

MINUTES

BOARD OF DIRECTORS MEETING

JUNE 16, 2009, AT 7:00 P.M.

The regular meeting of the Board of Directors was held on Tuesday, June 16, 2009, at 7:00 p.m., Board Chambers, City Hall, with Mayor Mike Bush presiding.

The invocation was given by Mr. Glenn Gallas, 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 Keholey, 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.

Upon discussion, a motion was made by Director Jones, duly seconded by Director Maruthur, that Proposed Resolution No. R-09-159 (Approving the Sale of Certain City-Owned Property in Hot Springs Reservation [236 Whittington], Subject to Certain Conditions, be added to the agenda.

City Attorney Brian Albright explained that the Offer, which was previously received from Terraforma Group, on behalf of Dr. Hill for that property, has been withdrawn. He stated the item that is currently on the agenda is essentially a moot issue if the Board wishes to remove it from the agenda. He said the proposed resolution that Director Jones is referring to concerns an Offer for that same piece of property being tendered by Roanoke Baptist Church.

Director Maruthur questioned when the resolution was printed because this time she has seen the resolution, and City Attorney Brian Albright advised that it was printed today. However, the resolution was not made a part of the Board packet because no one had sponsored it to come before the Board tonight. He noted it was printed today for convenience purposes in the event that someone wanted to place this item on the agenda.

City Manager Lance Hudnell added that staff printed it at the time Director Jones called and asked for it to be placed on the agenda.

Director Maruthur asked if anyone has seen this resolution until tonight, and City Manager Lance Hudnell replied that no one has seen it until it was distributed. Director Maruthur said she wanted that to be on the record.

Mayor Bush then called for a vote on the motion to add Proposed Resolution No. R-09-159 to the agenda; and upon roll call, the following voted "aye": Directors Maruthur, Jones, Kehelley, Ramick, Daniel, and Bush, total 6. Voting "no": Director Weatherford; motion carried.

A motion was then made by Director Kehelley, duly seconded by Director Jones, that Proposed Resolution No. R-09-144 (Approving the Sale of Certain City-Owned Property in the Hot Springs Reservation [236 Whittington], Subject to Certain Conditions, be removed from the agenda (Offer from Terraforma, LLC).

Upon discussion, Director Maruthur pointed out that was at the request of the applicant, Terraforma Group.

Mayor Bush then called for a vote on the motion to remove Proposed Resolution No. R-09-144 from the agenda; and upon roll call, the following voted "aye": Directors Maruthur, Jones, Kehelley, Weatherford, Ramick, Daniel, and Bush, total 7; motion unanimously carried.

A motion was then made by Director Jones, duly seconded by Director Maruthur, to approve the agenda, as amended; and upon voice vote, the motion unanimously carried.

3 Approval of Minutes of June 2, 2009 Board Meeting

A motion was made by Director Daniel, duly seconded by Director Maruthur, that the minutes of the June 2, 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 announced that at the last regular Board Meeting, Director Weatherford raised the question of conflict of interest on an agenda item; and Director Ramick stated he did not understand the conflict of interest issue if a Director accepts money from a group and how he/she can possibly vote on the case. She stated this was in reference to an administrative application for a business name transfer for a city permit. She said to be certain there was no conflict of interest and since there were two Directors who questioned the rule, she followed through the next morning with a staff attorney of the Arkansas Ethics Commission, Ms. Rita Looney, who confirmed that campaign contributions do not themselves create a conflict. She stated it is the person's constitutional rights to receive campaign contributions. Director Keheley at this time passed out copies prepared by the Arkansas Ethics Commission regarding rules of conflict. She added there is no financial or business connection to a business involved, and her vote was clearly not a conflict of interest. She noted on page 3 of the hand-out, there is a re-statement of the Arkansas law. She mentioned that the Board has had Ethics 101 from City Attorney Brian Albright, and now has copies of the rules of conflict from the Ethics Commission.

Director Maruthur expressed appreciation to Director Keheley for doing that research and said she concurs with her comment.

CONSENT AGENDA

The Consent Agenda consisted of the following:

- 6** Public Safety Report (June 2, 2009).
- 7** Budget Transfer - Structural Assessment (ASMSA) [\$7,115].
- 8** Board of Directors Meeting Schedule (July thru December 2009).
- 9** Proposed Resolution No. R-09-147 Approving Certain Bid Awards (a) Curb, Gutter and Sidewalk - Public Works [annual supply contract awarded to ISLAS Concrete]; and (b) Brass Fittings - Utility Administration [annual supply contract awarded to Ferguson Waterworks].
- 10** Proposed Resolution No. R-09-148 Authorizing the Mayor to Execute Addendum No. 1 to the Contract with Grimes Consulting Engineers, Inc. for Rehabilitation of Taxiway "E" and Taxiway "H" at the Airport.
- 11** Proposed Resolution No. R-09-149 Authorizing the Mayor to Execute a Termination Agreement Between the City of Hot Springs, Arkansas, and Weyerhaeuser NR Company for Hangar A-6 at the Airport.
- 12** Proposed Resolution No. R-09-150 Authorizing Filing of an Application with the U. S. Department of Justice Pursuant to the Edward Byrne Memorial Local Justice Assistance Grant (JAG) Program for Certain Law Enforcement Services.
- 13** Proposed Resolution No. R-09-151 Authorizing Revisions to the 2009 Budget by Revising the Authorized Positions in the Parks and Recreation Department.

