water in their homes should take some precautions with sandbags and elevate their belongings from the ground because there is just so much the City can do. She commended everyone for their work and efforts.

28 City Manager's Report

City Manager Kent Myers gave the following report:

1. On the Consent Agenda, the Board approved Free Ride Day for Intracity Transit on any of the buses on April 15; on the Public Safety Report, the Board approved a Religious Processional for St. Mary's Church; and the date is May 25 instead of June 10.

2. Mr. Phillip McClard wrote a nice letter to the editor regarding a water leak that took place in front of McClard's Barbecue, noting the work began on Monday, at 11 p.m.; and the city crews were finished before they opened on Tuesday. The street in front of their business was clear and ready for business. He thanked all the men who helped make this happen.

3. He commended the city departments for their response during the storm last Friday headed by Deputy City Manager Lance Hudnell in coordinating the efforts. The City has done a lot of drainage work over the last six months that contributed to the flow of the drainage through the downtown area. Regarding another project that occurred in the mid-90's when the City used federal money to go in and clean out the tunnel, inlets have been added so the water could get in and out of the tunnel as quickly as possible, which contributed to the decrease as far as flooding in the downtown area.

4. There has been discussion about a flood warning system, and the Board has adopted a new drainage stormwater fee this year; and the City is adding to its warning system using that funding. Next Board Meeting, the Board will be considering a Code Red Warning System that will be used not only for weather-related circumstances but any type of notification to the public that the City wants to utilize it for.

5. There have been four City Manager coffee's over the last two months and had about 25 total citizens who attended at the four different locations. He will have the written report for the coffee that took place last week. They were successful; but at this time, he wants to reevaluate and and schedule more in the future.

29 ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 8:35 p.m., to meet again on Monday, April 21, 2008, at 7:00 p.m.

ATTEST: _____

APPROVED: _____

Lance Hudnell, City Clerk

Mike Bush,

Mayor