

MINUTES

BOARD OF DIRECTORS MEETING

JANUARY 6, 2009, AT 7:00 P.M.

The regular meeting of the Board of Directors was held on Tuesday, January 6, 2009, at 7:00 p.m., Board Chambers, City Hall, with Mayor Mike Bush presiding.

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

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

1 Roll Call

Roll call was as follows: Present: Directors Peggy Maruthur, Elaine Jones, Cynthia Keheley, Carroll Weatherford, Rick Ramick, Tom Daniel, and Mike Bush, total 7.

2 Approval of Agenda

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

3 Approval of Minutes of December 16, 2008 Board Meeting

A motion was made by Director Daniel, duly seconded by Director Maruthur, that the minutes of the December 16, 2008 Board Meeting be approved; and upon voice vote, the motion unanimously carried.

4 Recognition of Guests

Mayor Bush welcomed Director Cynthia Keheley, as the newly elected Director for District No. 3.

Director Keheley recognized a group of citizens from the Quapaw-Prospect Historic District who have put together what could be a model crime watch for the City.

She then introduced the co-chairs – Ms. Cheryl Powell and Ms. Sharon Nazelrod; and Officer Means and Police Chief Bobby Southard.

Ms. Powell stated it is the goal of the Quapaw-Prospect Area Preservation District No. 3 to provide ways to safeguard their property, thus making their neighborhood a safer place to live by adopting a more assertive and active attitude among their residents. She added they seek to be the safest neighborhood in Hot Springs.

Ms. Nazelrod said their neighborhood encompasses 17 streets, 38 blocks, and approximately 285 properties, which includes residential homes and commercial properties. She commented the keys to their success with this program are dependent upon neighborhood participation and communication between neighbors and law enforcement. She mentioned every effort is being made to accomplish their goal thanks to their Board Member, their neighborhood watch committee, and the 36 dedicated and committed block captains. She also thanked Police Chief Bobby Southard and Officer Means who have been invaluable to them.

Director Keheley acknowledged that the president of the Quapaw- Prospect Historic District, Mr. Richard McGrew, is present.

Police Chief Bobby Southard introduced Corporal Russ Norris, who works in the CID Division, and was selected by his fellow officers in 2008 as the Fraternal Order of Police Officer of the Year. He stated in order to become selected, the officer must be voted that position by all members of the Police Department; and the vote entails selecting someone who has outstanding work qualities, ethics, knowledge, and leadership. He said Corporal Norris was voted overwhelmingly by a majority of the officers at the Police Department who are members of the FOP. He also pointed out that Corporal Norris serves on the Ouachita Children's Center Board; an advisory board member at the Child Advocacy Center; the sex offender notification program coordinator; handles most of the Police Department's domestic violence cases; and is trusted by the officers because he follows up on every case of domestic violence to make sure they get it properly and that the Police Department can get a conviction on it. He commended Corporal Norris on his work, dedication, and being selected as the Fraternal Order of Police Officer of the Year.

Corporal Norris stated that although his name ends up on a lot of paperwork, it is the officers in patrol, traffic division, and partners in CID who help him and does not do anything by himself.

Police Chief Bobby Southard introduced recently employed officers (Officer Justin McDowell and Officer Mark Wilson), who will start in June at the Police Academy for 13 weeks.

Officer McDowell thanked the Police Chief for accepting his application and said this is a life choice rather than just a temporary employee.

Officer Wilson thanked the Police Chief and the Board for selecting him as a police officer and giving him a chance.

Director Maruthur commented this is the first meeting in the new year, and this is a business meeting; but in this new climate and new environment and new year and the spirit in which the Directors are meeting tonight, she would like to see each item fully explored and no haste would call the question and a new respect and some weight for the individual districts and decisions. She said she is asking this as a good will with the new climate with the Board of Directors.

CONSENT AGENDA

The Consent Agenda consisted of the following:

- 5** **Proposed Resolution No. R-09-1** Approving Certain Bid Awards (a) Body Armor - Police Department (annual supply contract awarded to Protective Products International); and (b) Petroleum Products - Fleet Service (annual supply contract awarded to Quality Petroleum and Wacaster Oil Company).
- 6** **Proposed Resolution No. R-09-2** Fixing a Time and Date for a Hearing on a Petition to Vacate, Abandon and Close All That Portion of Bellview Street from Sellers Street West to Tuggle Street and All That Portion of a Certain Alley Running in an East-West Direction in the Fairdale and Forrest Hill Additions, Garland County, Arkansas.
- 7** **Proposed Resolution No. R-09-3** Authorizing a Contract for Services with the Greater Hot Springs Chamber of Commerce for Retirement Relocation Program. **(Removed from the Consent Agenda for Separate Consideration)**

8 Proposed Resolution No. R-09-4 Authorizing an Agreement with the Greater Hot Springs Chamber of Commerce for Economic and Business Development. **(Removed from the Consent Agenda for Separate Consideration)**

9 Proposed Resolution No. R-09-5 Waiving Construction Permit fees for Garland County Habitat for Humanity for 2009.

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

Upon discussion, Director Maruthur requested that Item No. 7 (Proposed Resolution No. R-09-3 Authorizing a Contract for Services with the Greater Hot Springs Chamber of Commerce for Retirement Relocation Program) and Item No. 8 (Proposed Resolution No. R-09-4 Authorizing an Agreement with the Greater Hot Springs Chamber of Commerce for Economic and Business Development) be removed from the Consent Agenda for separate consideration.