14 Proposed Resolution No. R-09-152 Awarding a Contract to Engineers, Inc. for Certain Engineering Services (Relocation of Water Facilities to Accommodate Passing Lanes on Highway 270 West).

15 Proposed Resolution No. R-09-153 Approving a Grant Application for the American Recovery and Reinvestment Act (ARRA) Through the Federal Emergency Management Agency 2009 Assistance to Firefighters Fire Station Construction Grant Program.

16 Proposed Resolution No. R-09-154 Authorizing the RNJ Group to Proceed with Phase 2a of a Contract to Survey the Wastewater Collection System.

17 Proposed Resolution No. R-09-155 Approving the Destruction of Certain City Records (Finance, Fleet Service, Animal Services, and Intracity Transit).

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

Mayor Bush recognized Mr. David Steinberg, 208 Bower, who stated his house has been condemned; and he needed a little time to get his personal possessions out. Mayor Bush asked if he had talked to Mr. Bart Jones, and Mr. Steinberg said he talked with him today.

He stated Mr. Jones suggested he speak to the Board and explain that he has been in the hospital for numerous days and needs another week or so to remove his personal possessions. He mentioned that he has spent ten years making videos for Hot Springs and is not in good, physical condition.

Mayor Bush asked if one week would be sufficient, and Mr. Steinberg replied that two weeks at the most. There were no objections from the Board. Mayor Bush requested that City Manager Lance Hudnell talk with Mr. Bart Jones tomorrow regarding this matter.

Mayor Bush then called for a vote on the motion to adopt the Consent Agenda; and upon roll call, the following voted "aye":

Directors Maruthur, Jones, Kehelley, Weatherford, Ramick, Daniel, and Bush, total 7; motion unanimously carried.

NEW BUSINESS

18 Request from Ms. Denise Parkinson Regarding Formation of the Hot Springs Community Garden, a Network of Gardens that Would Reclaim Vacant Lots, Beautify the City, and Provide Outdoor Classrooms and Service Project Venues.

Ms. Denise Parkinson, 3831 Spring Street, said she has been involved in community gardens in Little Rock and has been asking people for quite sometime about the possibility of doing a community garden network. She said that she fell in love with the Whittington Valley and wrote about Tiny Town for a travel magazine, and she thought it was an Americana-type place that would benefit from a community garden. In putting together facts about what a community garden could do for Hot Springs, she said Mr. Pat McCabe, of the Levi Hospital, has agreed to be their business consultant. Also, they have Ted Williams, co-founder of Winrock Farms, who has agreed to be their consultant for their advisory board and the Spa City Foods Co-op director, Rianna Moore, who has agreed to work with her as interim co-director. She said they are meeting this coming Friday with Sylvia Blain, of the Arkansas Local Foods Initiative, so that they can put together their business template. She stated they will be able to work with the Arkansas Local Foods Initiative, which is an outgrowth of the Dunbar Community Garden that has been successful in Little Rock for 15 years and would serve as the issuing agent so they would not have to incorporate separately as a 501(c)(3). She commented the lot at 236 Whittington is perfectly suited for the church to move there, and she would like to respectfully ask the City that while this transition is in effect, they could use the perimeter that fronts Whittington Avenue as their model for what a community garden could look like. She added they could use just the frontage between the existing stone wall and the top of the elevation. She said it would be a living, growing, breathing billboard for the network of community gardens that they envision throughout Hot Springs. She asked that the Board consider forming a committee with Director Maruthur involved. She mentioned she has brought on board the Master Gardeners. Also, the Garland County Master Gardeners

would like to form a committee to specifically focus on a community garden network that they could use to reclaim vacant lots throughout the City. She said she understands that Mr. Bart Jones has a list of those vacant lots; and any kind of committee the City could put together to study which lots would be the most feasible, they would like to start from there. She said that she needed an address so that she can begin grant writing because there are numerous grants available for any sort of educational programs. She noted they have spoken with Garvan Woodland Gardens, and they want to do an educational outreach program to bring children into gardening. She said that she understands Director Keheley was instrumental in securing grant funding for the new Farmers' Market pavilion. She noted she has already spoken with local restaurants, and fresh herbs and heirloom produce are items that people value very highly; and they are willing to pay for them from community gardens, such as the Dunbar Community Garden in Little Rock, which receives \$5,000 annually from the sales of produce, eggs and fertilizer. She stated the City's Greenhouse Network and the Fountain Lake Greenhouse, which is 6,000 square feet, and under the auspices of the Master Gardeners, would be wonderful resources for them to seed propagation and also begin their plants so they could start work over the winter. She said if the Board would consider the 236 Whittington frontage, they would not be in conflict with anything that goes on that lot but would just beautify it so that it would be a demonstration of what could extend throughout the City.

