

MINUTES

BOARD OF DIRECTORS MEETING

AUGUST 19, 2008, AT 7:00 P.M.

The regular meeting of the Board of Directors was held on Tuesday, August 19, 2008, at 7:00 p.m., Board Chambers, City Hall, with Assistant Mayor Steve Smith presiding.

The invocation was given by Mr. Jeff Childs, and Pledge of Allegiance to the Flag was led by Assistant Mayor Smith.

Assistant Mayor Smith 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, Rick Ramick, and Tom Daniel, total 6. Absent: Mayor Mike Bush.

2 Approval of Agenda

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

3 Approval of Minutes of August 5, 2008 Board Meeting

A motion was made by Director Daniel, duly seconded by Director Maruthur, that the minutes of the August 5, 2008 Board Meeting be approved; and upon voice vote, the motion unanimously carried.

4 Recognition of Guests

Police Chief Bobby Southard introduced recently employed Police Officers Anthony Schaber, from Memphis Police Department, having completed 18 years of service and did several tours on the organized crime unit in Memphis; and Phillip DeFoore, from Pine Bluff, having served four years with the Patrol Division.

City Manager Kent Myers introduced his wife, Dianne.

CONSENT AGENDA

The Consent Agenda consisted of the following:

- 5 Public Safety Report** (August 6, 2008).
- 6 Budget Transfer - Light Rescue Truck** (Fire Department) [\$30,612].
- 7 Proposed Resolution No. R-08-181** Approving Certain Bid Awards -- Five-Yard Dump Truck – Utility Administration.
- 8 Proposed Resolution No. R-08-182** Adopting the 2007-2008 Strategic Plan for the City.
- 9 Proposed Resolution No. R-08-183** Awarding a Contract to A-Lert Roof Systems for Replacement of Roof on Old Chapel Building at the Arkansas School for Mathematics, Sciences and The Arts (ASMSA).
- 10 Proposed Resolution No. R-08-184** Confirming the Appointment of Members of the EMS Medical Advisory Board.
- 11 Proposed Resolution No. R-08-185** Fixing a Time and Date for a Hearing on a Request to Vacate, Abandon and Close All of German Street in Block 3 of E.D. Davis Subdivision.

A motion was made by Director Weatherford, duly seconded by Director Maruthur, that the Consent Agenda be approved; and upon roll call, the following voted “aye”: Directors Maruthur, Jones, Smith, Weatherford, Ramick, and Daniel, total 6. Absent and not voting: Mayor Bush; motion unanimously carried.

NEW BUSINESS

12 Proposed Resolution No. R-08-186

A resolution entitled, "A RESOLUTION GRANTING A SIDEWALK VARIANCE REQUEST FOR A PROPOSED DEVELOPMENT IN THE 4700 BLOCK OF CENTRAL AVENUE (11.10 ACRES ON THE SOUTHWEST CORNER OF CENTRAL AND HIGDON FERRY ROAD)," was taken from the agenda and read by title only. **(Appeal)**

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

Upon discussion, Ms. Kathy Sellman, Planning and Development Director, explained the resolution approves a five-foot commercial sidewalk waiver, which was one of six conditions designated by the Planning Commission in its approval of this project. She stated the land is owned by Mr. Gregg Orr and is to be the site of two new auto dealerships (Honda and Toyota) to be located at the intersection of Higdon Ferry Road and Central Avenue. The Planning Commission denied the Higdon Ferry Road sidewalk variance while accepting the other recommendations for approval in full. She noted the reasons the appellant stated for the request was topography, stormwater run-off flow, and possible public safety issues, which related to the sidewalk. The City Engineer examined the request, along with other City staff, and determined that this variance request exceeds the minimum that is required to mitigate the site condition. She pointed out that although there is a steep embankment along Higdon Ferry Road, a sidewalk could be installed at this location but would require extensive excavation and the construction of a retaining wall to create the necessary space to accommodate the sidewalk. She added that the installation of sidewalks is a high priority with new development as directed in the Comprehensive Plan and also a requirement in the Development Code. The recommendation from Planning Commission on this project was that it be denied, and the resolution requests that the Board overturn the Planning Commission's recommendation.

