

MINUTES

BOARD OF DIRECTORS MEETING

NOVEMBER 17, 2009, AT 7:00 P.M.

The regular meeting of the Board of Directors was held on Tuesday, November 17, 2009, at 7:00 p.m., Board Chambers, City Hall, with Mayor Mike Bush presiding.

The invocation was given by Ms. Trish Tucker, 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, Pat McCabe, 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 November 3, 2009 Board Meeting

A motion was made by Director Maruthur, duly seconded by Director Ramick, that the minutes of the November 3, 2009 Board Meeting be approved; and upon voice vote, the motion unanimously carried.

4 Recognition of Guests

No guests were present for recognition.

5 Board of Directors Announcements

Director Keheley stated during the operation of Clean Sweep in the Greenwood Avenue area of District 3, there was a homeowner on Greenwood who was given two citations. However, due to serious health issues including the recovery of a gunshot wound from a home burglary, he was unable to clean his property. She stated when learning of this situation, Mr. Doug Baber, who lives on Orchard Street and a local volunteer with the Area Agency on Aging and a member of Grand Avenue United Methodist Church, volunteered his personal time to bring this citizen's property into compliance. She expressed appreciation to Mr. Baber.

Director Daniel reported on Tuesday, November 24, there will be the lighting of the lights downtown sponsored by the Downtown business and professional people. Mr. Ned Perme, from Channel 7, will be present to turn the lights on during his 6 p.m. broadcast. He added there will also be a chili cook-off, starting at 4 p.m., with about 24 to 26 entrants. He said the lights start at Hill Wheatley Plaza and will go up through Arlington lawn and down the other side of the street. Also, there will be lighting on the tree at the fountain, on the Parking Plaza, and the cascading water. He urged people to tell the merchants that they are appreciated.

CONSENT AGENDA

The Consent Agenda consisted of the following:

6 **Public Safety Report** (November 3, 2009).

7 **Proposed Resolution No. R-09-244** Approving Certain Bid Awards (a) Polymer - Utility Administration [annual supply contract awarded to Polydyne]; (b) 60 hp pump - Utility Administration [awarded to Jack Tyler Engineering in the amount of \$32,420]; (c) Chart Recorders - Utility Administration [awarded to Centro, Inc. in the amount of \$24,818.60].

8 **Proposed Resolution No. R-09-245** Awarding a Contract to Garver Engineers for Engineering Design Services (Davidson Drive Wastewater Treatment Plant Expansion).

- 9** **Proposed Resolution No. R-09-246** Awarding a Contract to Garver Engineers for Engineering Services (Phosphorus Removal at the Davidson Drive Wastewater Treatment Plant).
- 10** **Proposed Resolution No. R-09-247** Allowing the Disposal of Certain Waste Items by Commercial Operations at the City of Hot Springs Compost Facility on an As-Needed Basis; and Repealing Resolution No. 7221.
- 11** **Proposed Resolution No. R-09-248** Appropriating Funds from Garland County 911 Fund to 2009 Traffic Expense Budget.
- 12** **Proposed Resolution No. R-09-249** Authorizing the Mayor to Execute Amendment no. 1 to the Contract with Economists.com for Consulting Services Related to the Wastewater Bond issue, Series 2009.
- 13** **Proposed Resolution No. R-09-250** Approving the Extension of Hot Springs Municipal Water and Wastewater Service to a 218-Unit RV Park off Shady Grove Road.
- 14** **Proposed Resolution No. R-09-251** Approving the Extension (600 feet) of Hot Springs Municipal Water Service to a 24-Unit Development on Thornton Ferry Road.
- 15** **Proposed Resolution No. R-09-252** Extending an Agreement with Jordan, Woosley, Crone and Keaton, Ltd. for Audit Services for the City of Hot Springs, Arkansas.
- 16** **Proposed Resolution No. R-09-253** Extending an Agreement with Penn Credit Corporation for Collection Services for the City of Hot Springs, Arkansas.
- 17** **Proposed Resolution No. R-09-254** Extending an Agreement with Summit Bank for the Provision of Certain Banking Services for the City of Hot Springs, Arkansas.

