

MINUTES

BOARD OF DIRECTORS MEETING

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

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

The invocation was given by Mr. Michael Davidson, 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, Rick Ramick, Tom Daniel, and Mike Bush, total 7.

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 19, 2008 Board Meeting

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

4 Recognition of Guests

Director Maruthur acknowledged those for attending during the inclement weather.

CONSENT AGENDA

The Consent Agenda consisted of the following:

- 5 Public Safety Report** (August 20, 2008).
- 6 Proposed Resolution No. R-08-188 Approving Certain Bid Awards** (a) Top Soil - Public Works/All Departments [annual supply contract awarded to Tommy Mitchell as Primary and John Jenkins as Secondary]; (b) Asphalt Concrete Hot Mix [picked up] - Public Works {annual supply contract awarded to Martin Marietta}; (c) Asphalt Concrete Cold Mix - Public Works [annual supply contract awarded to Martin Marietta]; (d) Construction Personnel and Equipment - Public Works/Utility Administration [annual supply contract awarded to BB&B Construction as Primary and S&S Plumbing as Secondary]; (e) Janitorial Services - Sanitation, Police, and Animal Services [annual supply contract awarded to Dow and ServiceMaster]; (f) Hydraulic Hammer - Public Works [awarded to J. A. Riggs in the amount of \$27,825]; (g) Entergy Park Parking Lot Boardwalk Element - Parks Department [awarded to Larry Diggs Construction in the amount of \$36,380]; (h) Janitorial Supplies - Various Departments [annual supply contract awarded to Merritt, All American, Myers, Brown, AR Bag, Kerr Paper, and Interboro Pkg.]; and (l) Lot Clearing and Cutting - Code Compliance [annual supply contract awarded to John T's Excavation].
- 7 Proposed Resolution No. R-08-189** Accepting Certain Assets from the Arkansas National Guard.
- 8 Proposed Resolution No. R-08-190** Authorizing the Mayor to Execute a Lease Agreement Between the City of Hot Springs, Arkansas, and Aluminum Arts and Building Materials, Inc. for Certain Property at the Airport.
- 9 Proposed Resolution No. R-08-191** Amending Resolution No. 5770 (Approving Certain Revisions to Municipal Property Management Policy) by Adopting a Revised Property Management General Statement and Lease Condition Summary.

- 10 Proposed Resolution No. R-08-192** Approving a Charter Operating Permit for Hot Springs Taxi, Inc.
- 11 Proposed Resolution No. R-08-193** Appointing Fabian Lee Wilson and Nikki P. Schoenfeld to the Animal Control Advisory Committee.
- 12 Proposed Resolution No. R-08-194** Appointing Denise Marion to the Hot Springs/Garland County Beautification Commission.
- 13 Proposed Resolution No. R-08-195** Awarding a Contract to Heller Construction for Molly Creek Pump Station Improvements.

A motion was made by Director Jones, 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, Daniel, and Bush, total 7; motion unanimously carried.

14 PUBLIC HEARING

This being the time and date set for a public hearing on a request to vacate German Street located in E.D. Davis Subdivision, Mayor Bush declared the public hearing open. There being no comments, Mayor Bush declared the public hearing closed.

NEW BUSINESS

15 Proposed Ordinance No. O-08-56

An ordinance entitled, "AN ORDINANCE VACATING GERMAN STREET LOCATED IN E. D. DAVIS SUBDIVISION," was taken from the agenda for consideration.

A motion was made by Director Smith, 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; and upon roll call, the following voted "aye": Directors Maruthur, Jones, Smith, Weatherford, Ramick, Daniel, and Bush, total 7; motion unanimously carried. Whereupon the ordinance was declared passed.

16 Proposed Resolution No. R-08-196

A resolution entitled, "A RESOLUTION ACCEPTING A GRANT FROM THE ARKANSAS AGRICULTURE DEPARTMENT FOR CONSTRUCTION OF HISTORIC DOWNTOWN FARMERS' MARKET FACILITY," was taken from the agenda and read by title only.

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

Upon discussion, Ms. Jean Wallace, Parks and Recreation Director, stated this is a \$350,000 grant from the Arkansas Agriculture Department to build a permanent historic downtown farmers' market facility. She noted it includes an open pavilion with a stage area, covered market with 20 vendor stalls, and will be located south of Orange Street in the Transportation Plaza. She said the \$350,000 grant does not require a match, but the City's in-kind labor contribution is estimated at \$30,000. She added that Friends of the Farmers' Market had originally estimated their contribution at \$21,900.

Mayor Bush then presented Senator Terry Smith with a clock from the City and the Friends of the Farmers' Market in appreciation for his exceptional work on this project.

Senator Terry Smith thanked Secretary Bell, with the State Agriculture Department, and Governor Mike Beebe. He mentioned one thing that has been helpful as a legislator is before each session, the Board sits down with the legislative delegation and goes over many items, which has been helpful to him and the other legislators as they go to Little Rock and try to work on matters such as this.

Mr. Carl McChesney, president of the Friends of the Farmers' Market, expressed appreciation to Senator Terry Smith on behalf of the Friends of the Farmers' Market, and all of the supporters who have made the downtown market a success each week. He stated that Senator Smith's leadership and his vision in working for the downtown farmers' market will allow them to build a new market pavilion, which will be the

centerpiece of downtown. He said Senator Smith has played an important role in bolstering the City's economy and especially the Farmers' Market.

Director Jones stressed that the Farmers' Market Facility will be located in District 2.

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

17 Proposed Resolution No. R-08-197

A resolution entitled, "A RESOLUTION WAIVING THE SPECIAL EVENT FEE FOR THE GARLAND COUNTY FAIR PARADE ON SEPTEMBER 8, 2008," was taken from the agenda and read by title only.

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

Upon discussion, City Attorney Brian Albright advised that this request came in after the agenda meeting last week and was added to the agenda due to the time element involved, which is scheduled for September 8. He said the Garland County Fair Association is asking for a waiver of the fees connected with this special event. However, the ordinance and resolution on the books at this time does not allow for the waiver of such a fee. He explained that he drafted a resolution that would place a temporary moratorium on the special event fees until the Board can come to a decision on what direction it wants to go. The resolution was distributed to the Board and assigned Proposed Resolution No. R-08-202. He advised it would place a moratorium on the sanitation charges and personnel, but it would leave in place the security deposit and the application fee that would be applicable for various events.

Director Daniel said that he would like to see the Board waive the \$300 fee; but due to the way the ordinance is written, the Board cannot waive the fee. He stated he believes the moratorium is the right thing to do right now. He added there are many positive events that require security, etc.; and the City has to work with everyone involved and make sure it does not lose any of these events for tax revenue.

City Attorney Brian Albright noted there is a motion and second on the floor on Proposed Resolution No. R-08-197, which needs to be voted up or down or tabled. He said if the Board would like to vote that resolution down, then it could consider Proposed Resolution No. R-08-202.

Director Maruthur pointed out that a letter was received from the Garland County Fair Association and asked if it is fair and the legality of it. City Attorney advised that regarding the legality, the only way the City would be able to waive this fee would be to amend the present ordinance; and the only action the Board could take tonight is to vote Proposed Resolution No. R-08-197 either up or down or table it. In which case, on September 8, they would have their event and would have no action from the Board if the Board were to table it or vote it down. He said he did not believe the Board could legally approve it. Therefore, his suggestion would be that the Board vote it down or table it. He stated if the Board wants to have a moratorium on these types of fees until it finds itself in a position to amend the ordinance, then the Board could approve Proposed Resolution No. R-08-202.

