

MINUTES

BOARD OF DIRECTORS MEETING

JUNE 2, 2008, AT 7:00 P.M.

The regular meeting of the Board of Directors was held on Monday, June 2, 2008, at 7:00 p.m., Board Chambers, City Hall, with Mayor Mike Bush presiding.

Prior to the opening of the meeting, a flag ceremony was presented by the VFW Post 2278 in memory of Director Bill Edwards, who passed away on June 1, 2008. Following the presentation of the American Flag to Mayor Bush, a member of the VFW played taps.

Prior to the invocation, Mayor Bush asked for a moment of silent prayer in memory of Director Edwards.

The invocation was given by Reverend Gerald Michau, 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.

2 Approval of Agenda

A motion was made by Director Daniel, duly seconded by Director Maruthur, that the agenda be approved.

Upon discussion, City Attorney Brian Albright advised that Agenda Item No. 15 (Claim from Brad and Michelle Wilkins regarding broken line in front of the residence at 204 Fair Oaks) has been resolved; therefore, that item is to be removed from the agenda.

Mayor Bush then called for a vote on the motion to approve the agenda, as amended; and upon roll call, the following voted "aye": Directors Maruthur, Jones, Smith, Weatherford, Daniel, and Bush, total 6; motion unanimously carried.

3 Approval of Minutes of May 19, 2008 Board Meeting

A motion was made by Director Daniel, duly seconded by Director Jones, that the minutes of the May 19, 2008 Board Meeting be approved; and upon voice vote, the motion unanimously carried.

4 Recognition of Guests

No guests were present for recognition.

CONSENT AGENDA

The Consent Agenda consisted of the following:

5 Public Safety Report (May 21, 2008).

6 Proposed Resolution No. R-08-125 Approving Certain Bid Awards (a) Curb, Gutter and Sidewalk - All Departments [annual supply contract awarded to DCJ Construction]; (b) Fuses - Utilities [annual supply contract awarded to Treadway Electric]; and (c) Tree Service - Public Works [annual supply contract awarded to West Tree Service].

7 Proposed Resolution No. R-08-126 Authorizing Filing of a Grant Application with the Federal Aviation Administration (FAA) and the State Aeronautics Department for Airport Runway 13/31 Rehabilitation, Phase II.

8 Proposed Resolution No. R-08-127 Appointing the Mayor as the Hot Springs Board of Directors' Representative for the Purpose of Selecting a Member of the Garland County Equalization Board.

9 Proposed Resolution No. R-08-128 Adopting a Policy Regarding the Activation of Municipal Utility Service for New Utility Service Projects.

- 10 Proposed Resolution No. R-08-129** Authorizing the Transfer of a Surplus Building to Garland County.
- 11 Proposed Resolution No. R-08-130** Designating a “Dump the Pump Day” for Hot Springs Intracity Transit.
- 12 Proposed Resolution No. R-08-131** Approving the Location of the Hot Springs Bark Park and Appropriating Funds for Construction Thereof. **(Removed from the Consent Agenda for Separate Consideration)**

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

Upon discussion, Director Maruthur requested that Proposed Resolution No. R-08-131 (Approving the Location of the Hot Springs Bark Park and Appropriating Funds for Construction Thereof) be removed from the Consent Agenda for separate consideration.

Mayor Bush then called for a vote on the motion to approve the Consent Agenda, as amended; and upon roll call, the following voted “aye”: Directors Maruthur, Jones, Smith, Weatherford, Daniel, and Bush, total 6; motion unanimously carried.

NEW BUSINESS

- 13 Presentation of Mascot (Katie) for the Pet Therapy Program by Ms. Luba Cook**

Mr. Dan Bugg stated that Ms. Luba Cook was in charge of the pet therapy group for many years at the Animal Services Shelter and adopted Katie from the shelter.

Ms. Luba Cook introduced Katie, a volunteer and pet therapy dog, and stated she is an example of what can be accomplished with a dog adopted from the animal shelter at three months old. She added Katie was once the mascot of the old Hot Springs Pet Therapy Program and now is the mascot of Fountain Lake Health and Rehab and was the No. 1 pet therapy hospice volunteer dog of the agency she is

-serving. She publicly thanked Ms. Betty Harris, who was holding Katie during the presentation.

Mr. Dan Bugg announced that under Hospice visits, Katie has done 2,008 visits; under regular visits, she has done 723; Ms. Cook and Katie have done 1,439 combined visits. He reported Katie has done 1,292 visits, 35 months of Hospice visits, 47 months of regular patient visits combined, and 2,731 visits to citizens of the community.