Mr. Brian Reis, 135 Section Line Road, attorney representing Mr. Gregg Orr, stated their site plan was approved at the Planning Commission meeting on July 10. At that meeting, he said they had requested a variance with respect to constructing a sidewalk along the eastern roadway and are asking that the Planning Commission's recommendation be overturned and that the variance be granted for the following reasons: (1) they believe and their engineers believe that it would create an unsafe

condition because of the elevation change. He stated they are going to have to build a tall retaining wall and then put a sidewalk at the top of that retaining wall and then build a handrail. He pointed out even with a handrail, there are dangers especially at night and with small children; and the engineers are convinced it would create a public danger; (2) they believe the sidewalk serves no useful purpose and is essentially a sidewalk to nowhere. He advised they are willing to build a parallel sidewalk along Central Avenue, which is part of their plan. Also, they are going to build a sidewalk along Central Avenue for pedestrian traffic; and the sidewalk that is contemplated on the east side is parallel to the one that they would already build and serves no purpose; and (3) there were neighbors at the Planning Commission meeting who wanted to make sure they would address issues such as lighting, noise, etc. He said that he believes they were generally satisfied but of their own volition said they did not want a sidewalk there. He mentioned at the Planning Commission meeting, every person who spoke was against the idea of having a sidewalk at that location; and (4) it is extremely expensive to engineer, design, and build this sidewalk.

Mr. Douglas Fellenz, engineer with B&F Engineering, 928 Airport Road, commented that the safety factor is the most paramount and is tied in with the topography because there is upwards of a 13-foot grade difference between the road and where the sidewalk will be located. He explained if a safety rail were to be installed, small children walking down that sidewalk could possibly go through that safety rail. In regard to the constraints of the road versus where the sidewalk will be located, putting it 13 feet high, access points have to be considered to the sidewalk. He said if this is serving the public, there is an elevated sidewalk that begins and terminates and is elevated throughout; also, there is a very limited amount of ways to get to the sidewalk to utilize it without having stairs to it. At that point, there is the issue of handicap accessibility. Also, he stressed the expense to install the sidewalk. He mentioned that he has spoken with the homeowners' association managers of both the residential properties across the street, and they indicated they do not see the need for a sidewalk.

Director Ramick questioned if the stormwater issues have been satisfied, and Mr. Fellenz replied that they have. He added that Mr. Orr has done a good job in that respect and would be very willing to do whatever is necessary to satisfy the drainage issues of the current site. Director Ramick pointed out in the minutes of the Planning Commission meeting, there were three residents who said they did not want the sidewalk and saw no one who said they did, and Mr. Fellenz indicated that was correct. He added that since the Planning Commission meeting, he has talked with both of the

property owner managers who speak on behalf of the residents, and they indicated the same thing.

Director Maruthur questioned the property owners' sentiments on the sidewalk construction regardless of what the points were, and Mr. Fellenz replied they had stated they did not want a sidewalk. However, they are in favor of this overall development.

Director Maruthur pointed out there was a consensus, and the head of the POA who was not present at the meeting said the consensus was that the people did not want it and points were brought up; but it is not the points. She stressed they are concerned about what this could bring to a quiet area. She mentioned that they support the commercial development; but when it comes to their residential living, they are concerned with safety, noise, and other issues; and the existing residents in the neighborhood do not want it; and that is their prime investment. She commented there is a requirement from the City that has been in place for a certain amount of time, and the Board can enact that requirement or can weigh that and go with what the people are echoing to the people involved.

Director Maruthur questioned clarification on a "yes" vote and if it would be what the residents want, and City Attorney Brian Albright explained that no sidewalk would be required if the Board votes "yes." If the Board votes "no," he said that would deny the appeal; and the sidewalk would remain one of the six conditions placed upon the approval of the site plan by the Planning Commission.