Director Maruthur asked if it would be legally possible to use that property in the interim as a billboard. City Attorney Brian Albright advised that the City can use public property for any public purpose. He mentioned there will be a meeting tomorrow with him, Ms. Kathy Sellman, Planning and Development Director; Mr. Bart Jones, Neighborhood Services Administrator; and Mr. Gerald Harman, Community Development Administrator, to look at vacant property under the HOME Program. He said they can compile a list of vacant lots and hopefully the staff can help Ms. Parkinson prioritize lots that might be best suited for that type of project.

Director Maruthur questioned if the Board needs to take action on this tonight, and City Attorney Brian Albright advised that it does not since this was just a presentation by Ms. Parkinson.

Director Maruthur commented that she would like to be a part of a community garden committee and asked if there would be any objections. Mayor Bush said as far as he is concerned, there would not be. He suggested that she head the committee from the City's perspective, and she and Ms. Parkinson go forward with it. There were no objections from the Board.

19 Proposed Resolution No. R-09-159

A resolution entitled, "A RESOLUTION APPROVING THE SALE OF CERTAIN CITY-OWNED PROPERTY IN THE HOT SPRINGS RESERVATION (236 WHITTINGTON)," 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, Mr. Elijah Harris, 316 Quail Creek Road, was recognized requesting that the City consider selling the property at 236 Whittington Avenue to the Roanoke Baptist Church. He said they are located at 315 Whittington Avenue and have been there for over 130 years. He stated the church is interested in purchasing the land in order to build a new church on that property. He pointed out no one has had any use for the property for over 20 years; but after the church asked the City for an opportunity to purchase it, then there were other people who expressed an interest. He said the property would be used strictly to build a church and would not ask to change the zoning. He commented they are members of the neighborhood and want to do all they can to insure that the neighborhood stays intact as is. He mentioned there are concerns from the neighbors that they would build a metal warehouse-looking building, but that is not what they are looking for. He said if they are going to do something in the name of the Lord, they are going to do their very best. He noted there was a previous bid of \$200,000; and their bid was for \$105,000, which is based on an appraisal that they received from Don Harris. He said they believe that is a more reasonable price considering there has not been any property sold in that neighborhood for many years. He stated they looked at their appraisal and believes their appraisal is a little better as far as the actual value of the property. He said they will do their best to build a building that will make the neighborhood proud.

He stressed that they are interested in that property and are landlocked. Also, they are inside the floodplain so there is nothing they can do. He mentioned they have several ministries they would like to expand, especially ministries for the youth, and need the space. He noted when the City purchased the property from St. Joseph's Hospital several years ago, it only paid \$299,000 for the entire parcel, which includes the current Math and Science School, as well as the medical building and all of the preceding land. He said he believes \$105,000 would be within the realm of what the City actually paid for it. Within the last 20 to 25 years, he stated there has been no interest in it; and it is a very valuable piece of land to the church because it fits within their purposes. He commented it was not that long ago the City was going to lease a portion of it for \$1 a year.

Mayor Bush asked how long it will be before they start construction if this is accepted tonight. Mr. Harris replied that he could not answer that, pointing out there is a committee that is charged with taking a look at how they are going to build the building. He stated they have not proceeded in that direction because without the land, there was no point in considering it at that time. Mayor Bush asked if it was going to be vacant for ten years, and Mr. Harris replied that hopefully it will not.

Director Maruthur said she wants to make sure this is done right and is pleased that Terraforma Group endorsed the church at the meeting that was held. She stated she is in favor of their building a church at that location. She commented since the Board of Trustees of the church does not have a plan in place, the City needs to look at the deed restrictions and asked if he would have a problem if the Board tabled this so that the deed restrictions could be reviewed from 1992. Mr. Harris replied that he did not believe they had any objections.

Mayor Bush questioned how long the Offer was for, and Mr. Harris replied that it is for 30 days.

A motion was made by Director Maruthur to table the resolution until the next Board Meeting (July 7, 2009) so that this is done right and deed restrictions reviewed from 1992.

Upon discussion, Mr. Harris replied that they have no problem with that.