12 Proposed Resolution No. R-08-131

A resolution entitled, "A RESOLUTION APPROVING THE LOCATION OF THE HOT SPRINGS BARK PARK; AND APPROPRIATING FUNDS FOR CONSTRUCTION THEREOF," was taken from the agenda and read by title only.

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

Upon discussion, Director Maruthur made a motion, duly seconded by Director Daniel, to amend the resolution by adding the following phrase at the end of Section 1: "to be maintained through volunteerism and private donations," and upon voice vote, the motion unanimously carried.

Mayor Bush then called for a vote on the motion to approve the resolution, as amended; and upon roll call, the following voted "aye": Directors Maruthur, Jones, Smith, Weatherford, Daniel, and Bush, total 6; motion unanimously carried. Whereupon the resolution was declared adopted, as amended.

14 Claim from Bobby and Blair Hannon Regarding Broken Water Line in Front of Residence at 202 Fair Oaks Place

City Attorney Brian Albright advised that this claim is presented to the Board for the approval of an offer of settlement pursuant to Resolution No. R-08-132, which has been distributed tonight. He reported there was an alleged breakage of a Hot Springs utility line in front of the residence at 202 Fair Oaks, which may or may not have contributed to some flooding at that residence. He stated after some extensive discussion with the parties and various staff members, the City has received an offer of settlement in the amount \$25,000; and the issue before the Board tonight is to approve or not to approve the offer as tendered.

Attorney Q. Byrum Hurst, Jr., 518 Ouachita, representing Bobby Hannon, Jr. and Blair Hannon, stated that in January, they had some serious water problems and called the plumbers for repairs. They discovered it was not from anything in their home but was from outside and contacted their homeowner's insurance to get some relief. However, their homeowner's policy would not cover this because it came from outside the residence. He added they received an estimate to repair the damage to the property, which was \$24,360 and then obtained an estimate of the damage to the personal property, which was \$32,150. He said there were several meetings with City staff, and he talked to City Attorney Brian Albright and tried to determine whether there was room to negotiate this claim. He commended the city staff for their competency and was very honorable that they admitted to the Hannon's there was a leak; but the leak was not repaired. He commented Mr. Hannon spent a considerable amount of time photographing and videotaping and showed that to City Attorney Brian Albright and the staff. He mentioned that Ms. Hannon is the regional director of the American Heart Association and has her office in the basement. He pointed out their neighbors, who had a claim, did not have a basement but had a crawl space; therefore, their damage was not extensive. He noted the basement was flooded, and damage to the telephone lines, computer lines, internet access; and Ms. Hannon's basic employment was stopped. Also, because of the mold that developed during this period of time, the entire family and the children have moved and are renting space until they can get the repairs made. He advised a settlement had been reached between the Hannon's, City staff, and City Attorney Brian Albright in the amount of \$35,000. He said when he met with the Hannon's this afternoon, they indicated they would accept the estimate that was provided by another company the City used, and there is about \$10,000 difference between the estimate that the Hannon's received and the estimate that the City received. He advised that the Hannon's agreed to take the low estimate in the amount of \$25,000 and feel it is a reasonable figure.

Director Maruthur asked after the natural disaster the City recently experienced, if he had any water in his home; and Mr. Hurst said he did not. Director Maruthur asked if there was a breakdown regarding the chemical composition of the water and asked if chlorine was found in the water. Mr. Hurst replied that he was not sure, but Mr. Darrell Eckard, from the Water Department, originally came to the Hannon's and said he had been investigating it and had determined that it was from the hydrant; and they had not been able to trace it. Director Maruthur asked if the water was tested; and Mr. Hurst replied unless they tested it, he did not know. He added that something was done by them where they felt confident that they were at fault. Director Maruthur pointed out the Board was going to make a decision tonight without knowing what the composition was in the water.

City Attorney Brian Albright advised there are disputed facts in any case such as this if this should go to trial. However, what is being considered tonight by the Board is whether or not it is inclined to settle this matter for the \$25,000 that has been offered as opposed to going to trial for the \$56,000, which would be subject to Motions by the City for immunity under its statutory authority that could be granted or denied. He explained if it is denied, it is appealed to the Court; and the Court of Appeals deals with it; and it comes back. He mentioned during that period of time, the damage amount, whatever it may be, will increase on a daily basis. He explained that the issue tonight is not to cast blame, find fault, or admit liability in any form or fashion but to negotiate and settle a claim if it can be done.