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

13 Proposed Resolution No. R-08-187

A resolution entitled, "A RESOLUTION APPROVING A MULTIPLE BUILDING SITE PLAN FOR THE FLEETWOOD ESTATES MOBILE HOME PARK," was taken from the agenda and read by title only. **(Appeal)**

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

Upon discussion, Ms. Kathy Sellman, Planning and Development Director, advised that the property of this appeal is owned by Mr. Andy Worley. She clarified that a "no" vote on this resolution keeps eight conditions of approval for the development, and all of the eight conditions that were imposed by the Planning Commission's approval of this request. However, a "yes" vote enables Mr. Worley to extend water service and develop Fleetwood Estates Manufactured Home Park without conditions. She explained following the 4 to 2 vote and then more discussion where the Directors reconsidered their votes, there was a final vote of 6 to 0 on February 19, 2008, to keep the eight conditions that the Planning Commission placed on the project. She pointed out no new information has been provided in support of reconsidering the February's vote confirming the eight development conditions. She commented the request that was appealed and is again being appealed tonight is reconsideration of the Planning Commission action on January 10, 2008, where the Commission voted to approve a request by Mr. Worley for 17 manufactured home spaces with the eight conditions. She advised the vote was 6 to 2, with Commissioners Campbell and Thorp voting against; and there was extensive discussion of the need for stormwater remediation and screening for the adjacent neighbors. After testimony, the Planning Commission agreed to impose conditions that would take care of those two situations. She said the appeal originally stated that the Planning Commission made a mistake because the applicant was only seeking installation of a final water meter and was not planning for development at the time. However, the record would demonstrate otherwise as there was a complete submittal for a manufactured home park with 17 spaces. She stated Mr. Worley has had a history of presenting plans to develop and then representing to the City that he has no intention of further developing. Therefore, she would recommend that the Board deny the resolution and uphold the Board's February 19 decision which upheld the Planning Commission's action.

Mr. Andy Worley, 335 Fleetwood, stated he originally was approved in 2004 without any restrictions. He said he has one mobile home now and has a sewer-only permit but cannot get a water meter. He mentioned he has had conflict with his neighbors over different issues and has tried to resolve those without any success. He noted City personnel (Ms. Sellman, both plumbing inspectors, the Sewer Department, and the Water Department) has looked at his property; and he has not had any violations. He stated every time he has gone a different way, it is upon the advice of Ms. Sellman; but it would be a dead-end.

Director Ramick questioned what he wanted to do, and Mr. Worley said that he would like to get the 15 water meters he was promised. He added he has one mobile home where his son lives and has a sewer-only permit.

Director Ramick mentioned he was on Mr. Worley's property last week after a rain for two or three days; and regarding the neighbor to the south, her driveway has a six-inch small culvert. However, he noticed there was no dirt or gravel washed into the street. He added the curb and gutter and asphalt looked good and asked if he would consider helping his neighbor install a larger culvert. Mr. Worley replied that he would and would consider anything to get this resolved. He added that the County has offered to put them in a proper size culvert at no charge. Also, he said he has cleaned out their ditch in the past. He mentioned that ADEQ would come out and tell him what needs to be done, and he would do it.

Mr. Ted Patin, 287 Fleetwood Drive, requested that the Board uphold the eight conditions that were placed on the trailer park. He stated since Mr. Worley started the trailer park, there have been two drugs busts and loud music all hours of the night. He said Mr. Worley has misled the Planning Commission before on how many water meters he has and how he got them. He stressed that the trailer park has been nothing but trouble for the police, the neighborhood, and the City. He mentioned that he has been to the City on this issue three or four times and asked that the Board deny Mr. Worley's request and the trailer park.

Director Maruthur said he had mentioned police calls and asked if they had been called before this trailer park, and Mr. Patin said they had not.

Ms. Stephanie Patin, 287 Fleetwood Drive, stated this is the third time she has been to the City on this matter. She said in regard to installing a new culvert, no one has ever offered to put in a new culvert for her. She mentioned they have been at this location for 14 years and have never had a problem until the last three years. She pointed out if Mr. Worley would do the trailer park correctly, then she would not have these issues; but she has shown the Board photos before and has more, which she distributed, one of the street that has the curb but no cut-outs for drives, leaving the mobile home park residents to park on the street. She mentioned he dug a ditch out in May, but it is already filling up. She said Mr. Worley was supposed to knock down one of the banks because of the visibility, but that has not been done; and every time it rains significantly, it floods. She said he has not worked with her, and she has not talked with him.