Mayor Bush then called for a vote on the motion to approve the Consent Agenda, as amended; and upon roll call, the following voted “aye”: Directors Maruthur, Jones, Keheley, Weatherford, Ramick, Daniel, and Bush, total 7; motion unanimously carried.

NEW BUSINESS

10 Proposed Resolution No. R-09-6

A resolution entitled, “A RESOLUTION APPROVING A PRELIMINARY SUBDIVISION PLAT TO DEVELOP FIVE RESIDENTIAL LOTS ON 24.25 ACRES AT 2324 PARK AVENUE, BARKER ESTATES,” was taken from the agenda and read by title only. **(Appeal)**

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

Upon discussion, Ms. Kathy Sellman, Planning and Development Director, explained that this resolution would grant preliminary subdivision approval with conditions to develop five residential lots. She explained the land is split zoned; and the front, approximately 200 feet along Park Avenue, is zoned R-2, Suburban

Residential; and the remainder southeast of that strip, which would be away from Park Avenue, is zoned R-1. The owner is Clyde Barker, and the Planning Commission considered this item at its November 13, 2008 regular meeting. The staff report recommended approval with conditions. She advised the appellant is requesting that the Board lift Planning Commission's condition on an internal access to serve the five lots and is asking that separate driveways be permitted instead. She stated the Planning Commission expressed a concern; and based upon regulation and Code of Ordinances Section 15-10-24 (e) [Street Specifications Code] that there would be sidewalks on that portion of Park Avenue, which is within 500 feet of a church. In this case, the tabernacle is across the street; and 200 feet of sidewalk would be required. That section of the code also asks that driveway accesses be minimized on streets that are classified as a highway, as Park Avenue is. After hearing the item and considering the facts, the Planning Commission added two conditions believing they are necessary for the application to comply with the Hot Springs Code of Ordinances. The recommendation on this item is to deny the appeal that would approve Barker Estates without Planning Commission's final two conditions.

Director Ramick questioned why she is requiring just 200 feet of sidewalk, and Ms. Sellman advised that the requirement in the Code (Section 15-10-24[e]) is that any new development that is going to be done that requires building permits, if it is within 200 feet of a church, school, or other assembly occupancy, that a sidewalk be required and that would be on whichever side of the street the new development is located. In this case, she stated this development is across the street from the tabernacle; and there is 200 feet of this development's frontage that is within 500 feet of the church.

Director Ramick pointed out that the code states sidewalks on both sides of the street, and Ms. Sellman replied that it is only the side of the street where the development fronts that is in play at this time.

Director Ramick noted that cars are traveling through there quickly; and with a sidewalk through there with no crossing, he believes the purpose of this is for people who have access to the church. He stated he did not think it is safe for people to be crossing in that area across Park Avenue.

Director Keheley said she has looked at this area and feels it is sufficient to support driveways for the proposed lots. She mentioned she was concerned about the situation brought up by the Planning Commission that vehicles exit those lots in backing out into Park Avenue. She asked that the Board consider that the City require paving

space and maneuvering space with each lot by the driveway and garage where the vehicles could exit properly going forward (a turnaround pad).

Director Maruthur commented that staff is recommending that the Board deny this appeal and uphold the Planning Commission's vote and questioned the vote, and Ms. Sellman advised that it was unanimous. City Attorney Brian Albright added that it was unanimous; however, it was a vote without a second to the motion.

Director Daniel said he agreed with Director Ramick and believes the City is enticing people to use something that perhaps could be of danger to public safety, which is putting 200 feet of sidewalk in the middle of nowhere. He commented the City is saying to use that sidewalk, which goes to nowhere except if they want to walk it and run across a busy highway. He stated he is aware of what the ordinance says, but sometimes common sense has to be used; and the ordinance was not made for 200 feet of sidewalk in the middle of nowhere on a highway where traffic is going 45 m.p.h.

City Attorney Brian Albright asked for clarification on the original staff recommendation to the Planning Commission and questioned if that included an interior street and sidewalks. Ms. Sellman advised that it did not.

Mr. Josh Hurst, with Hurst, Morrissey, & Hurst, at 518 Ouachita, representing Mr. Clyde Barker, who owns this property, advised the intent of Mr. Barker's use of this property is not to develop it and sell off lots as a subdivision. He stated he is an elderly individual who is in bad health and is going to move his son and grandson on his property. In response to the Planning Commission's internal street suggestion that there will be no safety concerns as far as backing out onto Park Avenue, he advised Mr. Barker has lived there for a number of years; and there is basically a turnaround in their driveway. Therefore, there is no need for anyone to back out onto Park Avenue. In response to the sidewalk issue, he said that he agreed with Director Ramick in that basically there is going to be a sidewalk in the middle of nowhere. He added they are asking for 200 feet, which is only a part of the frontage of this property so there would be a sidewalk that is in front of part of the property, and it would just stop; and no one would use this sidewalk. He mentioned that the nearest sidewalk is around two miles from where this sidewalk will be placed so there is no practicality in installing the sidewalk. He pointed out the only effect these conditions would have would be to place such an expense burden on Mr. Barker that he would not be able to place these homes here if he had to go in and build roads, sidewalks, and gutters. He requested that the Board lift these conditions that were placed on this.