A motion was made by Director Maruthur, duly seconded by Director Daniel, to table the resolution on the floor and look at an amendment to the existing ordinance; and upon roll call, the following voted "aye:" Directors Maruthur, Jones, Smith, Weatherford, Ramick, Daniel, and Bush, total 7; motion unanimously carried.

Proposed Resolution No. R-08-202

A resolution entitled, "A RESOLUTION DECLARING A MORATORIUM ON THE COLLECTION OF FEES ASSOCIATES WITH SPECIAL EVENTS ORDINANCE (ORDINANCE NO. 5549)," was taken from the agenda and read by title only.

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

Upon discussion, City Manager Kent Myers advised that a request has been made to add this to the Board work session for Thursday night so if the Board tables it tonight, this issue can be discussed Thursday night if the Board wishes.

Director Maruthur questioned if City Attorney Brian Albright recommended that the Board vote it down. City Attorney Brian Albright replied that the Board has tabled Proposed Resolution No. R-08-197; and the resolution before the Board at the present time (Proposed Resolution No. R-08-202) would place a moratorium on fees.

Mayor Bush then called for a vote on the motion to adopt Proposed Resolution No. R-08-202; and upon roll call, the following voted “aye”: Directors Maruthur, Jones, Smith, Weatherford, Ramick, Daniel, and Bush, total 7; motion unanimously carried. Whereupon the resolution was declared adopted.

18 Claim from Mr. Jeffrey Dixon Regarding Wastewater Backup at 108 Elysian Hills

A motion was made by Director Maruthur, duly seconded by Director Jones, that the claim be approved.

Upon discussion, Public Works Director Steve Mallett explained the claim from Mr. Jeffrey Dixon in the amount of \$12,651.24 was the result from damages incurred from wastewater back-up at 108 Elysian Hills. He stated on May 27, 2008, heavy rains created power outages and increased flows in the sewer system; and the storms created a surge charge in the gravity main in front of the duplex at 108 Elysian Hills owned by Mr. Dixon. He noted the wastewater backed up into both units of the duplex of the ground floor and was below the nearest point of relief, which was a manhole located in the driveway of the duplex. He said the amount of the damages was \$12,651.24. The Board approved Resolution No. 4139 in March 1999, which stated that as of July 1, 1999, the City would not consider any claim for damages caused by wastewater backwater conditions where the installation of a backwater protection device would have prevented such damage. He advised in this situation, the building was constructed in 2001 after the resolution was passed and without backflow prevention devices. He stated these devices were immediately installed after the incident by Mr. Dixon on the property. City staff and City Attorney Brian Albright have met with Mr. Dixon to discuss these matters on two occasions, and the Board packet includes the claim with invoices and photos of the damage. He noted the Board can deny the claim or pay any or all of it.

Director Maruthur asked if it was the City’s policy to require a notification to each homeowner; and Mr. Mallett advised that at the time the resolution was passed in 1999, the City was on a substantial campaign to notify as many people by mass media and directly to some who were habitual offenders; but door-to-door notifications were not made. He said as structures are built, he cannot say with 100% guarantee that the

City notifies all of them that they are or are not in danger of having this happen to their structure in case of rain. However, if it is noticed, City staff points that out to them at that time. He said to his knowledge, that was not mentioned to this owner at the time they were constructing it; but the plumber should have been aware of that as it is common practice.

Director Maruthur asked if the City failed in its responsibilities; and Mr. Mallett said, in his opinion, it did not.

City Attorney Brian Albright questioned when this structure was completed, and Mr. Mallett replied that it was in 2001 after the resolution was passed.

Mr. Jeffrey Dixon, 551 North Moore Road, said this is a rental property; and if there was any notification to the address, he did not receive it. He added it was completed in early 2000, and his plumbers should have known this. He stated the City inspected the building four times; and on the final time, they walked the sewer line from the structure to the manhole which was in the driveway. If there had been a problem, he would assume the City inspector would have seen it.

Director Smith asked if he was the builder on the property, and Mr. Dixon said that he was.

Director Maruthur asked if he has built any other properties since then, and Mr. Dixon said that he has built several houses a year. Director Maruthur questioned if they had backflow protectors, and Mr. Dixon stated they did not.

Note: The motion made earlier was to approve rather than to consider as announced by the Mayor.

At this time, a motion was made by Director Weatherford, duly seconded by Director Smith, to deny the claim; and upon roll call, the following voted "aye": Directors Maruthur, Jones, Smith, Weatherford, Ramick, Daniel, and Bush, total 7; motion unanimously carried to deny the claim.

19 Proposed Resolution No. R-08-198

A resolution entitled, "A RESOLUTION ACKNOWLEDGING THE REVIEW OF THE 2007 COMPREHENSIVE ANNUAL FINANCIAL (AUDIT) REPORT," was taken from the agenda and read by title only .

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

Upon discussion, Mr. Gary Welch, with Jordan, Woosley, Crone and Keaton, recognized Phyllis Trent and Christana Ellis, CPA's with the firm. He highlighted the 2007 Comprehensive Annual Financial Report pointing out this is a 150-page document that the Directors received which encompasses all of the financial statements and transactions of the City for 2007. All of the financial statements of the City are included in this document as are the financial statement information for the Advertising and Promotion Commission, which is presented as a component unit of the City. All of the information in the document has been audited and, in their opinion, as the City's auditors, is correctly stated. The statement contains various parts, the introductory section, the Letter of Transmittal, and the GFOA Certificate, which has been received the last 14 years certifying that this is an excellent form of financial reporting. The management's discussion and analysis gives a concise summary of the City's highlights for the year. In that section, there is a discussion on the early call of the Civic Center Bonds which was a 7.655 early retirement of the Civic Center Bonds, which ended in 2007, and also ended the ½ cent sales tax. Also, in the management discussion is the major wastewater expansion necessitating the borrowing of debt in excess of \$11 million and also proposing that a rate study in 2008 be made to cover the additional operating cost of a new plant. The auditors opinion is the most important section of the financial statement. The financial statements themselves are the responsibility of the City's Finance Department and ultimately the responsibility of the Board of Directors as managers of the City. The auditor's responsibility is to provide the audit services and given an opinion on the financial statements. In the opinion section, which is called the unqualified or clean opinion of the financial statements, it says in their opinion, based on their audit and report of other auditors, the basic financial statements present fairly in all material respects the respective financial position of the governmental activities, the business-type activities, the discretely presented component unit, each major fund, and the aggregate remaining funds information of the City of Hot Springs as of December 31, 2007, which means that all of the financial information and the report is accurate and requires no further adjustments. Regarding the City's activities, the Citywide assets exceeded liabilities by \$228 million; and of this, \$14.4 million is available for ongoing obligations. This \$14.4 million is a \$5.5 million increase over 2006. The governmental funds ended with a combined fund balance of \$6.8 million; and of that, \$6.2 million is in the category unreserved, undesignated, which is also an increase. The City decreased liabilities by \$5.4 million or 11 percent in 2007, which was due to the scheduled principal payments in water, wastewater, airport, and the bond calling of the Civic Center. The