Director Daniel questioned what was not right about it and what needs to be corrected. Director Maruthur replied that the City needs to see what deed restrictions are on the deed. She said that she is talking about the deed from St. Joseph's Hospital.

City Attorney Brian Albright advised it would come from the title work; but if there are deed restrictions that prohibit the City from selling to a church, the City would need to look at that. He said that he appreciated the fact that the church gave the City plenty of time in the Offer, and it has 30 days to accept it. From a legal standpoint, he said he always wants the extra time to look at things and make sure they are done properly.

Mr. Harris said that he knows of nothing in the deed that would restrict them in any way. He pointed out that he was on the City Board of Directors when the City purchased the property from St. Joseph's Hospital; and during that period of time, the City was trying to give the land away.

Director Jones commented if it did not change then, it has not changed now. Mr. Harris noted that the City has been the owner of the property since St. Joseph's Hospital moved. Therefore, there should not have been any changes.

Director Jones said that she will be out of town on July 7, and she would like to see this done tonight. She stated if there is anything wrong with the Deed, it could be found within the 30-day time limit.

Mayor Bush asked if there was a second to the motion previously made by Director Maruthur to table until July 7. There being no second, the motion died for lack of a second.

Director Ramick said there was a discussion today, and it seemed as if there were some conflict with the latest appraisal; and the City could not make a gift.

City Attorney Brian Albright explained that an appraisal is nothing more than an opinion of the professional that renders the appraisal. He pointed out the bank representatives can state that one piece of property might be appraised three different ways if given the opportunity to be reviewed by three different appraisers. He stated the appraisal that the Board is reviewing tonight was done in September 2008 by Don Harris. Mr. Don Harris, according to the stamp affixed to his appraisal, is a certified residential appraiser. He said the appraisal that the City commissioned and paid for was prepared by Mr. Frank Manzer, who is a certified commercial appraiser; and they vary in their amounts from \$176,000 to \$105,000. He advised the City is prohibited from selling something for less than fair market value, and fair market value is what a willing buyer and a willing seller are willing to pay. He explained that he is not saying one appraiser is wrong and one is right, but that there are varying opinions between the two. He added one was done by a residential appraiser, and the other was done by a commercial appraiser.

Mr. Harris pointed out there was a third appraisal even though it was called informal, which was for \$52,600. City Attorney Brian Albright replied that is correct, and it was a drive-by. He said that state law prohibits a municipality from donating or giving property away, and he is just suggesting that anything less than fair market value, whatever a willing buyer and willing seller are able to negotiate, anything less than fair market value would by definition be a donation or a gift.

Mr. Harris commented that would not be a problem in this case because the City has one Offer it is considering, which is the Offer from Roanoke Baptist Church in the amount of \$105,000.

Director Maruthur asked if he can give her a "ball park" about when he feels the church, after the Board of Trustees meet, would be able to begin a church. Mr. Harris said that is difficult to do. He said the Trustees have not officially met and developed a plan. He stated he would assume if the Board voted to sell them the property, the very next day their committee would start to meet and start on the plans. However, he cannot say what the plan will

actually be. Director Maruthur asked if it will be three or five years, and Mr. Harris said he would hope less than that. He stated he cannot tell her within one year that they will be ready to move.

Director Maruthur said the point was made before about the City wanting to lease it for \$1 to an entity, which has been done. She stated she would like to have an amendment placed in the resolution if a church is not built within a certain timeframe, that the ownership would revert back to the City of Hot Springs; and the money would be refunded.

Mr. Harris said he did not know if that was legal and did not think they would agree to that. Director Maruthur questioned a time of five years, and Mr. Harris said they do not want to be limited.

He commented the only thing that has been on there for the last 20 years has been the small building that is falling down. He added for the last 25 years, there has been no interest in the property. He said he considers it unfair to say that the City will sell it to the church, but the church has to agree to have a church built in four or five years. Director Maruthur questioned a time of ten years, and Mr. Harris replied they hope to have it done in less than five years; but he cannot promise that.

Director Maruthur asked if they would have a problem if nothing was done in ten years allowing the City to refund the money and retain ownership. Mr. Harris said that he would, but he could not speak for the other trustees or the pastor.

Mayor Bush stated that he is not speaking for Mr. Harris or the church group, but he does not think they would pay \$105,000 for that property if they do not have intentions to do something with the property.

Mr. Harris said they hope to have a building up within a year or 18 months, but he cannot guarantee that. He stated he did not think anybody from the church would be willing to guarantee a date because that is difficult to do.