Assistant Mayor Smith asked if there has been any progress since the last time she was before the Board in February, and Ms. Patin said there has not. She questioned how his son is getting water if Mr. Worley does not have a meter for 107

Fleetwood, where his son lives. She mentioned there are two trailers that have parking pads, and she believes they are gravel.

Director Daniel questioned if he dug out the ditch after February, and Ms. Patin said that he did and has dug it up several times. Director Daniel asked if it was a paved street when she moved there 14 years ago, and Ms. Patin replied that it was in front of her home. Director Daniel questioned why the run-off would be greater now and asked if there was a curb there. Ms. Patin advised there is not a curb at 287 Fleetwood, but she is referring to Zeal Plumb, the road that he had built where the trailers are located.

Ms. Patin said the reason for so much washing is they built the property up and moved in the trailers. She stated previously it was a slope; but now that the trailer is there, which makes gullies. Assistant Mayor Smith questioned how recent these pictures were taken, and Ms. Patin said the one that shows the front yard washing was early this spring. Assistant Mayor Smith asked if it has been a few months since these pictures were taken, and Ms. Patin said that was correct. She added she has pictures from 2006 and 2007; and anytime it rains significantly, they have flooding. She stated when it first happened, Mr. Worley's crew would scrape the dirt off the road. She then went to the County Judge and has been through every channel she knows.

Director Maruthur asked if she has a problem with planned mobile home parks, and Ms. Patin said that she does not care for living by a mobile home park; however, she has lived in a mobile home. She pointed out if things are done correctly, then there is not that much of a problem. She mentioned that things will not be done the way they are supposed to be if the Board removes the stipulations. She stressed that no one offered to fix the culvert. Assistant Mayor Smith advised that she needs to pursue that with the County. Ms. Patin said that a larger culvert can be installed; but if they still have sediment running down, it is going to fill up also but will take longer.

Director Daniel asked where the run-off is supposed to go, and Ms. Patin said it not only goes into the culvert but into her front yard; and there are gullies in her back yard that are five or six inches deep where it has washed. Director Daniel commented on Mr. Worley's side of the street, there is a curb; and Ms. Patin said there is, but it still washes.

Director Ramick asked if it would continue to wash if the Board did nothing and probably just stayed the same as it is today, and Ms. Patin replied it would unless something is done. She said since they put in the road, the front does not wash as

severely; but it still washes. However, the back is just as bad or worse because it all channels to the back.

Director Daniel asked if her house faces Fleetwood, and Ms. Patin said that it did; but her back yard abuts Mr. Worley's property. She added that the street does not abut to her property, and the trailers are between her property and the street. Director Daniel commented that the Board tries to protect all the citizens who live in the City, but she is out of the City's jurisdiction. However, the City is trying to work on a solution that it can put some "teeth in" within a one-mile corridor around Hot Springs. He added there are pros and cons about that. He pointed out that cases such as this come up, and they are not getting any relief from the County and come to the City; but Mr. Worley paid for those permits. He pointed out if Mr. Worley paid for the permits for the water and the sewer and the City allows him hook-up to the sewer, then he has a difficult time telling him that he cannot use something that he has already paid for. He said that the City gave him some stipulations but has allowed water and sewer to go outside the city limits, and now the City has issued permits for both but is now saying it is not going to let him use those. He said is has a problem with that.

Ms. Patin stated if the City removes the stipulations and he starts putting trailers all over that property, then she has concerns with the looks of her property. She said it is her understanding the City has jurisdiction several miles outside the City limits, and Mr. Daniel said by state law, the City does.

Director Maruthur pointed out that staff is recommending to uphold the decision that was made by the Planning Commission, and the Board did that on February 19. She said she believes the Board made the right decision. She expressed concern with the police calls that are being made to this property. She questioned how many mobile homes are located there now, and Ms. Patin advised there are five along her property line and one across the way; Mr. Worley has one on the back of the property; his son has a house on the very end of the property; and there is another trailer there. Director Maruthur said what the City does today is different from whatever the outcome is about the ETJ. She noted today, the City has the responsibility of making a decision, and the Planning Commission and staff to keep these conditions in there. She added today, the City is being charged with the residents' quality of life and is not talking about the future. She noted this could become part of the City at sometime in the future if people decide to make it that way, and she wants the City to grow. She emphasized that these residents are coming as property owners asking for the City's help. Also, there is a safety issue besides the quality of life.