Proposed Resolution No. R-08-132

A resolution was read by title only entitled, "A RESOLUTION APPROVING A CLAIM FOR DAMAGES FROM BOBBY AND BLAIR HANNON, 202 FAIROAKS PLACE."

A motion was made by Director Smith, duly seconded by Director Maruthur, that the resolution be adopted; and upon roll call, the following voted "aye": Directors Maruthur, Jones, Smith, Weatherford, Daniel, and Bush, total 6; motion unanimously carried. Whereupon the resolution was declared adopted.

15 Claim from Brad and Michelle Wilkins Regarding Broken Water Line in Front of Residence at 204 Fair Oaks Place (Removed from Agenda).

16 Proposed Ordinance No. O-08-40

An ordinance entitled, "AN ORDINANCE AMENDING THE ZONING CODE OF THE CITY OF HOT SPRINGS, ARKANSAS, BY REZONING PROPERTY ON MONTANA TO MANUFACTURED HOME OVERLAY," was taken from the agenda for consideration **(Appeal)**

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 Maruthur, that the ordinance be passed as read.

Upon discussion, Ms. Kathy Sellman, Planning and Development Director, explained this is an appeal of a Planning Commission recommendation regarding a request by applicants John and Barbara Parsons to create a new Manufactured Home Overlay District on approximately 2.75 acres that was subdivided many years ago as Euclid Heights, Block 16, Lots 1 thru 16. She stated there are two zones currently on the property; Lots 1 thru 4 are R-1, Rural Residential; and Lots 5 thru 16 are R-4, Medium High Density Residential. This is located at the southeast corner of Montana and Yancy Street; and the Planning Commission held a public hearing on May 8 for the purpose of fact-finding prior to taking action on the Parsons' application. After taking testimony and considering written testimony, the Planning Commission's vote was on a motion to approve their request, which failed with three members voting to approve it and five voting against the motion. She stated the applicant requested that the Board review this under appeal, and they answered the four questions that are required as an appeal. At this time as currently zoned, 16 lots on that block could currently be developed with a single-family home. She added the requested overlay zone will enable the placement of sixteen manufactured dwellings or site-built dwellings, subject to the setback requirement of the underlying zone district and to the other applicable requirements. The recommendation at this time is that the Board approve the ordinance and reverse Planning Commission's action recommending denial of the zoning map amendment request.

Director Weatherford asked if that is what she is recommending, and Ms. Sellman replied that is the recommendation based upon the facts that were presented by the applicant and upon a review of the record of the Planning Commission hearing. She stated the Planning Commission failed to make a finding that is required by the zone change section; and in making their recommendation to not approve the request, they did not make a finding for their vote. She added if a zone change is requested, the Planning Commission considers the facts, the requirements for changing the zone, and then votes either to approve or deny.

Director Weatherford asked if she was saying she wants the Board to approve this where they could possibly build 16 houses or put in 16 mobile homes, and Ms. Sellman replied that is correct. She added at this time, they can put 16 houses there; and there are 16 subdivided lots in Block 16.

Director Weatherford said that he attended the Planning Commission meeting; and if Mr. Parsons was truly going to put in a mobile home there and that is what he says, he could vote for it; but he refuses to make it from 16 divided lots to one piece of property. He said if the Board approves this, they could put in a mobile home park at that location or 16 small houses. He said he did not think the Board wants to create a mobile home park and that is what could possibly happen.

City Attorney Brian Albright advised that Mr. Parsons could not establish a mobile home park because while this is technically a zoning change, it is not changing the underlying zoning of R-1 and R-4. He pointed out that is what controls the density, the setback, and the use. He added as to whether or not the applicant is willing to change the various city lots to one parcel is a matter of economics for him. He said to have this replatted requires him to hire an engineer, a surveyor, and go through the process, which would cost from \$300 to \$500.

Director Weatherford asked if he is saying he cannot put 16 mobile homes there, and City Attorney Brian advised that he could put 16 mobile homes at that location; but they all have to be single-family dwelling with the setback requirements that accompany those underlying zones.

Director Daniel asked if he bought it with it already subdivided into 16 lots, and was advised that he did.

Mr. Brian Fisher, 6568 Central Avenue, asked that the Board deny this request. He stated that mobile homes serve a purpose, and he has no strong evidence that mobile homes will decrease property values; but the general consensus is they do. He said if they decide to sell, the next person could do the same thing and put several there. He mentioned he recently spent \$30,000 purchasing the property that is adjoining that and has a house there and 14 acres, which is at 710 Carver. He urged the Board to deny the request.