City Attorney Brian Albright asked if Mr. Hurst had any objections to having the turnaround pads as suggested by Director Keheley, and Mr. Hurst replied that the intent was to already have those there. City Attorney Brian Albright pointed out there are five lots and asked if he would be willing to include that in the Bill of Assurance that could be filed with the subdivision requiring such a turnaround pad, and Mr. Hurst replied that would be no problem. City Attorney Brian Albright asked if he was aware of the Rules of the Road that this is a state highway and whether the Zoning Code prohibits it or not, state law prohibits the backing out of a driveway onto a State highway. Mr. Hurst said he has no problem with putting that in there.

Director Maruthur asked if he was aware of a ruling that was made on Emory Street with a six-lot subdivision that required sidewalks, curbs and gutters; and Mr. Hurst said that he was not aware of that. Director Maruthur stated that in the ETJ, on Marion Anderson Road, the City required one curb cut for five lots in a subdivision. She added on Mapleleaf at Shady Grove, the City required sidewalks, curbs and gutters. She asked if he was aware that sidewalks need to start somewhere, and a subdivision with five different homes, that perhaps those individuals could enjoy the sidewalks and begin a lifestyle of exercise and walking. Mr. Hurst commented those are distinguishable from this property in that they are not going to be exercising on Park Avenue. He added he believes that is somewhat distinguishable that this piece of property and its location is almost in the County on Highway 5.

Director Maruthur asked if he read the Planning Commission minutes and the rationale behind the determination made by the Planning Commission according to the City's Code of Ordinances, and Mr. Hurst replied that he read the transcript of the meeting. Director Maruthur asked if he believes in compliance with the City's Code of Ordinances, and Mr. Hurst said that he did. He added that when reading the ordinances or statutes, he looks to the intent of those rules and ordinances, etc.; and he believes individuals from B&F commented on this when they wrote the appeal that it be a new road, the construction of new roads; but where this is located on Park Avenue is not a new road. Director Maruthur asked if he was aware of the potential widening of this to a four-lane, and Mr. Hurst replied that he was not. She asked his feelings about inconsistent votes or noncompliance pointing out it is not compliant with the City's Code of Ordinances. Mr. Hurst stated that he has to look at what the intent of the ordinance is, and he believes that it was the intent that when building a new road that there be compliance with sidewalks, gutters, etc. He added it is not to be placed on a road that already exists such as Park Avenue, and he did not believe it would be violating the ordinance. Director Maruthur asked if he thought having more than one driveway would increase the risk of an accident, and Mr. Hurst stated he did not feel it would. He

added there would be a turnaround so no one will be backing out onto Park Avenue but will be pulling onto Park Avenue as they would off any side street that is on Park Avenue. Director Maruthur commented if someone were speeding on Park Avenue; and there are five, that is a higher risk than one. Mr. Hurst stated if all five pulled out at one time, but he does not see there is a risk. He mentioned he did not think there is going to be an increased risk of an accident from someone traveling Park Avenue because there is going to be three extra driveways off Park Avenue. Director Maruthur asked if there was a possibility or probability of everyone leaving at one time, and Mr. Hurst replied there is a possibility. Director Maruthur asked if that would not increase the risk to public safety, and Mr. Hurst said he did not think any more than pulling off any street off Park Avenue; and there is the possibility of an accident. Director Maruthur commented there are more people leaving at one time is the point and that is the rationale behind the vote from the Planning Commission.

Director Keheley said her earlier statement was an amendment to the resolution.

City Attorney Brian Albright advised there are four conditions under the resolution that would approve this preliminary plat. He asked Director Keheley if her motion will be adding a condition No. 5 to include a turnaround pad being required on each lot; and if a Bill of Assurance is required, that it be included as well. Director Keheley replied that was correct. Director Ramick seconded the motion.

Director Ramick questioned the conditions, and City Attorney Brian Albright stated that the right-of-way dedication shown on the preliminary plat across the entire frontage, which is ten feet; (2) the Planning Director shall be authorized to sign the preliminary plat and development plans according to the Code and no infrastructure/and or public improvement construction shall commence until the preliminary plat has been so executed, if any; (3) all construction is to be accomplished in accordance with all applicable construction codes; and (4) sale of lots shall not occur and no construction-related permits shall be issued until a final plat meeting the requirements of the Code has been submitted and approved by the Planning Director.

Director Daniel said that Director Maruthur had mentioned the widening of Park Avenue, which he was not aware of and may happen someday. He questioned if that is going to be happening, then why would the City want to make them build a sidewalk when it is widened and then it would have to be torn up and a new sidewalk built.

Mayor Bush pointed out that it may never be widened.