Ms. Patin said the last time they were before the Board, another neighbor, Mr. R. J. Dunn, was present. However, he could not be present tonight.

Director Weatherford pointed out the Board held its meeting on February 19 and sold Mr. Worley two water meters on February 21, but somebody is not communicating between departments. He stated this was approved in 2004 for mobile homes, and Mr. Worley sent a letter that he wanted to do away with it. Then in 2006, the City still did not have jurisdiction over mobile homes in the County. He said he cannot understand why it came back because the City did not have jurisdiction over when he was approved in 2006; but now, the City does; however, it came back to the Planning Commission for some reason. He noted that Mr. Worley has bought 15 wastewater hook-ups and five water meters and also paid the City \$5,900 to run the water line; but now the City is going to tell him he cannot use that water line. He commented there is no reason for the Board or the Planning Commission to have heard it again.

City Attorney Brian Albright explained that initially it came as a subdivision, and the City had been exercising jurisdiction over subdivision of land within the five-mile extraterritorial jurisdiction. He said, at some point, Mr. Worley withdrew his application for the subdivision of the property and requested approval of a mobile home park as opposed to a subdivision. At that point, it went through the review process; and the Planning Commission started exercising jurisdiction over mobile home parks. He stated he believes the time the application was originally filed, they were not. However, at some point they started reviewing mobile home parks under Article II of the Subdivision Code.

Director Weatherford commented that in August after the meeting in July, Mr. Worley received a letter from Ms. Robin Wise in the Planning Department saying that the application for new mobile homes had been filed with the City's Planning Commission for a preliminary subdivision review for the Commission to approve; and the Commission approved it without any conditions on August 12, 2004.

Ms. Kathy Sellman, Planning and Development Director, said she has a letter from Andy and Carol Worley, dated October 16, 2006, stating they no longer wish to pursue at this time dividing property at 335 Fleetwood under the previous approved preliminary plat for Fleetwood Homes.

Director Weatherford asked if it was a subdivision, and Ms. Sellman advised that it vacated the previous approval and ceased to exist. Director Weatherford asked if the City had jurisdiction over mobile homes, and City Attorney Brian Albright advised that the City had jurisdiction over mobile home subdivisions and any subdivision of land

regardless of what was going to be constructed on it. He added the City had not been exercising jurisdiction over mobile home parks as an Article II site plan review under the Subdivision Code.

Director Weatherford asked if what he was doing was okay; and City Attorney Brian Albright advised if Mr. Worley had made that application at the time, it probably would have been. He said that Mr. Worley received 15 sewer permits and received all of these water permits and paid \$5,900 to have the City put in a line. He pointed out that he relied, to his detriment, on some representations from someone in the City prior to Ms. Sellman's employment and prior to the interaction between Utilities and Planning. He stressed that the City did not give him the permits, but he paid for them.

Mr. Myron Ross, 600 Thornton Ferry Road, said his property extends back; and in the late 1960's or 1970's when Paul Hunter paved the road, he paid for paving all of the road back there because he owns both sides of the road. He mentioned this is the second time he has been to the City for a meeting and feels it is a waste of time because the Board has already made a decision. He pointed out the Board has given stipulations of things that can be done, and then Mr. Worley can build his park and do everything he wants if he just complies with the eight stipulations the Board asked before. He pointed out that Mr. Worley has already spent some money getting ready for it and questioned why he does not proceed with the stipulations placed on him and build his park. When the water line was laid, Mr. Ross said he had dirt and mud up against his chain link fence, which he spent \$8,000 installing around his property. He added that he still gets the mud, and the water comes off Mr. Worley's property and runs through his.

Assistant Mayor Smith asked if he was saying he was not getting that before, but now he is. Mr. Ross said it can be seen where the ditch was dug and when they filled it back and how the mud came over against his fence.