Director Kehelley pointed out this property has been appraised by two competent and respected appraisers in the community. She commented after having read those appraisals, it was very difficult

for them to find some comps to work with and to find a reasonable market value. Therefore, she believes that is the reason for the difference in the total. She said while the Directors want to get the very best value for the property because that is their responsibility, it may be well time that they introduce into the definition of value a use that will provide community benefits. She mentioned Roanoke Baptist Church has been in this community for over 100 years and has made an offer tonight, which taken with their historic value makes sense for the City to consider it favorably.

She noted this property has been vacant for 20 years, serving no public interest and certainly not beneficial to the Whittington neighborhood. She pointed out it could possibly take another 20 years before the City gets a suitable buyer that will come forward with an offer at a higher appraised value. She stated she is willing to take a chance on Roanoke Baptist Church.

Director Maruthur said she is going to trust Roanoke Baptist Church and is very excited about it and wants to make sure everything is done right and that they do get to build their church.

Mr. Harris responded they want to do it right and are going to do their very best.

Director Daniel stated he is glad the church is going to go forward and asked that the church keep in their prayers that Dr. Randy Hill and his partners will find a location in that part of the town because he believes that area needs help. He pointed out Dr. Hill was willing to spend a tremendous amount of money to put healthcare in that part of the City, and he admires him for that.

Director Jones commended Mr. Harris on his presentation.

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

Director Weatherford explained that he had abstained from voting on the resolution because he sits on the Board with Mr. Massey and does not want this to be considered a conflict of interest.

19 Proposed Resolution No. R-09-144 Approving the Sale of Certain City-Owned Property in the Hot Springs Reservation (236 Whittington), Subject to Certain Conditions (Removed from Agenda).

20 Proposed Resolution No. R-09-156

A resolution entitled, "A RESOLUTION APPROVING A SIGN VARIANCE TO ADD A DIGITAL MESSAGE CENTER SIGN TO AN EXISTING NONCONFORMING FREESTANDING SIGN AT THE BEST WESTERN STAGECOACH INN, 2520 CENTRAL AVENUE," was taken from the agenda and read by title only. **(Appeal)**

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

Upon discussion, Ms. Kathy Sellman, Planning and Development Director, explained this resolution grants approval of a variance to add a digital message center sign to a nonconforming, freestanding sign at the Best Western Stagecoach Inn, which will be known as the Best Western Winners Circle Inn on Central Avenue. All of the property is zoned C-4 and is located in Board District No. 3. She stated the appellant is Mr. Jim Shamburger, Jr.; and the property has a roof sign which is nonconforming and two pole signs which are nonconforming. She explained they are nonconforming because there are two on one frontage, which is Central Avenue and are approximately 200 feet apart rather than the required 500 feet. Therefore, there is an extra sign on Central Avenue. She noted the hotel is located on a corner, and the business has no signs along the secondary street frontage even though the code does not prohibit that. She advised the Hot Springs Code allows that the Planning Commission will hear all appeals from the Sign Code and specifically hear requests from minimal deviations from the literal provisions of the Code to erect a new sign in instances where strict enforcement of the code would cause practical difficulties due to circumstances unique to the original sign under consideration. This item was heard by the

Planning Commission at its March 9 meeting, and the Planning Commission unanimously denied the application. She said the Planning Commissioners accepted the findings and recommendations of the staff report in support of denial and noted additionally that the request failed to meet code requirements for a sign variance.

She pointed out the recommendation is that the Board deny the resolution which would approve a sign variance for the hotel to add illumination to the nonconforming sign because the application fails to demonstrate that the requirements of the Hot Springs Code for the variance have been met and that the application failed to demonstrate practical difficulty as there is an option to move or place a sign onto the side street and away from Central Avenue.

Mr. Jim Shamburger, one of the owners of the Best Western Stagecoach Inn, 2520 Central Avenue, stated they purchased the property about a year ago and have been undergoing extensive renovation of the property to bring it up to today's standards for the traveling public. He noted that in addition to the outside interior, they have done renovations to the interior of the lobby and breakfast area. He said to continue their progress in bringing this up to today's standards, they would like to renovate the sign package. He showed pictures of the existing sign that is located on the corner and has been there since the 1960's. He stated his proposal would be to remove the unsightly reader board, repaint the poles and the cam and around the sign, and replace the sign panels to coordinate with the new name of the business. He showed the sign on top of the building, which he pointed out is unsightly and serves no purpose and would like to remove it completely and replace it with a digital sign. He pointed out they are eliminating three signs and going back with the one digital sign, which he believes will enhance the neighborhood.

Director Kehelley asked if he was replacing signs and updating to a digital and not adding more signs. Mr. Shamburger replied that he was eliminating three signs and going back with one new sign.

Director Daniel said for the esthetic value of a hotel, he is getting rid of signage that has been up there for over 30 years. He noted when he first heard of this, he was unsure if those signs were ever lit, but he is referring to the reader board; and they

have been lighted signs ever since they have been up there. In reply to Director Daniel, Mr. Schamburger said they are taking down over twice as much as they are proposing to put up.