- 18** **Proposed Resolution No. R-09-255** Extending an Agreement with US Bank for Certain Credit Card Processing Services for the City of Hot Springs, Arkansas.
- 19** **Proposed Resolution No. R-09-256** Extending a Contract with Southwest Employee Assistance Program for the Provision of Employee Assistance Services.
- 20** **Proposed Resolution No. R-09-257** Extending a Contract with MetLife Travelers for Group Life and AD&D Insurance.
- 21** **Proposed Resolution No. R-09-258** Extending an Agreement with Choicepoint Services, Inc. for the Provision of Drug and Alcohol Testing Services.
- 22** **Proposed Resolution No. R-09-259** Extending an Agreement with Family Medicine Clinic for Physical Exams for Uniformed Police and Fire Employees and Applicants of the City of Hot Springs, Arkansas.
- 23** **Proposed Resolution No. R-09-260** Extending an Agreement with IMWell Health for Wellness and Disease Management Services.
- 24** **Proposed Resolution No. R-09-261** Extending a Contract with Delta Dental for the City of Hot Springs Self-Insured Employee Dental Insurance.
- 25** **Proposed Resolution No. R-09-262** Approving a Contract Addendum Number One with First Transit, Inc. and Extending the Agreement for an Additional Term (2010).
- 26** **Proposed Resolution No. R-09-263** Confirming the Appointment of Dennis L. Bosch to the Housing Authority.

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

Upon discussion, Mayor Bush recognized Mr. Kenneth Norling, 131 Phillips, speaking in opposition to Item 09-114 of the Public Safety Report.

Mr. Norling spoke in regard to the installation of a crosswalk across Albert Pike at Baber. He distributed photos of the area indicating a crosswalk was there but is not marked. He said the businesses and employees are in agreement there should be a crosswalk, as well as residents in the neighborhood. He added they use this crosswalk to go to McDonald's, Taco Bell, banks, etc. He pointed out there is a 35 mph, but many times motorists do not follow that speed limit.

There being no further comments on this item, Mayor Bush recognized Mr. Chris Reimers, speaking on Item No. 15 of the Consent Agenda (Extending an Agreement with Jordan, Woosley, Crone and Keaton for Audit Services).

Mr. Chris Reimers, 111 Squawvalley Trail, said he has heard that the County gets its auditing services done for free from the State. He stated if that is true, he would recommend that the City ask the State to audit the City's for free.

City Attorney Brian Albright advised that is the Joint Legislative Audit, which audits all governmental entities, both County and City. He stated the City is audited by them as well, but this is an independent audit to make sure everything is clear before it goes that far.

Mr. Reimers asked why the audit of the State is not trusted, and City Attorney Brian Albright advised that it is not a full audit. He added they do not inspect the books but just audit the documents that are submitted.

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

NEW BUSINESS

27 Proposed Resolution No. R-09-264

A resolution entitled, "A RESOLUTION LEVYING _____ MILLS OF AD VALOREM TAXES FOR THE PURPOSE OF PAYING THE GENERAL FUND," was taken from the agenda and read by title only.

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

Upon discussion, a motion was made by Director Keheley, duly seconded by Director McCabe, that the resolution be amended to include levying zero mills of ad valorem taxes for the purpose of paying the General Fund.

Director Maruthur asked City Attorney Brian Albright to review the timeframe, such as how often the Board can do this and if the Board can change it.

City Attorney Brian Albright advised this has to be addressed every year. He explained that Article 12, Section 4, of the Arkansas State Constitution and Arkansas Code Annotated §26-25-102 authorize cities to assess a millage from zero up to five. He added it can be any denomination between zero and five and has to be voted on every year. He stated in the last several years, the Board has levied zero mills.

Director Maruthur pointed out that one mill would bring approximately \$550,000. She mentioned that in 1988, there was an agreement the City would have no property tax if the Board adopted zero mills and left it open to where the Board could have discretion of whether to enact this or not.

Mayor Bush then called for a vote on the amendment; and upon roll call, the following voted "aye": Directors Maruthur, Jones, Keheley, McCabe, Ramick, Daniel, and Bush, total 7; motion unanimously carried.

At this time, Mayor Bush recognized Mr. Chris Reimers, who said that he is speaking in support of levying zero mills. He commented that he signed up to speak against the resolution because there was a blank in the resolution. He added he thought the Board might add five mills in the resolution; therefore, he would speak against it. He thanked Director Keheley for making the amendment to the resolution to include zero mills. He urged the Board to vote for the resolution, as amended.

Mr. Bob Driggers,#3 Stonegate, said he is speaking for the resolution and anticipated that the Board was going to include zero mills in the resolution. However, that is not the only reason he is speaking for it. He commented there are several issues that appear not to be proper, which is having a blank in anything that is provided to the public on notification and waiving the rules. He said this takes away the public's right to comment when there is a motion to waive the rules.