Director Jones asked if the property he owns is cleaned off or is it wooded area, and Mr. Fisher said that it is wooded area.

Director Maruthur said that she understands the need for the housing, but this could turn into a trailer park; and Mr. Fisher made a good point that someone else could have control of it and probably the person who is looking to develop this has good intentions. However, if there is a change in management or ownership, then everyone is at risk and that is her concern. She mentioned that she has heard realtors say if

there is a trailer or mobile home near a property they are trying to sell or move, they try to avoid going by the mobile home, which is strictly related to property value. She pointed out there are mobile home subdivisions, which gives everyone protection.

Director Jones asked if the Board could place a stipulation in the ordinance, and City Attorney Brian Albright advised that the Board cannot place conditions on the rezoning. He stated if the Board is interested in trying to help the applicant, he would suggest that the Board table the ordinance and give the owner the opportunity to get it replatted assuming that the applicant wants to do that. However, if the applicant is not willing to express that intention to the Board tonight, then he would recommend that the Board vote on the ordinance.

Director Jones asked if the owner would consider replatting it.

Mr. John Parsons, 116 Hamlett Springs Road, Cave City, Arkansas, stated that he bought the whole plot and wants to place one manufactured home on it. He said there is a creek that goes through the center of the entire Montana end; and on the other end, there is only one street where he wants to put a mobile home. Regarding the rest of it, he stated there are no streets around it and no access to it. He advised that he intended on having only one mobile home; and when he went to the Planning Commission, he was told there was no problem. He stated that his deed says one block and does not mention sections.

Director Maruthur noted if he recently purchased this property, he could sell the property; and if it is rezoned, it could become what Director Weatherford said. Mr. Parsons said the way he read the Code, he would have to have five acres for a mobile home park; but he has only 2-3/4 acres.

City Attorney Brian Albright explained that Director Maruthur is stating that if this entire block is rezoned Manufactured Home Overlay and he sold half of a block, that half of the block could be used by someone else for manufactured homes. He said that is why he asked whether or not he was willing to have the plat vacated and replatted as one lot.

Mr. Parsons said that he would do it if it is not too costly. City Attorney Brian Albright asked if he had explored that alternative, and Mr. Parsons replied that he had not since no one had mentioned it to him.

Director Weatherford said he thought staff had approached him twice about redoing that into one parcel instead of 16 lots. Mr. Parsons said he would if it did not cost too much. Director Weatherford pointed out that he said no one had ever mentioned it to him, and Mr. Parsons replied they have not mentioned it.

A motion was made by Director Daniel, duly seconded by Director Jones, that the ordinance be tabled for two weeks and direct staff to help give Mr. Parsons direction so he can return with some numbers and what it will cost to have it replatted if he is willing to do that; and upon voice vote, the motion unanimously carried.

17 **Proposed Ordinance No. O-08-41**

An ordinance entitled, "AN ORDINANCE AMENDING THE ZONING CODE OF THE CITY OF HOT SPRINGS, ARKANSAS, BY REZONING PROPERTY AT 566 FILES ROAD FROM R-2, SUBURBAN RESIDENTIAL, TO C-4, REGIONAL COMMERCIAL OPEN DISPLAY DISTRICT; AND AMENDING THE FUTURE LAND USE MAP BY RECLASSIFYING CERTAIN REAL PROPERTY AT 566 FILES ROAD," was taken from the agenda for consideration.

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

Upon discussion, Ms. Kathy Sellman, Planning and Development Director, advised that the applicant is Mr. Lee Beasley, and the rezone request is consistent with the Comprehensive Plan Future Land Use Map designation of Linear Commercial Corridor. The Planning Commission conducted a public hearing on May 8 and voted 8 to 0 to recommend that the Board adopt the ordinance approving this rezoning on the 1.65 acres to C-4.

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; motion unanimously carried. Whereupon the ordinance was declared passed.

18 **Proposed Ordinance No. O-08-42**

An ordinance entitled, "AN ORDINANCE AMENDING ORDINANCE NO. 5387 (HOT SPRINGS PURCHASING ORDINANCE); AND FOR OTHER PURPOSES," was taken from the agenda for consideration.