Director Maruthur said this is in her district, and she has safety concerns and would like to hear from Mr. Gary Threadgill, who serves on the Planning Commission.

Mayor Bush said there is a motion and second on the floor to amend the resolution by adding Condition No. 5, which is to include a turnaround pad being required on each lot; and if a Bill of Assurance is required, that it be included as well; and upon roll call, the following voted "aye": Directors Keheley, Weatherford, Ramick, Daniel, total 4. Voting "no": Directors Maruthur, Jones, and Bush, total 3; motion carried.

Director Maruthur asked the City Attorney to define an adopted ordinance and also asked to hear from Mr. Gary Threadgill. City Attorney Brian Albright replied that it would depend on the type of ordinance that she is referring to. He added some have penalty provisions associated with them and some are just administrative-type ordinances. He explained the type of ordinance being discussed tonight is a subdivision planning ordinance that is recommended by the Planning Commission and approved by the Board. He stated it is the local law and is akin to an act passed by the State Legislature; and when the State Legislature passes an act, it becomes a statute. When the local City Board or City Council passes an ordinance, it gets codified in the City's Code of Ordinances.

Director Maruthur said in lay terms, this is the City's local law that has been approved by this Board, and people are either in compliance or are in violation of compliance with it. City Attorney said that depends on what the ordinance says.

Director Maruthur read her personal opinion that if the Board wants to change the ordinances, then it should do so. She said it is her personal opinion and partially the opinion of the City Attorney that somebody is in compliance or violation according to what the ordinance is. She pointed out according to the Board Packet, there was a unanimous decision by the Planning Commission; and staff's recommendation is to reject this tonight. She added it is in violation of the Hot Springs Code of Ordinances. She mentioned there is a right-of-way dedication (Exhibit T-3 of the Comprehensive Plan) and the City's Specification Ordinance, and classification table classifies Park Avenue as a highway with a recommended right-of-way of 80 feet. Section 15-10-6 of the Street Code Specifications Ordinance right-of-way states that additional right-of-way may be required in certain instances where no street construction or improvements are proposed either for eventual extension or improvements of the street to bring the existing right-of-way into conformance with the Master Street Plan and Comprehensive

Plan. She mentioned that Planning and Development Director Kathy Sellman stated this is consistent with the adopted Comprehensive Plan Future Use Land Plan and the proposed expansion for the highway, and the sidewalks are required by this specific ordinance. She stated the preliminary plat illustrates that Park Avenue currently has 60 feet of right-of-way, which is 20 feet less than recommended. The preliminary plat indicates that the applicants intend to dedicate the additional right-of-way to accommodate the stated 80 feet right-of-way requirement by means of dedication to a ten-foot strip along the entire frontage the subject property has along Park Avenue. She noted this dedication would provide one-half of the necessary right-of-way to comply with the 80-foot right-of-way. She said the items that are reprinted from Title 15 Street Specifications are 15-10-14.1 street segment Highway 7 (north boundary to Whittington); number of traffic lanes indicates continuous center turn lane; pavement width 60 feet; number of parking lanes - zero; curb and gutter - yes; right-of-way - 80 feet. Section 15.10.24 - Curbs, Gutters and Sidewalks are required, and under Section C - major collector and arterial streets shall have a minimum of four- feet wide sidewalks on each side of the street. All streets within 500 feet of a church, school or assembly building with the capacity of 100 or more people shall have five- feet wide sidewalks on both sides of the street. She pointed out this comes from the approved ordinances, street, comprehensive plan, and documents that the Board has approved. As the Director of this area and in looking to the future, she urged that the Board go with the decision of the Planning Commission and begin to comply with and consider and weigh the request of the City Director of an issue; also the Planning Commission, and what the Board adopted as local law. She asked Mr. Gary Threadgill to give a review of what happened in the Planning Commission meeting.

Mayor Bush asked what the vote was at the Planning Commission meeting, and Mr. Threadgill stated it was a unanimous vote. Mayor Bush asked if he wanted to send it back to the Planning Commission, and Mr. Threadgill said the issue has been made that the Planning Commission requested that there be one access off the property and sidewalks in compliance with what ordinances the City has, and it is their responsibility to do that. He said the Commission asked for those and sent it to the Board with those requests.

Director Weatherford asked how many businesses within the last three years has the Planning Commission not required sidewalks, and Mr. Threadgill said that he could not answer that. Director Weatherford pointed out that the fairgrounds did not put sidewalks all away around their property, and Mr. Threadgill replied that was for a reason. Director Weatherford stated that the church across the street has no sidewalks

nor does the fire station. He added that is all over town, not just one area that does not have sidewalks.

Mr. Threadgill explained that in the past there have been areas that have not been done; but if the Commission does not start, then it will never get them. He said that more and more, there are complaints on why there are no sidewalks.

Director Weatherford questioned why they did not do it for all 700 feet instead of just 200 feet, and Mr. Threadgill said his intention was that it was all to be done. However, under the Code, it states 500 feet of a church; and his intention was the entire length of the parcel be done.

Director Daniel questioned why the church across the street did not have it, and Mr. Threadgill said they were never made to; and a lot of it was done prior to ordinances.