Mayor Bush pointed out that he did not call for waiving the rules on the resolution. He advised when there is a resolution, the Board does not waive the rules. He explained the only reason the Board waives the rules is when there is an ordinance and that is to read it by title only.

Mr. Driggers commented that he has a copy of the resolution which was passed September 19, 1988 (Resolution No. 2377), which sets out the expenditure purpose was to Fire and Police Pension Fund consolidation with the Arkansas Local Fire and Police Retirement System and funding necessary to replace property tax elimination and consolidate local pensions with state system for the long-range benefit of fire and police officers. He said this has been done once already. He suggested that the Board go ahead and ask for the ½ percent or 5/8 percent public safety, as well as adding the one percent Advertising and Promotion Tax that was authorized through the Legislature last year. He said pointed out that A.C.A. §26-73-104, allows the Board to impose a local income tax of one percent on the citizens. He commented if the Board would impose all of these taxes, it would make it much easier to get petitions signed and make the public aware of what is happening.

Mayor Bush asked why he would want to sign a petition, and Mr. Driggers replied that this is in regard to taxes, and Mayor Bush pointed out that the Board is not discussing taxes tonight. He stated that he appreciated Mr. Driggers speaking for zero taxes. Mr. Driggers said that is what he is really doing; but if the Board would go ahead and put all the taxes in there, then it will be easier for the public.

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

28 **Proposed Resolution No. R-09-265**

A resolution entitled, "A RESOLUTION LEVYING _____ MILLS OF AD VALOREM TAXES FOR THE PURPOSE OF PAYING POLICEMEN'S PENSIONS," was taken from the agenda and read by title only.

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

Upon discussion, a motion was made by Director Keheley, duly seconded by Director McCabe, that the resolution be amended to include levying zero mills of ad valorem taxes for the purpose of paying Policemen's Pensions; and upon roll call, the following voted "aye": Directors Maruthur, Jones, Keheley, McCabe, Ramick, Daniel, and Bush, total 7; motion unanimously carried.

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

29 Proposed Resolution No. R-09-266

A resolution entitled, "A RESOLUTION LEVYING _____ MILLS OF AD VALOREM TAXES FOR THE PURPOSE OF PAYING FIREMEN'S PENSIONS," was taken from the agenda and read by title only.

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

Upon discussion, a motion was made by Director Keheley, duly seconded by Director McCabe, that the resolution be amended to include levying zero mills of ad valorem taxes for the purpose of paying Firemen's Pensions; and upon roll call, the following voted "aye": Directors Maruthur, Jones, Keheley, McCabe, Ramick, Daniel, and Bush, total 7; motion unanimously carried.

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

30 Proposed Ordinance No. O-09-41

An ordinance entitled, "AN ORDINANCE ADOPTING MODIFIED REGULATIONS OF FLOODPLAIN MANAGEMENT; REPEALING ORDINANCE NO. 3387; AND AMENDING ORDINANCE NO. 5532; AND FOR OTHER PURPOSES," was taken from the agenda for consideration.

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

Upon discussion, Mr. Denny McPhate, Public Works Operations Director, advised the Department of Homeland Security's Federal Emergency Management Agency (FEMA) conducted a new Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM) in 2008 and completed it in 2009 for the City of Hot Springs and all of Garland County. The new flood maps are digitalized and available on the City's website. He stated FEMA requires all communities participating in the National Flood Insurance Program (NFIP), to approve and adopt new or revised, legally enforceable floodplain management measures in accordance with 44 Code of Federal Regulations Section 60.3(c). He said the these new/revised regulations must reference the FEMA, FIS, and FIRM's, including its effective date of January 20, 2010; and the regulations must be adopted prior to the effective date of the FIRM's and Flood Insurance Study. He advised that failure to modify or adopt new regulations by this effective date will result in the community's being suspended from the National Flood Insurance Program (NFIP). He explained the following sanctions apply if a community is suspended from the NFIP: (1) property owners will not be able to purchase flood insurance policies, and existing policies will not be renewed; (2) federal grants or loans for development will not be available in identified flood hazard areas under programs administered by Federal agencies as the Department of Housing and Urban Development, Environmental Protection Agency, and Small Business Administration; (3) federal disaster assistance will not be provided to repair insurable buildings located in identified flood hazard areas for damage caused by a flood; and (4) federal mortgage insurance or loan guarantees will not be provided in identified flood hazard areas such as those written by the Federal Housing Administration and the Department of Veteran Affairs.