Director Daniel asked if that is from where the City laid the water line to him, and Mr. Ross said that it was.

Director Maruthur questioned if he was asking for the City to protect him and uphold all of these conditions, and Mr. Ross said that he was. He noted that Mr. Worley has not done anything to comply with the stipulations placed before.

Mr. Bob Driggers, #3 Stonegate, stated this issue should not be before the Board tonight, and this is the 3rd or 4th time he has heard this. He mentioned he did not know

the parties involved on either side of this issue, but this is not the way to conduct business. He asked if there was not a policy stipulating how often these issues can be brought back to the Board, and what Director continues placing this item on the agenda.

City Attorney Brian Albright advised this is the second time it has been on the Board's agenda, and there a procedure in place that the Board has adopted whereby an item cannot be brought back to the Board within six months of a decision unless 2/3 majority of the Board brings it back. He noted this has been more than six months so it can come back on the agenda at the request of the applicant or a Board Member.

Mr. Driggers questioned who requested it be placed on the agenda tonight, and City Attorney Brian Albright said it was his understanding that it was the applicant. Mr. Driggers stated it does not look good for the City and urged the Board to stay with its decisions.

Director Maruthur questioned if staff was recommending that the Board vote against this, and Ms. Sellman replied that is staff's recommendation and is based upon the Board's previous consideration of the facts of this appeal and based upon the Planning Commission's recommendation. Director Maruthur asked if this means upholding the decision that the Board made previously, and Ms. Sellman replied that is correct.

Director Daniel said the Board is here to listen to the voice of the people, but his problem is that Mr. Worley is asking for the City's help also. He stressed that he as a problem with the fact that after the Board defeated the resolution on February 19, two days later, the City sold him two more permits. He questioned what message this is sending to Mr. Worley and other people if this continues to happen.

Director Maruthur stated the message is that the conditions the Planning Commission and the Board felt were the right thing to do to become part of this ETJ County/City neighborhood. She pointed out the conditions are in place; and if the Board votes "no," he can still do what he wants to do. All he has to do is uphold the conditions to protect his property and the neighborhood. She noted the staff and Planning Commission are asking the Board to uphold it and vote "no."

Director Daniel questioned if a stipulation was placed that if he did not follow these up, the City would revoke these two permits; and Ms. Sellman replied that typically there is someone asking to buy them before the City sells them. She mentioned it would seem that Mr. Worley, after being told he could not have additional

permits, bought them; and obviously something occurred that should not have. She said it was at the request of someone who had every reason to know that those permits were not his for the buying at that time until he met the eight requirements that were set by the Planning Commission.

Director Weatherford questioned the wastewater permit the City sold him on June 24, and Ms. Sellman replied that she does not know anything about wastewater permits. She stressed she does not know why it was requested and does not know why it was sold to him.

A motion was made by Director Daniel, duly seconded by Director Jones, to table this issue until September 16, for further investigation; and upon roll call, the following voted "aye": Directors Maruthur, Jones, Smith, Weatherford, Ramick, and Daniel, total 6. Absent and not voting: Mayor Bush; motion unanimously carried.

14 Proposed Ordinance No. O-08-53

An ordinance entitled, "AN ORDINANCE WAIVING REQUIREMENTS OF COMPETITIVE BIDDING FOR THE PURCHASE OF A REFURBISHED BUCKET TRUCK FOR TRAFFIC SERVICES FROM SKYCO EQUIPMENT," was taken from the agenda for consideration.

A motion was made by Director Daniel, 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, City Manager Kent Myers explained that this refurbished bucket truck was approved in this year's budget; and staff has looked at a number of bucket trucks around the Hot Springs and Little Rock area and identified this truck as being in good operation. He said it has a 45-foot boom, which the City needs for traffic signals and other activities involving the Traffic Services Department.

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

15 Proposed Ordinance No. O-08-54

An ordinance entitled, "AN ORDINANCE WAIVING REQUIREMENTS OF COMPETITIVE BIDDING FOR THE PURCHASE OF CERTAIN WIRELESS SERVICES AND CONTRACT WITH ALLTELL COMMUNICATIONS, INC.," 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 Daniel, duly seconded by Director Maruthur, that the ordinance be passed as read.