Director Daniel questioned the state highway regulation, pointing out that Higdon Ferry Road is getting ready to be four-laned; and if the City is going to do this, then that means everything out there has to be, in some cases, five feet; and building has to have four-foot sidewalk on each side of the road.

City Attorney Brian Albright advised that he still thinks that Section 15-10-24 only applies to new streets and does not apply to existing streets, such as Park Avenue.

Mr. Threadgill stated they have made them do up and down Albert Pike where all the new development is located. City Attorney Brian Albright stated that the Planning Director did not make that part of her recommendation to the Planning Commission when she brought it to them in the interim. Mr. Threadgill said he is not sure what the request was at the meeting.

Director Ramick questioned who is going to be responsible for putting the sidewalk on the other side of the street if the City is going to strictly follow the code; and Mr. Threadgill replied when they develop that property, it will come in at that time. Director Ramick commented that the code says "all streets within 500 feet of a church, school, or any assembly building with a capacity of 100 or more people shall have a minimum of five-foot wide sidewalks on both sides of the street." He asked if the City is going to follow that, and Mr. Threadgill replied when they develop the parcel on the other side of the street, they would have to come into compliance at that time.

Director Maruthur commented the City cannot make things retroactive and cannot go back and undo things that were not in place at the time they were developed. However, there is a country club close by, and there is a subdivision that is being developed with one entry just down the street that was recently annexed into the city. She noted there are a lot of public safety concerns about this, and the City needs to look to the future, not use the past as a crutch. She said many mistakes were made in the past, but it does not mean those mistakes are repeated. She urged the Board to waive the considerations for the people who work over there and not put them at risk. She said the City needs to go forward and lay the groundwork for the future of Park Avenue, whether it is a new highway or not; and is the old Little Rock Highway, but this is 2009. She urged the Board, as a representative of those people and their interests and the public safety, to be consistent and move forward and make good things happen that are beneficial to the public.

Mayor Bush commented that everyone is in favor of safety, and Mr. Ramick said he believes the Board is in favor of safety and thinks the 200 feet of sidewalk is not going to be safe. He added if the City is looking to the future and Park Avenue is going to be widened, then he questioned why a sidewalk is going to be put in that will later be torn out.

Director Maruthur stated that it is done for the centerline in compliance to what the four-lane would provide and then put the sidewalk there. She said it would not be torn out and would be there for the residents to use. Also, it would help with drainage, curbs and gutters; would provide safety and security; and a healthy lifestyle. She urged the Board to go by these ordinances. She said she is asking that the Board adhere to the decision of the Planning Commission and the recommendation of the staff and to do the right thing and enjoy this development according to the conditions that were already placed on it.

Mayor Bush then called for a vote on the motion to adopt the resolution; and upon roll call, the following voted "aye": Directors Weatherford and Ramick, total 2. Voting "no": Directors Jones, Keheley, Daniel, Maruthur, and Bush, total 5; motion failed. Whereupon the resolution was declared failed.

City Attorney Brian Albright advised that the appeal failed and the decision of the Planning Commission is upheld.

11 Proposed Resolution No. R-09-7

A resolution entitled, "A RESOLUTION APPROVING AN AMENDMENT TO PRELIMINARY SUBDIVISION PLAT TO DEVELOP SEVEN COMMERCIAL LOTS ON 11.89 ACRES BEHIND THE 4000 BLOCK OF CENTRAL AVENUE FOR CENTRAL CROSSING, PHASE II," 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, advised that a "yes" vote on this resolution would grant preliminary subdivision approval with conditions to develop seven commercial lots on just under 12 acres; and the land is located on Central, approximately behind Olive Garden and Buffalo Wild Wings. She said this is an area that has been partially developed with commercial in the past. This is Phase II, and the project is called Central Crossing. The appellant is Ray Owen, Jr., who is representing the owner, Mr. Tommy Hodges for Otter Creek Land Company. This plat was heard by the Planning Commission at its December 11, 2008 public hearing. The staff report at that time recommended approval with conditions; and after duly advertising and holding its regular monthly meeting, the Planning Commission denied the preliminary plat. There were two votes for and three votes against. Those voting against were Planning Commissioners Raney, Clopton, and Threadgill. The Planning Commission did not make findings in support of that denial. The applicant is requesting that the Board reverse Planning Commission's denial of the preliminary plat, and the applicant is seeking approval with staff findings and conditions as originally presented to the Planning Commission. The applicant is volunteering an additional condition that would prohibit direct access to Files Road from Lots 7 and 8. The recommendation on this issue is to approve this resolution on accepting the additional condition that the applicant is proposing and that the condition is better than an existing preliminary plat that is approved but has not been finalized.

Director Ramick questioned the basis for denial, and Ms. Sellman advised there was no stated basis for denial.