Director Maruthur asked that he explain how many classes there are, where the City is as far as its class, and how this affects the downtown area and any new construction in a flood area. Mr. McPhate advised the City is currently rated a Class 8,

with Class 10 being the highest, which means there is not any discount for insurance premiums. He pointed out that each number as it goes down, the City receives a five percent discount. He stated the new map did not change anything for the downtown area; however, the rates will be going up 7 to 15 percent effective January 20, 2010. To develop in the floodplain areas, if there are substantial improvements, which is 50 percent of the cost of the building, remodeling-wise, they will have to floodproof.

Director Maruthur asked that he explain the basic construction two feet above the floodplain, such as the bank on the corner. Mr. McPhate advised that FEMA requires building at the base flood elevation or above it. He added this ordinance, when it becomes effective, will be two-foot above the base flood elevation.

Director Maruthur said it is a form of flood mitigation; and Mr. McPhate replied that it is, with two foot being the best insurance rate on flood insurance.

Director McCabe commented when he said ten was the highest, that is actually the baseline. He noted that is the worst rating; therefore, eight is better than ten. He questioned Little Rock's class, and Mr. McPhate advised that it is a nine. He mentioned there are about 15 communities that participate in the National Flood Insurance Program, and about 20 percent of them have at least a Class 8. He said no one has lower than a Class 8.

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

31 Proposed Ordinance No. O-09-42

An ordinance entitled, "AN ORDINANCE WAIVING THE REQUIREMENTS OF COMPETITIVE BIDDING FOR THE PROCUREMENT OF FIFTY-FIVE (55) MOBILE LICENSES FOR THE IMPLEMENTATION OF PHASE II OF THE MOBILE DATA TERMINAL PROJECT FOR THE POLICE DEPARTMENT; AND FOR OTHER PURPOSES," was taken from the agenda for consideration.

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

Upon discussion, Police Chief Bobby Southard commented that they have purchased 30 of these licenses; and this is a sole-source provider. He said the Police Department has had the software in place since 2000. He reported that today, he was able to negotiate with the company (Spillman Technologies of Utah) and get the cost down below \$100,000.

Director Daniel asked if Spillman Technologies will have a technician install them, and Chief Southard advised that they send people here to train the City officers.

Director Maruthur pointed out this is the implementation of the MDT (mobile data terminals). She stated they are computers that will be in the police cars and will enable the officers to check information and communicate. She explained this is a waiving competitive bidding ordinance due to the fact that they are the only provider that is compatible.

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

OTHER BUSINESS

32 Board of Directors Items for Discussion

Director Maruthur announced this past week there was a wonderful dedication of the Bill Edwards Financial Center and thanked everyone who participated and to Mr. Jeff Fields, Public Information Assistant, for putting together the wonderful brochure. She said that if anyone is interested in signing up for the CodeRED program, they may contact Ms. Paula Brown at 321-6861. She stated there is an account set up for the family of deceased firefighter Gene Yarbrough at Regions Bank.

Director Jones reported that she attended the National League of Cities in San Antonio, Texas, and the majority of the topics were Going Green and building homes. She said that she went with kids to a “boom-boom” site where they built a playground and also attended one of their work sessions. She noted there were about 200 kids who attended the League of Cities. She commented that the other part of the meeting was how cities are now trying to apply for grants for low-to-moderate income houses. She said most of them are going through the HOME Program and are using the other money for one home a month or however long the money will last them because there is not enough money for how the houses should be done. She stated they are also working on sidewalks in their neighborhoods, but the homeowners are getting together now and doing the sidewalks in their neighborhoods because there is no money available for that. She said that she will give the other half of her report at the next Board Meeting.

33 City Manager’s Report

City Manager Lance Hudnell gave the following report:

1. On December 8, the agenda meeting will be held at 5:00 p.m. instead of 4:00 due to the Board’s participation in the Leadership Hot Springs Program, which will start at 3:40 p.m.
2. The second budget work session will be held on Monday, November 23, at 3:00 p.m.
3. The Board has received information from Public Information regarding activities for Mr. Ichiro Fudai this coming weekend, and the City is honoring him as the first to come here from Japan.
4. The City offices will be closed on November 26 and 27 for the Thanksgiving Holiday.

34 ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 7:40 p.m., to meet again on Tuesday, December 1, 2009, at 7:00 p.m.

ATTEST: _____

APPROVED: _____

Lance Hudnell, City Clerk

Mayor

Mike Bush,