component unit (Advertising and Promotion Commission) had assets of \$10,866,000, which was an increase of \$1,730,000 in 2007. Regarding the Statement of Net Assets, it details the total assets, liabilities, and net assets of governmental and business-type activities. In the City reporting, the business-type activities are going to be consumer-charge or consumer-revenue driven. This is the type of activity that is in the water, wastewater, sanitation, airport, and parking. The totals compared to the prior year show total assets of \$271 million compared to \$277 million, liabilities \$43 million compared to \$48 million, and net assets \$228 million stayed the same. In calling the bonds, debt service reserves are used, which reduces assets by that amount while reducing liabilities. Thereby, the net assets stay the same. Another way to look at net assets is the net equity or net worth in commercial terminology. In regard to the activities statement, this is expenses and revenue statement and the government activities, showing expenses of \$37 million and revenue of \$33 million, which is net excess expenses of \$3.5 million. The primary cause of this net excess expenses was the reduction by ½ cent of the sales tax and the state turn-back, which both ceased when the Civic Center Bonds were called. The business-type activity had expenses of \$26 million and revenue of \$29 million or almost \$3 million net revenue. Overall, the City had net expenses of \$786,000. Another important point is that depreciation is recorded on both categories of city government since the infrastructure recording of a couple of years ago, and the City must depreciate so that all cities will have consistent reporting. Regarding budget changes, there is a budget result of \$3 million, which is a little unusual. However, in the General Fund, it has a positive of \$2.5 million because the building was appropriated to purchase the building for City Hall purposes. However, that appropriation was not utilized, yet it was in the budget so that throws that into a high figure this particular year. The other general categories of the city, general government are all positive. In regard to the business-type activities, these have a net positive of \$397,000. Most of these have positive, except the Airport which is driven by contributed capital, which the City must complete projects to realize the contribution into revenue. When the projects are not completed, the contribution does not get recorded. The other positive in water and sanitation, for example, are because costs were actually down over budget; and revenue was up in sanitation and costs down. Regarding the federal and state awards brought to the City in 2007, expenditure of \$2.9 million was the federal and \$397,000 was the state. The primary funds in this particular year were the Higdon Ferry Road improvements and the Transit operation and the block grants that contributed primarily to these numbers. He presented a recap of the comparison of total assets, liabilities, and net assets, which shows the decline of assets of \$6.2 million where the City is using up its debt reserves that have been built up and then use them to pay off the debt and reduce debt by \$5.4 million. The General Fund Unreserved Fund Balance increased primarily because there

is no longer any General Fund bonded debt. Therefore, the City does not have to reserve the debt service funds; therefore, General Fund Unreserved increased to \$5.6 million or a \$2 million increase. The City increased its expenditures by 2½ months and expenditures plus transfers out, which are transfers for the Police and Fire operation primarily of one month. There is more coverage in the expendable unreserved fund balance at the end of 2007 than 2006. In looking at 2003, the City owed \$28 million on the Civic Center, \$16 million on Water Bonds, and \$12 million on Wastewater Bonds, primarily from the 1991 Wastewater Construction. In five years, the almost \$60 million has been reduced to \$30 million primarily because of the Civic Center early pay-off. The net debt after investments went from \$29 million to \$5 million.

Mr. Welch said that he or his staff will be available to answer any questions; or if anyone wants to review the financial statement, it will take two or three hours. However, he is willing to do that if a Director so desires.

Director Maruthur asked if his presentation is a legal requirement, and Mr. Welch replied that it is. He added it is a state law that the Board must receive the annual audit report. She stressed that she wanted to make that clear for the viewing public.

City Manager Kent Myers asked that he explain how the financial report handles the Advertising and Promotion Commission audit. Mr. Welch advised that the Advertising and Promotion Commission is audited by the certified public accounting firm, Crass & Smith, which is located in Hot Springs. He commented their audit report must be received and incorporated into the City's. He added in the basic financial statements, there is a column called discretely presented component unit, which means that the Advertising and Promotion Commission has its own board, holds meetings, and makes decisions. However, this Board has authority on the sales tax issue and the bonded debt issue related to what they do so that it makes it a part of the City but not incorporated into the City numbers. He advised the audit has been completed for that entity, and those numbers are in this City report.

City Manager Kent Myers commented that Mr. Welch reported the General Fund balance has increased a little over \$2 million this year but wanted to make sure the Board realizes the majority of the reason for that increase is the fact that the City received the surplus bond funds from the Civic Center pay-off, and it has re-budgeted those funds this year about \$1.5 million to pay for capital improvements, to building improvements, and various pieces of capital equipment. He pointed out there are plans to spend a majority of that surplus this year according to the budget adopted by the Board. He recognized the Finance Department staff who worked closely with Mr.

Welch and his staff; and during this process, they were short-handed and had two new employees dedicated to the financials this year. He recognized Finance Director Dorethea Yates, Accounting/Purchasing Manager Joy Black, Mary Rice, Angela Byrd, and all of the staff in the Finance Department.

Mr. Welch expressed appreciation to Finance Director Dorethea Yates and Joy Black, Accounting/Purchasing Manager.

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

20 Proposed Resolution No. R-08-199

A resolution entitled, "A RESOLUTION AMENDING A CONDITIONAL USE PERMIT AND SITE PLAN FOR 2207 MALVERN (LAWN DOCTOR)," was taken from the agenda and read by title only. **(Appeal)**

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

Upon discussion, Ms. Kathy Sellman, Planning and Development Director, explained the resolution approves an after-the-fact amended site plan relocating a dumpster and its enclosure and relocates a monument sign and enlarges its base; and also approves an alternate masonry facade treatment. She stated the owner of this project is Mr. Mike Ratcliff, who is the owner of the Lawn Doctor on Malvern Avenue, which is an outstanding development. After receiving the Malvern Avenue Overlay District Site Plan approval from Planning Commission in October 2007, she reported that the development proceeded; but it was not consistent with the approved site plan. She explained that two of the unapproved changes were the sign and the location of the dumpster and fencing; and the Planning Department found the alterations upon final building permit inspection. She commented on Malvern Avenue, an approved site plan becomes regulatory as to the specifics of the development. Although the Code allows for certain alternatives, once the site plan is approved that becomes the rule. At its July 10 meeting, the Planning Commission approved a site plan but with two modifications, which is after the original October approval. She noted the Planning Commission, in making its decision, made certain findings. She added they denied the application as submitted; and their findings were that the dumpster pad location, as relocated from its

originally approved position, was placed in close proximity to the adjacent single-family residential properties on the north side of the site without approval from the Planning Commission, which is creating noise and a possible rodent issue for those residential properties. Their second finding was that the relocation of the freestanding monument sign was so positioned as to create a traffic visibility issue while exiting the driveway from the property onto Malvern Avenue. She said having made those findings on a vote of 6-1, with Chairman Gary Threadgill dissenting, they accepted the change to the facade material but requested that the sign be relocated to where it was on the original plan, as well as the location of the dumpster.