Director Maruthur asked to hear from Ms. Sellman because in the minutes of the Planning Commission, it stated the Commission unanimously denied this. Ms. Sellman replied that is correct. Director Maruthur questioned what it would enable the applicant to do if this appeal were denied. Ms. Sellman explained that the applicant is free to remove the signs he said he will remove when he places the illuminated electronic message center.

Director Maruthur said he has invested a lot of money and questioned if it would prohibit him from doing the updates. Ms. Sellman replied that the staff nor the Planning Commission can approve this request because of the way the code is written. She commented the Board has the ability to do so if the Board believes this meets the spirit and intent of the Sign Code. She pointed out Mr. Shamburger's renovation has been an excellent improvement to that property.

Director Maruthur questioned if Ms. Sellman thought this needs to be reviewed in the City's code, and Ms. Sellman advised that the Planning Commission is looking at the entire electronic sign section and will look at illumination of signs also, which needs to be reviewed.

Director Jones stated that the only reason it was rejected was because no illumination may be added to any nonconforming sign, and Ms. Sellman replied that was correct.

Director Kehelley pointed out that Ms. Sellman has stated that the staff and Planning Commission cannot act on this because there is a rule on the books and is under review for change. Ms. Sellman replied that it correct.

City Attorney Brian Albright noted he understands that the prohibition is adding illumination to a nonconforming sign and asked if that would have changed her recommendation to the Planning Commission; and Ms. Sellman replied that it could have.

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

21 Proposed Resolution No. R-09-157

A resolution entitled, "A RESOLUTION APPROVING THE SELECTION OF SUMMIT BANK FOR THE PROVISION OF CERTAIN BANKING SERVICES," was taken from the agenda and read by title only.

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

Upon discussion, Ms. Dorethea Yates, Finance Director, advised that every five years the City reevaluates its banking services by requesting proposals from banking service providers. Early this year, the City requested proposals which were submitted by Regions Bank, Bank of Ozarks, Summit Bank, and US Bank. After receiving those proposals, an evaluation committee was formed consisting of herself as Finance Director and Treasurer; Ms. Heather Szefflinksi, accounting supervisor; and Ms. Vicki James, cash management technician. She explained these staff members were chosen because they are daily hands-on users of the City's banking services. She advised the first major question to be answered before the City considers a bank is: "Can we trust that bank with the City's funds?" "Do they have agreements in place to safeguard our funds?" and "Are they large enough that the State law will permit them to do business with us?" She said all four banks met that criteria. She explained that banks generally charge certain rates for the services they offer, but they also pay interest to the City based on the balances that it leaves in its accounts. She noted the difference between these numbers is generally referred to as the net cost of service, which was used as one of the major evaluation factors. She advised that the committee took the proposed charges and interest rates and applied them to a test six-month period; and based on the results, Summit Bank has offered the most favorable net cost of service. She mentioned the next major evaluation factor the

committee looked at was the method of service delivery, pointing out the City uses web-based banking for the majority of its banking services. Other than the actual deposits taken to the bank, she said most of the City's banking services that it uses are done over the web. She reported each of the proposing banks was invited to visit with the evaluation committee and give a demo of their web-based banking. The committee then had a standard set of questions that it asked each one of the banks in reference to their services. After going through this process, the evaluation committee felt that the web-based banking site offered by Summit Bank would provide the best banking services to the City and recommend that the Board approve the staff proposal to approve the contract with Summit Bank. She reported the City has approximately 20 bank accounts and changing all of those bank accounts and notifying customers and vendors of this change will not be an easy task. However, based on the evaluation of net cost of service and the method of service delivered, the committee felt it would be beneficial at this time for the City to choose Summit Bank as its banking partner. She pointed out this will be a one-year contract, with four, one-year renewals. She mentioned over the past five years, the City has been with Regions Bank and has enjoyed working with Ms. Elizabeth Farris, Mr. Forrest Spicher, and the other staff and appreciated the support they have given the City during this time. She noted putting together for a response to one of these proposals is a very time-consuming task, and all the banks visited her department with their staff and provided demos. She said that she appreciated the time and effort given by the excellent staff of Bank of Ozarks, US Bank and Regions Bank. She then introduced members of the Summit Bank management team: Ms. Julia Sellers, vice president and branch administrator; Mr. Latt Bachelor, Hot Springs regional president; Ms. Mandi Krauss, vice president of business development; Mr. Thomas Glover, senior vice president and controller; and Chris Wewers, executive vice president and chief financial officer.

Director Maruthur pointed out this was originally on the Consent Agenda, and this is a very important action the Board is going to take tonight. She said she had contacted Ms. Yates regarding the compilation of comparisons of the four banks and how she came to the conclusion in lay terms. She said the Board Members received

that information and expressed appreciation to Ms. Yates for that explanation.