Upon discussion, Finance Director Dorethea Yates stated the City has contracted with Alltel for the wireless services for a number of years; and the current contract expired July 19; but the City has been operating on a monthly basis since that time. She said in June, it was announced that Verizon Wireless would be purchasing Alltel, and this merger is still pending FCC and Department of Justice rulings approving the acquisition. She mentioned the City has had a good relationship with Alltel and enjoyed a satisfactory level of service. Based on research by staff, it was felt that the price is competitive; and staff is recommending to contract with Alltel to provide services to the end of 2009. She commented at that time, there should be a more stable market; and the City should go out for competitive bidding.

Assistant Mayor Smith asked if the City is looking at a 30-month contract, and Ms. Yates stated they would allow the City to go out 30 months; and she would not have a problem with that. Assistant Mayor Smith questioned why the City wanted to shorten the contract if it is a good deal today and the City wants to stay with it for 30 months. Ms. Yates explained when their merger takes place, it is uncertain what will happen to the rates; and that is an unknown at this time. Assistant Mayor Smith asked if she wants to go out to end of 2009, and Ms. Yates said that she did.

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

16 Proposed Ordinance No. O-08-55

An ordinance entitled, "AN ORDINANCE AMENDING THE ZONING CODE OF THE CITY OF HOT SPRINGS, ARKANSAS, BY REZONING PROPERTY AT 1514 MALVERN AVENUE FROM R-4, MEDIUM HIGH DENSITY RESIDENTIAL, TO C-3, OFFICE NEIGHBORHOOD COMMERCIAL AND AMENDING THE FUTURE LAND USE MAP BY RECLASSIFYING CERTAIN REAL PROPERTY AT 1514 MALVERN AVENUE; AND REPEALING ORDINANCE NO. 5662," was taken from the agenda for consideration.

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

Upon discussion, Ms. Kathy Sellman, Planning and Development Director, explained this is the second time this request has been to the Board; and the Board previously approved this rezoning request. She said the owner has submitted a corrected legal description and wants to be certain that the property to be rezoned is what was described in the ordinance.

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

OTHER BUSINESS

17 Board of Directors Items

Director Jones announced that in District 2 today at the Transportation Plaza, a check was received from Governor Mike Beebe for the Farmers' Market pavilion, and the Board of Directors and legislators were present.

Director Maruthur advised an account has been opened at Regions Bank for fallen firefighter Gene Yarbrough. Also, she stated the wastewater project in the

Mountain Valley/Mineral/Circle Drive (north end of town) is in progress. She added there was a break on Russell Street, which slowed down the progress. She received an official notice from the Majestic (the ARC of Arkansas), and it appears that is going in the right direction; and hopefully in October, they will be the owners.

Assistant Mayor Smith commended Director Jones on the turnout for the Farmers' Market in her district and thanked everyone who participated. He mentioned there was a tragic incident on Prospect 2-1/2 weeks ago and commended the Police Department. He also expressed appreciation to the employees in the Code Compliance Department, who got the matter resolved and thanked Ceci Sagers, Patti Veazey, and Susan Bahner; and as of this past Monday morning, the matter was completely taken care of.

18 City Manager's Report

City Manager Kent Myers gave the following report:

1. On the Consent Agenda, the Board approved the 2007-2008 Strategic Plan for the City. A copy may be obtained from his office or will be on-line in several days. A bid for \$113,515 was approved for replacing the roof at the School of Mathematics and Sciences. This will be largest project that the City will be undertaking at the school this year. The Board approved the appointment of the new members to the EMS Medical Advisory Board, which oversees the operation of the EMS System throughout the City and County. He thanked those willing to serve: Dr. Russell Deluca, Dr. Robert Breving, Dr. Judy Borland, Dr. Doug Ross, Dr. John Simpson, Dr. Mark Larey, and Dr. David Young, who are representatives from the three hospitals.