Director Maruthur said it was her understanding the Sanitation Director did not like the original site that was drawn, and there is a residence that was existing at the time the dumpster and fence were put up there. Ms. Sellman said that was correct. Director Maruthur noted that person verbally gave an okay and sold that home to someone else. She stated someone else bought it knowing it was there. Ms. Sellman stated she is not familiar with that set of facts. In reply to Director Maruthur, Ms. Sellman said she did not recall on the other site plan if it is also residential area on the east side. Director Maruthur stated if the dumpster is placed on one side, there is a residence; and if the dumpster is placed on the other side with the pad and fence, there is a residence that was sold; therefore, the people actually purchased it knowing that was there. She asked if she was aware of Mr. Burrough's position on the location of it. Ms. Sellman said she is now familiar with his position on it, but the written comment does not reflect that.

Mr. Ray Owen, Jr., 209 Hobson (business) and 110 Leigh Circle (residence), stated that Mike and Michelle Ratcliff have had a good business with the Lawn Doctor, with more than 2,500 customers in the County. He pointed out they could build this building anywhere in the County but chose to build inside the City. With regard to the dumpster, he said the original plan showed the dumpster at the right rear corner of the building. However, there are a couple of problems with that. It backs up to a residential zoned area and is a little more awkward to get to according to Sanitation Director Bill Burrough. However, from an aesthetic standpoint, people see up the driveway and look directly at it where it was located. He advised after the Development Review Committee met, the architect moved the location of that dumpster over to the left in front of the building as they face it and cannot see it all from the highway, which is a great location. He stated it is dumped once-a-week, and there are no putrescible materials as one would see from a restaurant. He advised the construction drawings were prepared by Mr. Harris and were submitted to Chief Building Official Mike Scott. He added their permit was issued and that set of construction drawings shows the location

of a dumpster in the place where it is now. He mentioned they did not come back and specifically ask for the relocation of that, but they did what they thought they needed to do and made the mistake of not coming back and asking to make the change. Regarding the sign, he said the sign is shown as 25 feet from the edge of curb on the original drawing; but when they started looking at it closely, the 25 feet was based upon what the architect thought was the distance that the Highway Department would require. However, the Highway Department only requires 25 feet from the centerline of the road; and there is plenty of room for that. He mentioned the location of this sign now meets the Malvern Overlay distance and meets the sign size requirements. He pointed out it is the same distance off the road as the Diamond Bank sign that was just put in a short time ago. He said if individuals drive up to get out of that parking lot, they drive up and look to the right and have to pull up to where they are within two or three feet of the curb and can see 500 plus feet; but that is not the problem. In looking to the left, there is only about 221 feet, so if motorists are not careful when pulling off to the right to leave there, they may be overtaken by a car coming north on Malvern. He stated if this is moved back seven feet, motorists can only see about 520 feet to the right (north) but can only see a little over 100 - 140 feet to their left. He added motorists are going to have to pull up to the curb because of the traffic coming from the south to get out of that driveway; otherwise, they will get run over. He said it is a waste of money and time and a hassle to move a sign that really is a view to the north where motorists already have 520 feet of vision. He mentioned the other comment that was made is if they block that sidewalk, someone coming by on a skateboard or bicycle will run into them; however, they are not supposed to be riding a bicycle or skateboard on the sidewalk. He stated at the present time, the sidewalk does not go anywhere. However, in the long-term it may go somewhere, but it will be sometime before that sidewalk is going to be a productive sidewalk that is going to go anywhere. He asked that the Board approve the resolution.

Mr. Mike Ratcliff, owner of Lawn Doctor at 2207-A Malvern Avenue, said they did this to enhance the City; and there were some mistakes made, which he has learned from and tried to make them right in the process. He noted the photos show the vehicles are a safe distance from the road to pull out, and the visibility past the sign is actually much better than the visibility to the south side. He said motorists cannot exit to the south side due to the corner and the proximity to where he is in that corner. The other direction is dangerous, and motorists have to pull up no matter where that sign is; and where it is located, there is good visibility.

Director Maruthur asked if it was to his financial benefit to locate within the City rather than the County, and Mr. Ratcliff replied that it is an improvement to be there.

Director Maruthur said that she had the impression when they visited that in hindsight, it would have been beneficial had he located in a different area, and that his service is costing more to be in this location; and Mr. Ratcliff said that it does. Director Maruthur asked if he called City Manager Kent Myers; and he replied that his builder, Mr. Tim Winston, did regarding some of the issues. Director Maruthur said Mr. Winston had stated the City would be glad to work with him in every area and a message was left with Planning Director Kathy Sellman regarding the sign. Mr. Ratcliff said when they realized there was a mistake on the architectural drawing, there were several phone calls made to Ms. Sellman, with no return calls; and then he called City Manager Kent Myers, who called back and said the City would work with them on any changes they made. He stated they looked at the Diamond Bank and made the sign basically the same as theirs, the same distance from the road, and everything to City Code. However, no one responded to their request. Director Maruthur asked if he had an attorney at that time, and Mr. Ratcliff said he did not and was just trusting that everyone was helping to make it a better facility. He mentioned this is the first development he has done.

Director Smith said that he looked at the property, and he has done a good job. Regarding making a left turn versus a right turn, he stated that he believes he handled that very well. He mentioned it is a little shorter from the left side, and motorists have to pay more attention, but he believes it is a great property.

Ms. Michelle Ratcliff, 136 Quail Ridge Drive (residence) and 2207-A Malvern Avenue (business), stated that she supports her husband in their efforts and appreciates the Board's consideration.

Mr. Tim Winston, 120 Lura, said this should have been handled in the Planning Department; and for 32 years, he has been building and developing in Hot Springs. He then spoke of the following events: on May 29, he contacted Ms. Sellman's office and left a voice mail; on May 29 at 4:15 p.m., he left a message on her voice mail; on June 11, at 9:02 a.m., he called City Manager Kent Myers and advised him of the situation with the sign whereby he needed to relocate it behind the Arkansas Highway Transportation Department right-of-way; and he called him back and informed him that Ms. Sellman said she would work with them. He stated in the past years of his building experience, if there is a change, the Planning Department works with them on moving something a few feet. He said that he then returned two more phone calls on June 30 at 9:29 and July 22 at 8:28 to Ms. Sellman's office; and to this day, he has not received a phone call from her. He commented he pays a planned review fee when bringing the blueprints to be reviewed, and Ms. Sellman's department initialed those plans as okay.

He mentioned he does not receive a building permit from Mr. Mike Scott, Chief Building Official, unless every department head in that office signs off on it.

Mayor Bush questioned if the architectural drawings originally showed that sign where he built it, and Mr. Winston replied that is false.

Director Weatherford asked that Sanitation Director Bill Burrough report on the dumpster pad, and Mr. Burrough said they reviewed those plans originally on the original plans that were submitted which showed the dumpster pad in the southeast corner of the building where it was originally intended. He advised that his department looks at plans; and if it works and they can make it work for their trucks, he works with the builder on those specific plans. He explained if it is something they can work with, they approve it; if it is not, they address it then and advise them that they have to do certain things to make it work. He pointed out there is some confusion that he denied those plans or whether he wanted that dumpster pad moved. He mentioned his department has no record of that in his office, and he approved those plans as they were originally submitted. Why it was moved, he said he did not know. However, when it was moved, and he was made aware of it, he returned and looked at it and thought it was one of the best dumpster pads, location, and fence. He said that he wished everyone in the City would build them to that specification and thought this was actually better and could work with this as well. He said the other one required his department to do some extensive backing, which they do in numerous locations in the City. Therefore, he approved the original one and went back out and saw that location was better and approved that one as well. He stated this particular one, the way it sits today, is the best of both of those; therefore, he was very pleased with the way they moved it.