Director Weatherford noted he reviewed the proposal and asked if he read it correctly that Summit Bank would buy a coin counter machine to put in their bank, and Ms. Yates replied that is correct.

Mayor Bush then called for a vote on the motion to adopt; and upon roll call, the following voted "aye": Directors Maruthur, Jones, Keholey, Weatherford, Ramick, and Bush, total 6. Director Daniel was out of the Board Chambers and did not cast a vote; motion carried. Whereupon the resolution was declared adopted.

22 Proposed Resolution No. R-09-158

A resolution entitled, "A RESOLUTION AUTHORIZING THE EXTENSION OF A MEDICAL AMBULANCE SERVICES FRANCHISE WITH LIFENET, INC.; AND APPROVING ADDENDUM NO. 5 TO SAID AGREEMENT," was taken from the agenda and read by title only.

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

Upon discussion, Fire Chief Ed Davis advised that LifeNet has requested that the City extend the temporary franchise agreement while they study the proposal the City sent them. He said they requested a month, but he and City Manager Lance Hudnell made the decision to extend it for two months which will give them the requested time to review the document and will also allow the City enough time to generate a response and allow final negotiation to take place.

Mayor Bush questioned why they are doing this and thought the franchise was the same as the last time, and Fire Chief Ed Davis replied that was the intention. However, LifeNet wanted to have their counsel review it and make some minor changes. He said that

he would like to see this done by June 30, but he does not want anyone to feel the Fire Department is trying to push it.

City Manager Lance Hudnell added that he asked it be extended through the end of August because LifeNet asked for 30 days, which would put it past the second Board Meeting in July and could be between meetings.

Director Ramick questioned if their counsel reviewed their proposal, and Fire Chief Ed Davis said he could not answer that. He added the City's intention on the RFP was that the RFP would be the contract, and the provision of services that was included in the back would be tenants of the contract. He said the prices they submitted would be the ones that they would have to go with for the first year. In all fairness to them, he commented it is a contract; and they will be locked into it. He added it was the City's intention that a very small portion of the RFP would actually be negotiated.

Mayor Bush asked if this is for five years, and Fire Chief Ed Davis advised that it is 4-1/2 years now since it has been ongoing for six months. Mayor Bush pointed out it will be a little less than six months by the end of August.

Director Weatherford questioned if the City has already approved the contract with LifeNet, and City Manager Lance Hudnell advised that the Board has approved the selection but did not have the contract written at the time.

Director Weatherford asked if the City would go back out for an RFP if LifeNet comes back and their proposal changes. City Attorney Brian Albright advised that the Board can if it likes. He added the City published Requests for Proposals and received two – one from AMR and one from LifeNet. He said the City accepted the proposal submitted by LifeNet, and he drafted a contract which is almost verbatim and the scope of services, which was attached as Exhibit "A" to the Request for Proposals. He noted he added some signature lines and sent it to them, and now LifeNet wants their counsel to review it.

Director Weatherford said he does not mind extending their contract but questioned what happens if they come back with changes in their proposal. Fire Chief Ed Davis advised that the Board has several options. If it gets to the point to where the City gets to an impasse, the City still has AMR's agreement to fall back on, or it can choose to throw them all out and rebid.

Director Daniel pointed out they answered the RFP, and they submitted what they would do and signed it. He questioned what they have to review.

Mr. Dave Snavely, general manager for LifeNet, 2190 Higdon Ferry Road, stated the contract that was sent to them on short notice does not include, except for one portion, anything different than the proposal that they submitted. However, it is missing some of the things that were in the proposal which they thought, in good conscience, would be good for the City to have in the contract. He pointed out there are some definitions in the proposal that were not in the contract and did not think that they were omitted for any reason to create any consternation between the two parties. He explained LifeNet felt strongly since the agreement was going to be for five or 5-1/2 years, they would like to have those definitions in there so that should any questions arise, the City would have a better mechanism to evaluate their performance.

Director Daniel said he can understand that but questioned why this was not brought out to the City's counsel and the Fire Chief.

Mr. Snavely replied this was his first opportunity to address it with the Board. Director Daniel asked why he had not contacted the Fire Chief or City Attorney. Mr. Snavely said he has been in contact with the Fire Chief about those issues, and the contract that was delivered to LifeNet was not unfair in any way. However, they thought there were some additional definitions that if they added would provide a better document for measuring their success in the future.

Director Daniel stated they did not make that known to staff. Mr. Snavely replied that they received the contract on a day and were asked to have it returned with changes within 24 hours, which was a little faster than LifeNet could perform.

Director Ramick asked if they could have it back in time for the next meeting, and Mr. Snavelly replied that they could.