Attorney Ray Owen, Jr., law office located at 209 Hobson, representing the owner of this property, said he is asking for adoption of the resolution to approve an amendment to the Central Crossing Commercial Subdivision preliminary subdivision plat. If approved, they plan to submit a final plat as soon as possible. He stated they had this preliminary plat approved last year and came in to make this one amendment because there was one reason to do so. He explained in the center of this plat, there is a large lot (Lot 3) and one of the customers, the Purple Cow, wants to have their own

lot; therefore, they would like to divide Lot 3 into two lots (a large lot and a small lot). He said that is what they submitted and was the basic change. He mentioned there was another small moving of the lot line, but it did not make any difference to speak of. He said that is what they submitted even though they already had a preliminary plat approved, but the Purple Cow wants their own lot. He explained that was the only real change in the amended plat compared to the one that was already approved a year earlier and had worked very closely with the Planning Commission. He said they dedicated a new road inside this subdivision and will have sidewalks on it. Also, they will have sidewalks on Lots 7 and 8 all the way up to the Files Cemetery. Next to the cemetery on the other side, is the large power station (substation), and there is an individual lot by itself, which is Lot 9 on Files Road, but cannot access it within the subdivision and cannot change the grade to a lot in that easement. Therefore, within that subdivision, they cannot access by vehicle going within there to Lot 9, which is a freestanding lot. He said they have accommodated the needs and the wishes of the Planning Commission staff, and they are in favor of this. However, he did not know why the Planning Commission turned it down. He requested that the Board approve this amended preliminary plat with the conditions, including the condition that they added, which is no extra vehicular access directly to Lots 7 and 8 off Files Road.

Director Maruthur commented that the substation would, by granting this road, provide some more activity that would secure that substation and could protect the substation instead of it just being isolated. Mr. Owen commented when this commercial subdivision is finally developed, there will be more people around there. He added this will be a benefit to the City in many ways. Also, they are looking at another 25,000 plus square feet of commercial to put in after this project is underway.

Mayor Bush then called for a vote on the motion to adopt; and upon roll call, the following voted "aye": Directors Maruthur, Jones, Keheley, Weatherford, Ramick, Daniel, and Bush, total 7; motion unanimously carried. Whereupon the resolution was declared adopted.

12 Proposed Ordinance No. O-09-1

An ordinance entitled, "AN ORDINANCE AMENDING THE ZONING CODE OF THE CITY OF HOT SPRINGS, ARKANSAS, BY REZONING PROPERTY AT 236 WHITTINGTON AVENUE FROM C-4, REGIONAL COMMERCIAL/OPEN DISPLAY DISTRICT, TO C-TR, COMMERCIAL TRANSITIONAL DISTRICT," 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 Weatherford, duly seconded by Director Ramick, that the ordinance be passed as read.

Upon discussion, Ms. Kathy Sellman, Planning and Development Director, advised that the applicant is the City of Hot Springs Board of Directors; and this is a piece of land that the City has been approached about declaring surplus. In earlier discussion regarding that land, she stated the Board indicated a desire to seek a lower intensity commercial zoning for that land prior to considering whether or not to sell it. At that time, the Board asked for C-TR, Commercial Transitional District, to be considered. At the present time, it is zoned C-4, which is the most intense of all the commercial zoned districts. The staff finding to the Planning Commission is that the existing character of the historic neighborhood is residential, institutional, and tourist commercial. The rezone request is consistent with the Comprehensive Plan Future Land Use Map designation of commercial and the Park/Whittington Neighborhood Plan designation as a future neighborhood center. Therefore, a change that would continue commercial zoning, such as C-TR, would be consistent with the objectives of the Zoning Code and plans adopted by the Commission. The Planning Commission's recommendation was to accept the staff's conditions and unanimously recommends that the Board approve the ordinance rezoning this area to C-TR.

Mr. Mark Toth, 110 Montclair Lane, said he is in favor of the rezoning. He commented the lot is uniquely located in the City and is near the Arkansas School for Mathematics, Sciences and The Arts; it is near multiple churches; it is near the downtown historic district; and it is the entrance to the residential area along Whittington Avenue. He stated the site was originally going to be used for the Garland County Veteran's Memorial; so at one time, the plan was to make it a memorial or park. He stated the Zoning Code says that under commercial transitional zoning, all nonresidential uses of the property shall be subject to review and approval by the Planning Commission. He added any commercial development on that property, once it is zoned Commercial Transitional, has to be approved by the Planning Commission; and that allows the citizens to know what is being built and have some input. Given its location, he said he believes the citizens in that area want to be able to have some input as to what could be placed there. He pointed out if it should be zoned C-1 or C-2, many different types of businesses could be put there, such as bars, lounges, taverns, gas stations, massage parlors, night clubs, dance halls, a communication tower, and

tattoo parlors. He said he does not want those in his neighborhood nor do the citizens. He requested that the Board approve the rezoning to Commercial Transitional.

Director Maruthur said his one point about a liquor store, that would not happen only because of its proximity to churches and schools. Mr. Toth said some of these might be eliminated because of where they are located, but his point is that the citizens would not have any input as to what is placed there. He added if the setback is sufficient and the side is sufficient, they would have no input. However, if it is commercial transitional, the citizens have a right to go the Planning Commission and voice their opinion.

Mr. Elijah Harris, 316 Quail Creek Road, speaking as a member of the Trustee Board of Roanoke Baptist Church, stated originally, they had some reservations about the C-TR designation primarily because of some of the things that were included (only 20 percent of the land could be used for actual building). However, after further consideration, they have no objection to that and support the C-TR. He added they would request that the City consider this surplus property and put it up for sale for members of the community to consider.