Director Maruthur commented there are two sets of site plans, and it appears there have been some mistakes and oversights. She stated the City is either going to either allow this individual, who has invested in the City, to keep the concrete and dumpster where it is and the sign where it is; or the City is going to penalize an applicant who has actually improved an area of the City and made a great investment because of a technicality. She stressed that she does not like to overturn the decision of the Planning Commission; however, the Sanitation Director has given his approval; and the final plans have been approved by the Chief Building Official, who issued a permit; and the City Manager has said that the Planning Director is going to work with these people. She said this is not a criticism, and possibly Ms. Sellman did not get the messages. She pointed out that it conforms to the Malvern Overlay District and has been approved by the Highway Department and the sign is the same exact dimensions

as the Diamond Bank development. She said that she tried to exit there unsuccessfully and had to back up twice because cars were coming from the south at a high speed. She mentioned the curb of this area does not lend itself to motorists leaving this without sitting on the sidewalk. She commented if motorists do not pull their car up to the sidewalk to the very edge, there could be a fatality. She added that she is going to vote to allow this addition to the City and to encourage other people to invest. She said she was very impressed, and this is not about overturning the Planning Commission but is about a technicality; and she does not think it is just and fair.

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

21 Proposed Resolution No. R-08-200

A resolution entitled, "A RESOLUTION APPROVING THE EXTENSION OF HOT SPRINGS MUNICIPAL WASTEWATER SERVICES TO MOUNTAIN VALLEY AND MINERAL STREET," was taken from the agenda and read by title only.

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

Upon discussion, Public Works Director Steve Mallett explained this is a request from Bobby Rogers and George Bennett to provide wastewater facilities to their property along Mineral and Mountain Valley. He said the City received two requests, and the first request was made by Mr. Bobby Rogers, who lives at 727 Mountain Valley, and reported that the septic tank at his residence was experiencing problems; and he desired to connect to the City's wastewater system. The second request was made later by Mr. George Bennett, who owns three properties on Mineral Street and also desires to connect to the City's wastewater system. He explained that both residences would require grinder pump stations and pressure force mains in order to connect to the system, and they requested that the City pay for any or all of the installation of these facilities. He pointed out in accordance with Hot Springs Code 9-5-1(b)(1), the Board of Directors shall consider these on a case-by-case basis. He said with regard to the first request from Mr. Rogers, it will require 1,150 feet of 2" main up Mountain Valley Street; and the pipeline cost is estimated at \$17,250. Also, one pump station would cost about \$2,800 for a total cost of approximately \$20,000 for that extension to Mr. Rogers' property. For the three on Mineral Street, 235 feet of 2" pipeline would have to

be installed at a cost of approximately \$3,500, three grinder stations at \$8,300, for a total cost of approximately \$11,800. The grand total cost of pipeline for both projects is approximately \$20,000, total for pump stations is \$11,000, for a total cost all inclusive of about \$32,000. He mentioned the Board has considered these type of requests in the past with varying results depending on the individual circumstances. He added that Mr. Rogers lives in his residence, and Mr. Bennett's properties are his rental properties. He said Mr. Bennett has several properties, and two were vacant properties; but with the addition of wastewater, it will allow him to rent; and the third one needs some other work before he can do that. He reported that all preexisting structures are located in inactive subdivisions in accordance with the ordinance. He pointed out the actual ordinance is written using the same template that was used for the Terryland Subdivision, which was in the same general area several years ago. The City agreed to pay for the pipeline extension and allowed the property owners to pay the City back over a period of time for the pump stations. The City absorbed all of the cost up-front and carried fully the cost of the line and pro-rated the actual cost of the grinder stations. He stated funding for these type of projects is included in this year's budget in the amount of \$50,000; and to date, the City has not spent any money out of this account.

Director Smith asked how many homes are affected on these two streets, and Mr. Mallett stated around 10 or 11 homes can eventually tie on; but all are currently on septic tanks.

Director Maruthur stated the code that was approved had a provision, and there was a concern because there are so many people who are unserved that live within the city limits. She said some people who are unserved are aware of it when they purchase their property, and there is no problem because of topography. She questioned the amount of money the City has in a fund that has not been used, and Mr. Mallett stated it was \$50,000. She said she has a memo from Mr. Don Cochran, former Utilities Director, dated May 8, 2006, in regard to this area (not the specific residence). The memo said the City has never denied any requests for services based on lack of city funds, and this is primarily due to the fact that the City does not receive many of these requests on an annual basis. She asked for an explanation if something does not perk, and Mr. Mallett explained that perk deals with how the wastewater goes in the ground through field lines from septic tanks, and the ground will saturate. Director Maruthur stated that Mineral, Mountain Valley, and Terryland are located by the National Park; and there are very specific Health Department requirements. She said if it cannot perk, then that means they will have to go to the City for help whether they can pay for it or not. She then read the memo from Mr. Cochran which stated that the City could transfer the money. She stressed there is an area that is saturated and the

ground will not take anymore septic; and those residents have been there for sometime and perhaps do not have the money and are not stepping forward, or they are afraid of the City. She emphasized that the City has the money, and these residents chose to live in the City and are looking to the City to work with them. She urged the Board to help these residents who want to remain in the City.

Director Ramick stated the Board is being asked to run the sewer line and install all of the grinder pumps at no charge. Mr. Mallett stated they are asking the City to run the pipeline, which will be a 2" force main; and each individual residence will require a grinder pump; or there may be some instance where they can share between two homes but no more than two. He explained the request is for the City to absorb all of it, but in lieu of that for the City to at least bear some of the cost. He pointed out the resolution is written to just cover the cost of the pipeline and allow them to pay the City over time to install the pump stations for them on the front end. Director Ramick asked if they agreed to a 72-month period, and Mr. Mallett explained that was what the first group agreed to on Terryland. However, it is the Board's discretion to change it. Director Ramick asked if they are asking for no connection fees, and Mr. Mallett replied that the City would not waive any connection fees.

Director Weatherford asked how many other people in construction ask for their grinder pump free or to pay it out. Mr. Mallett stated that on new development, they do not. Director Weatherford said he has no problem with the money being spent for pipeline, but to allow them to pay out a grinder pump is not right. He said that he paid this year 66 times and will probably pay another 40 times before the year is over, and the City does not give him anything.

Director Maruthur pointed out these are not construction people but are people who have been living in an area where the ground is saturated, and they will be leaving.

Director Weatherford said one person lives in the residence and the other is three rent houses, which are not rented and are not ready to rent. Director Maruthur said she is referring to the one person who has come to the City and asked for help. She added if residents cannot afford the pump station, they move somewhere else. She stressed they are not getting a financial benefit from this and are not in the business but are living in an area that is saturated.

Director Weatherford commented he did not have a problem with running the pipe up there. He asked if the City is going to finance sewer pumps if the other residents eventually hook on or give them a sewer pump. Director Maruthur said these

people did not cause it, and they are not making a financial benefit. She added they are asking the City to work with them and schedule it out so they can afford to stay there.