Director Maruthur asked if they were changing the substance of the contract, and Mr. Snavelly replied that they were not. He added it is for clarification, and the response times have not been changed at all. However, there are some definitions that the City would want to audit them with. He noted none of the pricing or response times are changing, and none of the service provisions that they agreed to is being changed at all.

City Manager Lance Hudnell noted that the Addendum states that the contract will be extended until the end of August or until a new franchise agreement is approved by the Board, whichever occurs first.

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

23 Proposed Ordinance No. 0-09-25

An ordinance entitled, "AN ORDINANCE AWARDING A CONTRACT TO COULSON OIL COMPANY, INC. FOR THE PURCHASE OF CERTAIN MOTOR FUELING EQUIPMENT; AND REPEALING ORDINANCE NO. 5677," 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 Kehelley, that the ordinance be passed as read; and upon roll call, the following voted "aye": Directors Maruthur, Jones, Kehelley, Weatherford, Ramick, Daniel, and Bush, total 7; motion unanimously carried. Whereupon the ordinance was declared passed.

OTHER BUSINESS

24 Board of Directors Items for Discussion

Mayor Bush announced that Director Carroll Weatherford will serve as Assistant Mayor from July thru December 2009.

Director Jones announced there is a youth enhancement services group (Y.E.S), which consists of 15 young men and 12 young women between the ages of 14 to 18. During the summer, they are mowing yards for the seniors for free and for the abled young people and women. She said they are charging a little fee to keep their program going, but it is mostly for them to have something to drink and eat. If anybody wants to get in touch, they may contact Webb Center.

Director Maruthur announced that June 18 is Free Ride Day, and there will be some give-aways and a drawing on that day for those who ride to register for an annual pass. She reported if residents want to sign up for CodeRED, they may call 321-6861; and Paula Brown is the contact person. She stated there is an account set up at Regions Bank for deceased firefighter Gene Yarbrough. She reported the Park Avenue Community Association will be scheduling a special meeting, and the date is to be announced and will appear in the newspaper.

25 City Manager's Report

City Manager Lance Hudnell gave the following report:

1. Regarding air service for the City, Mr. George Downie, Airport Manager, has done a very thorough job working with the Airport Advisory Committee and others in the community on the proposals. This does not come to the Board for formal approval because the proposals were actually approved by FAA, not by the Board of Directors. However, after much review and a couple of the major

players dropping out, Seaport is the airlines all of the other communities have endorsed. In reference checks with other communities using Seaport, it has come back with excellent results; therefore, the City is recommending Seaport and will be asking the Mayor to sign a letter to that effect. He noted it is a single engine plane and a nine-seater and hope to have that service by October 2009. Their initial proposal with FAA will be to Memphis, but they will be looking at perhaps going to Dallas after they get going. He and Director Ramick had a brief flight and were pleasantly surprised by the quality of the airplane and the service.

2. There is a rotating art display, and Mr. Tony Ransom sent a note of thanks indicating he enjoyed that at the airport. Mr. Wilcox sent an e-mail in appreciation of Mr. Jimmy LaRue and Mr. Kevin Glover, employees of the Sanitation Department, for their work in the brush collection.

3. The Arkansas Municipal League Convention begins Wednesday evening. Everyone is registered, and he and Mayor Bush need help from the Directors on Thursday, at 7:15 a.m., to welcome delegates from over the State since Hot Springs is hosting the breakfast.

4. On June 25, at 5:30 p.m., in the Board Chambers, there will be a public hearing on the cable television franchise agreement that staff been working on for a number of months.

5. On June 30, following the agenda meeting, there will be a Board Work Session to hear the first presentation with regard to the rate study for water and wastewater. Following that, the City will later enter into public hearings. The City did not publish its edition of City Progress this time because it wanted to use those funds toward publicity in regard to future public hearings with regard to the water treatment plant and the water and wastewater rates and the wastewater proposals.

6. Ms. Minnie Lenox, Human Resources Director, asked that he remind the Directors that the new name tag machine is ready; and the Board had requested, for security purposes, a different name tag be made. The Directors need to stop by Human Resources Department for photographs.

7. With regard to the Consent Agenda, there were a number of items regarding grant applications. There is the possibility of stimulus funds for fire station construction. Mr. Lance Spicer, City Manager Intern, has distributed in the Board's weekly packet tonight an update on where the City is on other stimulus applications.

8. On the Consent Agenda, there was a resolution approving the destruction of city records that meet the criteria for Finance, Fleet Service, Animal Services, and Intracity Transit. Also, there were several contracts on the Consent Agenda.

26 ADJOURNMENT

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

ATTEST: _____

APPROVED: _____

Lance Hudnell, City Clerk

Mike Bush, Mayor