2. A Letter to the Editor was written by a first grade teacher at Lake Hamilton Primary, who had a flat tire on MLK Expressway, and three of the City's firefighters stopped to assist her: Jared Hawthorn, Jaime Elliott, and Josh Lacy. A letter was received from Barbara and Peter Thexton, who had a problem with utilities on a Sunday morning. They indicated there was a rapid response, and the services were restored in less than the six hours projected. A positive note was received from Ms. Sandy Watson, Utilities Department, regarding Mr. Coston, 1001 Lakeshore Drive, who expressed appreciation to the Wastewater Lift construction crew, Mr. Don Ashley, Mr. Scott Ashley, and Michael Parker, and was very impressed with the way they cleaned up their work.

3. There will be a public hearing on Thursday, August 28, at 6 p.m., on proposed extension of zoning regulations in the one-mile area. This hearing will be held at Hot Springs Baptist Church, on Weston Road. He expressed appreciation to

the church for agreeing to loan the facility, and staff will explain the regulations and show a map at the meeting.

4. The next work session will be held on Thursday, September 4, at 5 p.m. The first part of the meeting will be devoted to issues involving the Planning Commission; and after dinner, there will be several items to discuss, including the credit card services. Any other items the Directors would like to discuss, they need to contact his office.

5. There was a good turnout today on the Farmers' Market. A check was received today in the amount of \$350,000 from Governor Mike Beebe. This was an effort that was pursued diligently over the last year by Senator Terry Smith, who has been very supportive of the Farmers' Market and worked with the Governor's Office and the Department of Agriculture in securing this grant. At the next Board Meeting, staff will be bringing an item to the Board to accept the grant. He thanked the Parks and Street Department and everyone involved in helping put together that event.

5. About 2 p.m. today, he received a call from the vice president of SDI, Mr. Charlie Shears, on the Fairground Crossing Shopping Center. As of 4 p.m. yesterday, they have closed on the sale of their property to Sam's. The project has been fully funded, and all of the papers have been signed. Mr. Shears would like to have a groundbreaking ceremony the week of September 15.

6. This week's Arkansas Business included an excerpt on Hot Springs, including articles by Dave Byerly, Steve Arrison, and Mayor Bush; and he has extra copies available. This will be a major promotional tool that will be used over the next year and includes some positive news about the City's and County's progress and some of the future plans.

7. Regarding the August 12 election, voters defeated the tax; and within the next several weeks, there are plans to meet with the County officials and decide how to proceed. Prior to that meeting, he would like to set up a meeting with each individual Director, Police Chief Bobby Southard, and Fire Chief Ed Davis to discuss the public safety needs of the City and get direction on how the Board would like to proceed on this issue after the first of the year. He will be contacting the Directors to set up the meetings.

Director Maruthur asked that specific directions be given to the Hot Springs Baptist Church for the meeting on August 28. Deputy City Manager Lance Hudnell advised that it is located on 144 Weston Road and gave the specific directions.

EXECUTIVE SESSION

A motion was made by Director Weatherford, duly seconded by Director Ramick, that the Board retire into executive session to discuss the employment of the City Manager; and upon voice vote, the motion unanimously carried.

The Board adjourned into executive session at 8:20 p.m.

RECONVENE TO OPEN SESSION

The Board reconvened into open session at 9:00 p.m.

Assistant Mayor Smith announced that during the executive session, the Board discussed the employment of the City Manager, and the Board wishes to present the following action for a roll call vote of its Directors: "The Board of Directors of the City of Hot Springs shall retain Kent Myers as its City Manager with the same compensation and benefits. He shall so serve as an at-will employee of the City. The Board of Directors hereby terminates the written contract between the City and Kent Myers, dated September 28, 1994."

A motion was made by Director Weatherford, duly seconded by Director Ramick, to that effect; and upon roll call, the following voted "aye": Directors Maruthur, Jones, Smith, Weatherford, Ramick, and Daniel, total 6. Absent and not voting: Mayor Bush; motion unanimously carried.

Assistant Mayor Smith stressed that no one is being fired, but this is a contract termination; and City Manager Kent Myers is going to serve as an at-will employee with the same compensation and benefits.

19 ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 9:05 p.m., to meet again on Tuesday, September 2, 2008, at 7:00 p.m.

ATTEST: _____

APPROVED: _____

Lance Hudnell, City Clerk

Mayor

Mike Bush,