Director Daniel questioned why the City did not run sewer in this area when it ran the water, and Deputy City Manager Lance Hudnell advised there were residents in this same general area who at one time the Board had considered servicing; but they did not want service because they did not want to have to pay a sewer bill. He explained at times the Board has extended water without sewer because the residents did not necessarily need sewer at that time.

Director Daniel questioned how the City services them and charges them for trash collection, and Deputy City Manager Lance Hudnell advised there are accounts that are sewer only, water only, and sanitation only.

Director Maruthur commented that was correct they did not want sewer because things were working and they chose not to, but that was about 12 years ago. However, it has become saturated.

Mr. Bobby Rogers, 727 Mountain Valley, said his property is saturated; and his septic tank works fine, but the problem is the field lines. He stated he has been there for 12 years; and when he bought this property, the person he bought it from said he did not have any problems with it. However, after Mr. Rogers had it several years, he said he started having problems; and it has been ongoing for about five years. He stated in talking to the neighbors, the previous owner did have problems but did not disclose it when Mr. Rogers purchased the property. He mentioned there are only two people willing to sign on at the present time, but he believes other people would. However, they are afraid of what the initial cost and expense would be.

Director Smith questioned if this would encourage development in this area if the Board approved this, and Mr. Rogers replied that he has put money in his property since he has lived there. Also, he believes it would encourage residents to do the same if the City could absorb some of the costs. He said that he has talked to other people who live in the surrounding neighborhood, and they are afraid what the initial result might be.

Director Maruthur pointed out that she has heard this many times that residents are afraid and stressed the City does have funds for this. She asked Mr. Rogers if he would have a problem making payments for the pump station, and he said he would not.

Director Maruthur asked what schedule of payments would he need in order to meet federal requirements to pay for the grinder pump, and Mr. Rogers said that it depends on how much the cost is. He added if it could be spread out over several years, it would help. Director Maruthur asked if three years would be adequate, and Mr. Rogers said that he could deal with that.

Mr. George Bennett, 257 Peachtree, said he is a plumbing contractor and did not ask for these grinder pumps and could pay for them himself. He stated he only wanted the sewer to be run down to the end of the street. He mentioned there are about a dozen people on the end of Mineral Street who have property with septic tanks, and he knows of at least two other people, besides him, who were wanting to be on the system if it were there. He mentioned one resident said he has to call a septic tank truck out there two or three times a year to empty his septic tank. He noted the end of Mineral Street is on a ridge, and everyone who lives on that dead-end part of Mineral Street, their property falls off at a 45 degree angle on both sides. He said there is only house that he owns that he cannot rent because of the sewer, but the septic tanks on the other properties still work. He pointed out that he is requesting the City install the 2" force main, which costs about \$3,500, down to the end of Mineral Street to give the other residents access to the sewer, but he never did ask for the grinder pumps and could pay for his own grinder pumps. He said there are about 12 houses that do not have sewer, and he talked to several residents about that over a year ago; but the residents who are on fixed income are afraid of the cost. However, a couple of residents said they would be interested in tying on if the sewer were available to them.

A motion was made by Director Daniel, duly seconded by Director Maruthur, that the City extend the 2" wastewater line at the City's expense and pro-rate the cost over 72 months to the people as they hook on for the grinder pumps

Upon discussion, Mr. Bennett said he was going to pay for his own grinder pumps, and City Manager Kent Myers stated he can pay for his own grinder pump. He added if the City installs the grinder pump, the City will allow him to pay it out over six years. However, if he wants to install his own, that is fine.

Mayor Bush then called for a vote on the amendment; and upon roll call, the following voted "aye": Directors Maruthur, Jones, Smith, Ramick, and Daniel, total 5. Voting "no": Mayor Bush and Director Weatherford; motion carried.

City Attorney Brian Albright pointed out that this motion just approved the resolution as written; therefore, the resolution was declared adopted.

22 Proposed Resolution No. R-08-201

A resolution entitled, "A RESOLUTION AUTHORIZING REVISIONS TO THE 2008 BUDGET," 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 stated that every year during the month of July and August, the City conducts a comprehensive review of revenues and expenses during the midyear budget process. This year meetings were held with each department head, Finance Director, and Human Resources Director, who reviewed all of the revenue and expense items. He said almost all of them were according to the original budget that was approved by the Board last December. However, there are a few changes that were identified during the work session. He stated the Board has discussed these items, and a copy of those changes are listed in the Board packet. He mentioned several major items: (1) regarding Animal Services, there was an increase in natural gas expenses at the animal shelter; and staff is asking for an \$11,000 increase in their budget; (2) regarding Fire Department, there were three unexpected retirements this year that has added to the retirement expenses, which is a \$44,000 increase in the retirement cost for the Fire Department; (3) there have been increases in fuel costs for virtually every city department; and most city departments were able to absorb those costs. However, there were three departments that had significant increases in fuel costs which will require budget adjustments and includes the Street Fund, the Transit Fund, and the Sanitation Fund. Regarding the Street Fund, \$25,000 will be added for their fuel costs; regarding Transit Fund, their fuel costs will be covered from other adjustments within their budget; but their total fuel cost is increasing \$55,000; and for Sanitation Fund, the total fuel cost increases of about \$176,000 this year. He thanked all the city employees and Board members who participated in the midyear budget process. He pointed out staff if not bringing many changes to the Board during this midyear budget, but there are a few items that need correction; and these are included in the resolution.

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

23 Proposed Ordinance No. O-08-57

An ordinance entitled, "AN ORDINANCE AMENDING THE ZONING CODE BY ADOPTING A REVISED PLANNED DEVELOPMENT DISTRICT SITE PLAN FOR 4332 CENTRAL AVENUE, SUITE B," was taken from the agenda for consideration.

A motion was made by Director Weatherford, 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, Planning and Development Director Kathy Sellman, explained this is a request from Mikeco General Contractors to amend the PD that governs 4332 Central Avenue, which is in Temperance Hill Shopping Center. A new restaurant Whole Hog is doing significant interior construction at that site and is requesting to amend the planned zone that governs that property to permit the installation of an outdoor smoker and a screened fence with a locked gate around it for the purpose of operating the smoker outside rather than inside and to store some wood within the fence. She said the site plan, along with any approval conditions, will be regulatory and it will depict the location and arrangement of the approved uses. She explained there are two conditions that the Planning Commission imposed on this 1 that the parking direction should be reversed so that it matches the angle of the existing dumpster pad and 2 that storage or placement of any items shall not take place outside of the fenced area. She stated the Planning Commission recommends approval of this project.

Director Daniel commented that he looked at this site, and they had their catering trailer parked behind the building and questioned the dimensions on this smoker. Director Weatherford stated that it is about eight feet wide and six feet deep. Director Daniel said his concern is after seeing the trailer there, he went behind the building and there is not much room. He noted the driveway is very narrow.

City Manager Kent Myers stated this went before the Development Review Committee, and the Fire Marshall was in attendance but did not have any comments on this. Ms. Sellman stated it is 22 feet between the back edge of the parking spaces once they are redrawn and the fence that will enclose the area.