A motion was made by Director Daniel, 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 Smith, duly seconded by Director Weatherford, that the ordinance be passed as read; and upon roll call, the following voted "aye": Directors Maruthur, Jones, Smith, Weatherford, Daniel, and Bush, total 6; motion unanimously carried. Whereupon the ordinance was declared passed.

19 Board of Directors' Meeting Schedule - July thru December 2008 (First and Third Tuesday of Each Month)

A motion was made by Director Jones, duly seconded by Director Maruthur, that the Board of Directors' Meeting Schedule for July thru December 2008 (first and third Tuesday of each month) be approved; and upon roll call, the following voted "aye": Directors Maruthur, Jones, Smith, Weatherford, Daniel, and Bush, total 6; motion unanimously carried.

OTHER BUSINESS

20 Board of Directors Items

Director Maruthur announced that tomorrow begins early voting for the bond issue regarding Mid-America Museum at the Garland County Election Commission office and encouraged everyone who is eligible to vote. She added the election on the issue will be held on June 10. At this time, she read a poem in memory of Director Bill Edwards entitled, "Bill."

21 City Manager's Report

City Manager Kent Myers gave the following report:

1. There will be a visitation for Director Bill Edwards tomorrow from 5 p.m. to 7 p.m. at Gross Funeral Home. On Wednesday morning at 10 a.m., the funeral service will be held at the Hot Springs Civic and Convention Center in Horner Hall.

2. On the Consent Agenda, the Board awarded the transfer of a surplus building on Runyon Street to Garland County. This is a concrete structure located directly across the street from the Sanitation offices and has been the source of transient problems. The City is taking ownership of the property, and the County has agreed to take the building to relocate it to their sanitation operations within the next 30 to 60 days. The City will save over \$5,000 in demolition costs. The Board designated June 19 as "Dump the Pump Day," and all citizens who have not had the opportunity to utilize the transit system are encouraged to ride the transit system on June 19 because this is a national day that all transit systems across the country will be recognizing that day. Citizens can ride the bus on the fixed route system for \$.50 instead of \$1.25; for disabled or senior citizens the fare will be \$.25; and there will be discounted rates for the paratransit system. The Board appropriated funding to get started on the dog park facility, which the Board previously agreed would be located near the intersection of Shady Grove Road and Hollywood Avenue. This is a site that the City currently owns, and the source of funding that the Board approved tonight is a donation fund that the Animal Services maintains, which has over \$50,000. \$40,000 was approved to develop the site, put fencing around it, put in a water source, and lighting at that facility. Plans are to try to get the work done this summer and have a dedication ceremony in September or October. Tentatively, the facility will be known as the "Bark Park." If someone should come forward with a large contribution, that will be presented to the Board for its consideration to rename the park. As Director Maruthur mentioned earlier, funding will be through donations. Mr. Dan Bugg and some of the volunteers are planning fund-raising campaigns over the next several months to get the citizens involved and financially supporting the dog park.

2. He recognized several employees who received recognition in the newspaper or other local recognition. There was an editorial that recognized some of the law enforcement officers, including Chief Bobby Southard, for their efforts in forestalling the plans for the Stiletto's topless bar. There was a positive Letter to the Editor on the "Art in the Park" event, coordinated by the Parks and Recreation Department and commended Ms. Jean Wallace, Ms. Bea Arline, and their team. He received a positive

letter on Mr. Larry Merriman, Utilities Project Manager, from Barbara and William White thanking him for the prompt and efficient manner in which he solved the problem which existed in the City's easement on their property. He also recognized the Sanitation employees who were involved in reporting the recent burglary at Weldon's Meat Market.

3. Today, the City started the new plastics recycling program. The new drop-off facility is at Runyon and Valley Street. Sanitation Director Bill Burrough and his staff have developed a recycling drop-off point available for plastics, newspapers, cardboard, aluminum cans, and other recyclables. It is available not only to city residents but to anyone who wants to bring their recycling by that facility.

4. This month the City will be kicking off its CodeRED Program.

5. He had previously reported to the Board that the sales tax was down last month about nine percent. A press release was received today from the Department of Finance and Administration reporting that they had made a mistake in the collection and reporting of sales tax throughout the State. Apparently there was a large box of sales tax payments they forgot to count; and they are in the process of doing that, which will raise the sales tax revenues for most cities in Arkansas. The City should get that report by the end of the week.

22 ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 8:00 p.m., to meet again on Monday, June 16, 2008, at 7:00 p.m.

ATTEST: _____

APPROVED: _____

Lance Hudnell, City Clerk

Mike Bush,

Mayor