Ms. Dorian Flanders, 303 St. George, said she is speaking on behalf of the Whittington Valley Neighborhood Association for whom she serves as secretary. She stated they are over 20 years old and exist to promote and preserve what is best in the small and historic community known as the Whittington Valley. She stated they have over the past 20 years taken an interest in various zoning decisions, particularly ones that have the potential to affect the entire neighborhood. She commented the Whittington Valley Neighborhood Association completely supports the Planning Commission's recommendation to rezone this to C-TR and urged the Board to approve their recommendation.

Mayor Bush then called for a vote on the motion to adopt; and upon roll call, the following voted "aye": Directors Maruthur, Jones, Keheley, Weatherford, Ramick, Daniel, and Bush, total 7; motion unanimously carried. Whereupon the ordinance was declared passed.

13 Proposed Ordinance No. O-09-2

An ordinance entitled, "AN ORDINANCE AUTHORIZING A CONTRACT FOR SERVICES WITH GARLAND COUNTY ECONOMIC DEVELOPMENT

CORPORATION; WAIVING COMPETITIVE BIDDING; AND FOR OTHER MATTERS RELATED THERETO,” was taken from the agenda for consideration.

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

Upon discussion, City Manager Lance Hudnell pointed out this item and the next item, as well as the two removed from the Consent Agenda, are the annual contracts that have been approved for a number of years with these organizations; and the funds for these were included in the 2009 budget as previously approved by the Board.

Mayor Bush then called for a vote on the motion to adopt; and upon roll call, the following voted “aye”: Directors Maruthur, Jones, Keheley, Weatherford, Ramick, Daniel, and Bush, total 7. motion unanimously carried. Whereupon the ordinance was declared passed. **(Note: Director Maruthur had “abstained” and changed her vote to an “aye”** after the following comments:

Director Maruthur explained that she abstained because it has become a political organization. She asked if it was part of the Chamber of Commerce, and Mayor Bush advised that it was not. Director Maruthur asked if they will be participating in any PAC (Political Action Committee), and City Attorney Brian Albright advised that they have not formed a PAC. Also, this is not the Chamber. Director Maruthur said that she wanted to clarify that. Therefore, she changed her vote to an “aye.”

14 **Proposed Ordinance No. O-09-3**

An ordinance entitled, “AN ORDINANCE AUTHORIZING A CONTRACT FOR SERVICES WITH THE HOT SPRINGS BOYS AND GIRLS CLUB; WAIVING REQUIREMENTS OF COMPETITIVE BIDDING; AND FOR OTHER PURPOSES,” 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 Daniel, duly seconded by Director Jones, that the ordinance be passed as read; and upon roll call, the following voted "aye": Directors Jones, Keheley, Weatherford, Ramick, Daniel, and Bush, total 6. Voting "no": Director Maruthur; motion carried. Whereupon the ordinance was declared passed.

15 Consider Approval of Board of Directors Travel to National League of Cities Conference in Washington DC in March 2009 for Directors Jones, Keheley, Ramick and Daniel

A motion was made by Director Daniel, duly seconded by Director Ramick, that the Board Travel to the National League of Cities Conference in Washington DC in March 2009 for Directors Jones, Keheley, Ramick, and Daniel, be approved.

Upon discussion, Director Daniel said this is the one trip that all of the new members of the Board need to attend, pointing out the importance of having one-on-one meetings with the legislators. He stated he wanted the citizens to understand that of all of the money that is spent for Board activities, this is the one conference that means the most for the City because this is where the Directors make their contacts and is where they meet people from other cities and learn what they are doing.

Mayor Bush stated he appreciates those who want to attend and represent all the citizens of the community.

Director Jones asked that the City Manager explain some of the issues they will be discussing, and City Manager Lance Hudnell said one of the hot topics this year will be the economic stimulus package, as well as the economy in general with regard to how cities are dealing with various impacts of less sales tax, and infrastructure programs.

Director Maruthur commented it is important that the City have representation because this is for the economic stimulus package; however, at the cost of \$2,500 for each Board Member to attend, she made an amendment to the motion to limit the travel to the two new Board Members (Director Keheley and Director Ramick) and City Manager Lance Hudnell, which will be adequate representation. She pointed out the City could save \$5,000 by limiting the travel.

There being no second to the motion to amend, the motion died for lack of a second.

Mayor Bush then called for a vote on the motion to approve the Board travel to the National League of Cities Conference in Washington DC in March 2009 for Directors Jones, Keheley, Ramick, and Daniel; and upon roll call, the following voted "aye": Directors Jones, Keheley, Weatherford, Ramick, Daniel, and Bush, total 6. Voting "no": Director Maruthur; motion carried.

7 Proposed Resolution No. R-09-3

A resolution entitled, " A RESOLUTION AUTHORIZING A CONTRACT FOR SERVICES WITH THE GREATER HOT SPRINGS CHAMBER OF COMMERCE FOR RETIREMENT RELOCATION PROGRAM," was taken from the agenda and read by title only.