Director Daniel pointed out that the air conditioning units are in the back and wondered about emergency vehicles getting through. Ms. Sellman stated that the smoker extends from the building, and about 1/4 to 1/3 of the smoker is actually inside the building.

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

24 Proposed Ordinance No. O-08-58

An ordinance entitled, "AN ORDINANCE AMENDING THE HOT SPRINGS SOLID WASTE ORDINANCE (ORDINANCE NO. 5400) BY ESTABLISHING A FUEL SURCHARGE; AND FOR OTHER PURPOSES," was taken from the agenda for consideration.

A motion was made by Director Weatherford, duly seconded by Director Smith, 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, Sanitation Director Bill Burrough stated as part of the Sanitation Department's fuel compensation plan prepared in April, he included information regarding possible fuel surcharges although he did not recommend implementing a fuel surcharge at that time. However, it has become apparent that in order to maintain current services, additional revenues must be obtained. He said in an effort to minimize the impact, the department has made numerous changes in its operating procedures, implemented route efficiencies, as well as postponed all or portions of their major projects and capital purchases. He stated several years ago, the Board approved a schedule of rate increases, which was spread over five years in an effort to raise rates incrementally. The last of these increases is scheduled for January 1, 2009. These increases were needed then and now to maintain a positive fund balance to prepare for future capital equipment needs. However, the rising cost of fuel has had a significant impact on the sanitation budget plan. He mentioned fuel has become 9½ percent of the total sanitation budget, and the cost of diesel has risen 62 percent since the 2008 budget preparation and 43 percent since the beginning of the year. In addition to these costs, the cost of materials and supplies has also risen. He pointed out the Sanitation Department is very much akin to the trucking industry, and the only difference is the type of payload that is collected and hauled. Both the trucking and solid waste industry as a whole have been impacted the most by these rising fuel costs, and fuel surcharges became an industry standard for both industries. He explained there are several ways to implement this type of charge when evaluating any charge or fee, and it is essential to be as fair as possible when spreading the charge over the customer base. He stated he believes the percentage of revenue to be the fairest, and the businesses with the largest amount of service or highest number of collections are charged more than a business with the smallest amount of service. He added by charging a fuel surcharge as a percentage of the overall charge, the business with the least amount of service would pay less than the one that

has the largest amount of service. He advised many companies are charging a fuel surcharge in the 13 to 16 percent range, and the proposed surcharge for the City would currently be in the three percent range at today's current prices. He said without this proposed fuel surcharge or a significant decrease in fuel costs, the department will not be able to maintain a positive fund balance and to continue to offer the same level of services as it currently does. He advised a three percent surcharge in a resident's normal sanitation fee would equate to about .42 a month or .14 for each percentage point. The surcharge would be adjusted and implemented on the first work day of each month and would be based on the average current price of the previous four weeks, based on the oil pricing information service out of Little Rock, which is known as OPIS. The City would be looking at that Thursday price to buy diesel gasoline at the Little Rock terminal. This will increase the sanitation revenues by an estimated 53,000 for every one percent that the surcharge increases. However, this will be offset by fuel expenses. He advised the City chose a fuel surcharge because rate increases are typically permanent increases, and the City is not trying to increase revenues by the surcharge but basically trying to pay for the additional expense in fuel. He said with these ranges that are in place, as fuel increases, so shall the surcharge in one percent increments. As fuel decreases, it will decrease by that same amount. He explained these surcharges were based basically on how much revenue would it take to cover that amount of fuel increase that is in his budget and what percentage would that be. He pointed out the City chose to go up in one percent increments, based on a range and it is also based on what the fuel cost is, which would equate to about .42 for a resident but businesses would be different and could not give that amount because every business is different based on their service needs.

Director Maruthur pointed out if this is approved, it is not a permanent rate increase and Mr. Burrough stated it is not a permanent rate increase for their rates but is just a surcharge for fuel. Director Maruthur said a surcharge means that it is directly connected to OPIS that somebody checks to see what the fuel prices are on a certain day. Mr. Burrough advised that it comes out every Thursday, and then fuel is purchased based on that OPIS schedule. Director Maruthur noted that somebody from the City monitors this service to find out what the fuel price is and then adjusts it. She said if the fuel prices go down, so would the surcharge or be eliminated but to keep the same amount of service that the City presently has. She stressed the City would not make any money off of this, and it goes strictly to the fuel. Mr. Burrough said if fuel rises, the percentage rises and they base those percentages on what it would take to cover those cost for increases. Director Maruthur said the City is not going to have a financial benefit by surcharge like a rate increase that would be permanent, and the Board would have to vote to have a different increase. Mr. Burrough said the intent is to only cover their fuel increases. He said he would like to see it go down and not have it all. Director Maruthur said it will then be eliminated, and Mr. Burrough said that is correct and once it reaches below that range, then it would be eliminated under this particular ordinance.

Director Weatherford questioned the percentage it would be at the present time, and Mr. Burrough said that it would be three percent. He mentioned one of the private companies that is large in Arkansas has implemented fuel surcharges in the 13 to 16 percent range.

Mayor Bush asked if this amount would change monthly on the bills, and **Mr. Burrough** said that it could if the fuel changes. Looking at it over the past several weeks, he stated it seems to be staying within that three percent range and for **3.14** to **3.51**, it would stay within that three percent range.

Mr. Wayne Roberts, 515 Jerome, questioned if there would ever be a surcharge for other departments, such as **Police** or **Fire** if fuel dramatically increases. He commented **.42** for most people is very minimal, but there are many residents on fixed incomes and who make minimum wage, and cannot pay for their medicine or buy food. He stated every time **.42** or a **1.00** is added, that takes away from these people. He commented if this can occur in other departments, this could go up to **2.50**, **3.00**, or **4.00**, which could put some people in a bind.

Mayor Bush said if that happens, he would suggest another **Board** action but this is only solid waste fuel charge.

Mr. Roberts asked if the **City** can do it on other departments, and **City Manager Kent Myers** advised that other cities are doing it on sanitation and transit. However, there has been no discussion up to this point on adding it for any other services. He explained that would have to come before the **Board**, and he did not see that happening in the near future.

Mr. Burrough said that he understands **Mr. Roberts'** concerns, and the **City** has done everything it can to keep the rates down. He stated staff looked at cutting some of the services, but each one has a different economic impact to the **City** and a different impact to the lives of the citizens. He added this is the final attempt to cover those expenses.

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

25 Proposed Ordinance No. O-08-59

An ordinance entitled, "AN ORDINANCE APPROVING A SHORT-TERM FINANCING AGREEMENT WITH DELAGE LANDEN PUBLIC FINANCE LLC FOR THE PURCHASE OF CERTAIN COMPUTER EQUIPMENT FROM DELL CORPORATION; WAIVING COMPETITIVE BIDDING; 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 Jones**, duly seconded by **Director Maruthur**, that the ordinance be passed as read.

Upon discussion, **Mr. Jeff Winter**, **Information Systems Director**, stated that in the past and currently the **City** is buying service on individual basis and this proposal is to look at a multi-year approach and buy one large server that will service for multiple years instead of spending the money on individual servers. He said the proposal may end up saving the **City** money and could be several thousand dollars in savings. He explained it costs more up-front rather than spending the money over time for individual servers.

Director Smith said that initially he mentioned the **City** is going to contract for two servers under this plan and **Mr. Winter** stated that in this year's budget, the **City** had **18,000** budgeted to buy two servers-- one for the **Police** and one for the **General Fund**. He mentioned this server is capable of holding **20** servers and the initial goal is to get those two servers onto this server initially and next year work on four, five or six or as many as they can get done as soon as possible. He mentioned there are **13** servers now, and the plan is as the **City** replaces the two that are going to go out of service this year, they actually are going to retire those with this new one and possibly put those back into use as redundant servers for failures.

Director Maruthur pointed out this is waiving competitive bidding and asked if there is another corporation that could deliver what the **City** is looking for. **Mr. Winter** said there was, but the reason for waiving competitive bidding is because it is off of state contract.

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

26 Proposed Ordinance No. O-08-60

An ordinance entitled, "AN ORDINANCE AMENDING ARTICLE III (TAXICABS) OF THE HOT SPRINGS TRANSPORTATION CODE (ORDINANCE NO. 4571, AS AMENDED) BY REVISING THE TAXICAB FARE STRUCTURE; AND FOR OTHER PURPOSES," was taken from the agenda for consideration.

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

Upon discussion, Deputy City Manager Lance Hudnell advised that state law allows cities to regulate taxi companies from the standpoint of regulating the fares. He stated the taxi operator has asked that the City fold part of the current fuel surcharge into the base fare and readjust the benchmark so that it brings the benchmark back down to zero again and then allows him to go .25, .50, or .75 if prices go up again with fuel. He noted there has been a fuel surcharge in the taxi industry for a number of years, and this is based on a series of benchmarks based on OPIS. Also, there have been some other technical corrections made within the ordinance, and there are some other miscellaneous charges that were buried in the ordinance. Those are in one list, making it easier for people looking at the ordinance to understand what the charges are.

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

27 Approval of Board Travel to National League of Cities Conference in Orlando, Florida, for Mayor Bush and Directors Weatherford and Jones (November 10 thru 16, 2008)

A motion was made by Director Smith, duly seconded by Director Jones, that the Board travel to the National League of Cities Conference in Orlando, Florida, for Mayor Bush and Directors Weatherford and Jones be approved.

Upon discussion, City Manager Kent Myers advised that every fall, the National League of Cities sponsors a conference attended by thousands of city officials across the country. He said it provides several benefits for city officials: (1) there are a number of conference sessions on topics that are impacting cities across the country; and in Hot Springs' case, there are topics on highway funding and on community development block grants; and (2) the opportunity to network with thousands of city officials across the country and share experiences and learn about their experiences in dealing with problems that are facing their community. He stated this year, there are three Board Members who have indicated a willingness to represent the City at the National League of Cities Conference; and it is recommended that the Board approve the travel which is in accordance with the City's travel policy. He added this is an expense that is included in the 2008 budget.

Director Maruthur asked that the City Manager report on the cost per person and what the total cost would be. She was advised by Director Weatherford that it is \$2,700 per person. She said that she is wondering how many people need to go.

Mayor Bush then called for a vote on the motion to approve the Board travel; and upon roll call, the following voted "aye": Directors Jones, **Smith, Weatherford, Ramick, Daniel, and Bush, total 6.** **Voting "no" Director Maruthur motion carried.**

OTHER BUSINESS

28 Board of Directors Items

Mayor Bush wished Director Weatherford a safe trip to Japan and thanked him for representing the City.

Director Jones announced the Pleasant Street meeting on September 6.

Director Weatherford asked at the work session on Thursday night, City Manager Kent Myers bring a list of take-home vehicles, excluding police cars, at the present time and how many were taken home before the fuel increase.

Director Maruthur clarified her position on the Board travel, pointing out there are difficult economic times at the present time; and she has no problem with people seeking the two places to go for information. However, things add up and sometimes the Board spends a lot of times discussing things that cost \$2,000 or \$3,000. In light of the economic situation, she said she voted the way she did because things are really tight. She also mentioned that sand bags are available for those who need them during this heavy rain the City has been experiencing.

29 City Manager's Report

City Manager Kent Myers gave the following report:

1. On the Consent Agenda, the Board accepted the National Guard facilities at the Airport. The National Guard has recently closed down its operation at the Airport; and as a result of that, the City has taken over ownership of the buildings. These will be managed by Airport Director George Downie, and one of the primary buildings will soon be occupied by the Finance offices. The Board appointed members to the Animal Control Advisory Committee (Fabian Lee Wilson and Nikki Schoenfeld); and Denise Marion was appointed to the Beautification Commission.

2. Due to the weather conditions, the groundbreaking ceremony for the new shopping center will be delayed but will be rescheduled for September 16, at 10:30 a.m. He noted major announcements are expected at the groundbreaking and encouraged the Board to attend.

3. Over the last several days, city staff has been inspecting all of the drainage inlets and addressing any areas that are prone to flooding. The City is prepared for the rain that is forthcoming. He talked to the Fire Chief, who is activating the Swift Water Rescue Team tomorrow; and they will be on duty at the Central Fire Station should they be needed. Also, sandbags are available to the merchants in the downtown area and are located at several different sites.

4. The City has the CodeRED system operating; and if people did not receive a call, that means they are not on the CodeRED system because they have not entered the phone number into the database. In order to do that, they may log onto the City's website or call 321-6861. It takes about two minutes to add a phone number; and once that is added, citizens get notified of any major weather conditions, as well as any service issues.

5. Several employees have received positive comments over the past several week. One was forwarded to him by Director Ramick, and a note was received by Mr. Jim Bryant, who said that he would like to thank Director Ramick for his attention to the problem at Townsquare Subdivision on Shady Grove Road where they were having a problem regarding a sewer lift station at the entrance to their area. He would like the Board to know what a good employee the City has in Larry Merriman, Utilities Project Manager, and said this lift station has been an ongoing problem in the past year with leakage resulting in terrible odors. He stated once he was able to get Mr. Merriman on the phone, he met him at the problem area and sent out a crew immediately to correct the problem. Also, there was a problem again yesterday, which was corrected again after he spoke to Mr. Merriman. It was noted by City Manager Kent Myers that over the last six months, the City has received numerous compliments on Larry Merriman. A Letter to the Editor was published last week from Teresa Lee, who had contacted a number of Board Members regarding a problem at the Transportation Plaza, which has now been addressed. She recognized Director Ramick for responding to her concerns in a timely manner and also recognized Mr. Dan Bugg for taking a personal interest in a neighborhood problem. She said he responded quickly, thoroughly, and in a professional, courteous manner.

6. A Board Work Session will be held on Thursday, September 4, at 5 p.m. During the first part of the meeting, the Board will be joined by the Planning Commission. There are four items that involve the Board and the Planning Commission. There are five or six other items for the Board to consider.

Mr. Wayne Roberts questioned if there are sandbags available for citizens, and City Manager Kent Myers advised they are free of charge located at five or six sites downtown. Director Daniel said there are some at Lockwood's Mens Store, Hill Wheatley Plaza, at the Brick House, and in the 100 block of Central.

30 ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 9:20 p.m., to meet again on Tuesday, September 16, 2008, at 7:00 p.m.

ATTEST: _____

APPROVED: _____

Lance Hudnell, City Clerk

Mike Bush,

Mayor