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

Upon discussion, Director Maruthur stated that in a Sentinel-Record article on December 20, the Hot Springs Chamber of Commerce had it cleared before the Ethics panel to form a Political Action Committee. She said it addressed many projects that would come before the City, one of them being the jail expansion effort. She mentioned that it refers to the Chamber wanting to support political candidates. She commented because of this, she did not think it is proper for a person who has been elected by the people to support a public organization; also if people meet the qualifications, they can join the Chamber and are going to support a political candidate. She said she cannot allow herself to vote because of that reason. She added that she made a call and wants to participate and see a jail expansion happen.

Mayor Bush said this retirement relocation program is a Contract for Services the City has participated in for 10 or 15 years, and it is a \$12,500 item. He stressed it is not involved in the political area but sends retirement packages to those individuals who want a retirement package about Hot Springs. He commented it has been very successful; and in his opinion, he does not believe it has anything to do with a Political Action Committee. He said he believes the committee will be like Fifty for the Future, in which individuals can join if they so choose.

Director Maruthur commented that Fifty for the Future does not receive funding from the City, and she does support those things. She commented she does not know enough about it to determine if the funds are separate, and Mayor Bush commented

that it is different. He added he would have Mr. Byerly contact her regarding this, and Director Maruthur said that she has high regard for Mr. Byerly and contacted him about participating in the jail expansion effort. However, supporting candidates puts the Chamber in a different category, and she does not know where the separation is. Therefore, she is going to vote against it.

Mayor Bush then called for a vote on the motion to adopt; and upon roll call, the following voted "aye": Directors Jones, Keheley, Weatherford, Ramick, Daniel, and Bush, total 6. Voting "no": Director Maruthur; motion carried. Whereupon the resolution was declared adopted.

8 Proposed Resolution No. R-09-4

A resolution entitled, "A RESOLUTION AUTHORIZING AN AGREEMENT WITH THE GREATER HOT SPRINGS CHAMBER OF COMMERCE FOR ECONOMIC AND BUSINESS DEVELOPMENT," was taken from the agenda and read by title only.

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

Upon discussion, Director Daniel questioned the difference between the agreements with the Chamber, and City Manager Lance Hudnell advised that this one is used for mailing purposes for answering certain types of inquiries regarding business development. It is different than what GCEDC does with regard to industrial improvements. This has to do with inquiries to the Chamber and the other one has to do with the economic development.

City Attorney Brian Albright explained there were four contracts for services that were considered by the Board. Item No. 7 and Item No. 8 were the items that Director Maruthur asked to be moved from the Consent Agenda to New Business, and they were on the Consent Agenda due to the amounts involved and the other two were on New Business.

Director Maruthur commented that she is critical with their future participation with Political Action Committee and supporting of candidates on principle; therefore, she is going to abstain.

Mayor Bush then called for a vote on the motion to adopt the resolution; and upon roll call, the following voted “aye”: Directors Jones, Keheley, Weatherford, Ramick, Daniel, and Bush, total 6. Abstaining: Director Maruthur; motion carried. Whereupon the resolution was declared adopted.

OTHER BUSINESS

16 Board of Directors Items

Director Jones announced that the MLK Prayer Breakfast will be held on Saturday, January 17, 2009, at Horner Hall. The parade will be held on that Monday with activities following. She urged that everyone participate in the parade.

Director Maruthur pointed out the time for the MLK Prayer Breakfast has changed and will be held at 8 a.m. She announced an account has been set up for fallen firefighter Gene Yarbrough, and anyone who would like to contribute to the family may contact the downtown Regions Bank. She stated if citizens would like to participate in CodeRED, they may call the Administrative Assistant, Paula Brown, at 321-6861 to sign up.

17 City Manager’s Report

City Manager Lance Hudnell gave the following report:

1. The St. Patrick’s Day Parade is on the night of the March 17 Board Meeting and questioned if it would be the Board’s desire to move to a Monday meeting. Director Ramick also pointed out that is when four of the Directors will be in Washington DC. City Manager Lance Hudnell said that he will work with the Board on a different date for the Board Meeting.

2. He asked that the Board contact Margaret Parris, executive secretary, and let her know if they will be attending the MLK Breakfast.

3. The Board received an e-mail from the Arkansas School for Mathematics, Sciences, and The Arts regarding hosting a breakfast for the Board on January 29. The Directors needs to contact Margaret Parris if they can attend.

4. The Arkansas Municipal League Convention will be held next week.

5. Hot Springs will host a 24-member student delegation from Sister City Hanamaki, Japan, from January 10 through 14. The delegation works with students in the Hot Springs, Lakeside, Jessieville, and Fountain Lake School Districts to pursue environmental studies on water quality and water supplies in their respective cities. The Board has two activities – one at noon on Monday, a lunch at Rolando’s, and a farewell dinner on Tuesday night, at 5:30, Lakeside School.

18 ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 8:30 p.m., to meet again on Tuesday, January 20, 2009, at 7:00 p.m.

ATTEST: _____

APPROVED: _____

Lance Hudnell, City Clerk

Mike Bush,

Mayor