

MINUTES

BOARD OF DIRECTORS MEETING

JUNE 2, 2009, AT 7:00 P.M.

The regular meeting of the Board of Directors was held on Tuesday, June 2, 2009, at 7:00 p.m., Board Chambers, City Hall, with Mayor Mike Bush presiding.

The invocation was given by Mr. Dan Lewin, 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 Jones, duly seconded by Director Keheley, that the agenda be approved.

Upon discussion, a motion was made by Director Weatherford, duly seconded by Director Ramick, to withdraw Item No. 32 from the agenda (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). He stated the City has been asked to hold this item for a couple of weeks.

Upon further discussion, Director Maruthur questioned how many people signed up to speak to this item and commented she would like to keep it on the agenda just as a discussion item.

Mayor Bush replied if it is withdrawn from the agenda, there will be no discussion because it is not on the agenda.

Director Maruthur said that she spoke to City Attorney Brian Albright, who told her it could be discussed and not be an action item.

Mayor Bush questioned the point of discussing it if it is not on the agenda, and Director Maruthur pointed out there are many people in attendance tonight who would like to speak to it.

Mayor Bush asked what they would speak about if it is not on the agenda, and Director Maruthur said the Board has had this discussion before where somebody had something actually placed on the agenda, but it was not an action item; and there was no vote. She added the individual is present who requested that it be taken off the agenda but does not want a vote. She noted the date was changed from June 3 to June 17, and she would like to respect that but out of respect for those who came tonight. She said that she tried to return some phone calls and was unable to, but prior to today, many called and e-mailed and did read it in the newspaper.

Mayor Bush said, as Mayor, he runs the meeting; and he is saying there will be no discussion tonight because it is not on the agenda; and that is the only reason.

Director Jones asked for an opinion from City Attorney Brian Albright. City Attorney Brian Albright explained when Director Maruthur asked him what the options were, he told her there were three options: Option No. 1 is since it has been requested that the expiration date of the Offer be extended for two weeks, the Board could remove it for consideration from tonight's agenda; Option No. 2 is wait until it comes up as an agenda item and table it until the following meeting; and Option No. 3 was to have a full discussion and vote it up or down. He said that he did not recall having the conversation with Director Maruthur in which he told her it could be removed from the agenda but yet left on for discussion. He stressed that was not one of the three options that he outlined for her.

Director Maruthur replied that he is correct; however, she had her hand up before Director Weatherford made his motion because that is what she thought she was supposed to do. Mayor Bush apologized and said that he did not see her raise her hand.

Director Maruthur asked if the Directors are supposed to raise their hands, and Mayor Bush said that is what he always does when he is in a meeting if he wants to be recognized. He urged the Directors to remember that.

Mayor Bush announced there is a motion and second to remove this item from the agenda for tonight.

Director Maruthur asked if the Board could have this as an item for discussion and allow the people to speak tonight if the Board votes it down. Mayor Bush replied that the Board could not. He added if it is voted down, it is off the agenda and questioned what they would speak to. Director Maruthur stated the City Attorney had said the Board could begin discussion because it was one of the options. and she was going to opt for Option No. 3.

City Attorney Brian Albright emphasized that he thought he had explained the three options that he discussed with her yesterday. He noted that Option 1 is to remove it from the agenda; Option 2 is to leave it on the agenda; and when the item comes up to table it, Option 3 is to leave it on the agenda; have a discussion and then vote it up or down.

Director Keheley asked if the people present can speak to it as a non-agenda item at the end of the meeting. Mayor Bush said not as far as he was concerned. He added she can speak to them after the meeting is adjourned. However, if it is not on the agenda, it should not be discussed in a public meeting.

Director Jones said No. 3 Option is where the Board can discuss it. City Attorney Brian Albright commented the Board can discuss it before it is tabled it, if it is tabled. However, if it is going to be removed, then there is no agenda item.

Director Maruthur said if the Board votes "no" on the motion on the floor, the Board could vote to table it when Item No. 32 comes up.

Mayor Bush said the motion is to remove it from the agenda.

Director Daniel stated that Dr. Randy Hill made the request to remove it from the agenda. City Attorney Brian Albright added that City Manager Lance Hudnell received a cover letter which enclosed an extension of the Offer expiration date to June 17 as opposed to June 3 and asked that he be given two more weeks to have an opportunity to discuss this matter with the residents and business owners of that neighborhood to see if he can alleviate any of their concerns. Director Daniel said he is going to do himself what some were wanting to do here tonight, but there is no action that the Board could take if it were tabled. However, if it is removed from the agenda, the logical thing to do is to let Dr. Hill talk to them and come back.

Director Maruthur said she is going to vote against what was recommended because she does not know what the schedules are of the group of people in attendance tonight. She noted Dr. Hill and Mr. Andy Meyers are present tonight, and Mr. Meyers does represent Terraforma. She said she does not know who will be available or what their schedules will be when those individuals would like to talk to the neighborhood or the other interested parties. She commented she did not know who was going to show up tonight, but many people are here tonight; and they should be afforded the opportunity to speak.

Director Daniel said he does not understand why the Board is going to listen to them if it is unknown whether it will be back on the agenda.

Mayor Bush said if it is not on the agenda, the Board will not listen to them as far as he is concerned.

Director Keheley questioned if it remains on the agenda and the Board allows these people speak, can it then be tabled. City Attorney Brian Albright advised that a motion to table can be made at anytime that the matter is on the floor for discussion, and a motion to table takes precedent over the motion that is on the floor. He stated it is a nondebatabable item, and the Board can vote to table at that point if that is what it desires to do.

Director Keheley said for clarity anytime during discussion of the agenda item tonight, a motion can be made to table; and City Attorney Brian Albright said that is correct.

Mayor Bush then called for a vote on the motion to remove Item No. 32 from the agenda; and upon roll call, the following voted "aye": Directors Weatherford, Ramick, Daniel, and Bush, total 4. Voting "no": Directors Maruthur, Jones, and Keheley, total 3; motion carried. Therefore, Item No. 32 was removed from the agenda.

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

3 Approval of Minutes of May 19, 2009 Board Meeting

A motion was made by Director Maruthur, duly seconded by Director Daniel, that the minutes of the May 19, 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 commended the VFW Post 2278 and their Ladies' Auxiliary for the Memorial Day service last Monday, which was held at their post due to the heavy rains. She said each year they remind everyone of the true meaning of Memorial Day with their ceremonies and the placing of flags at the grave sites. She announced that the 14th Hot Springs Music Festival started this last Sunday evening with a rousing cabaret performance at the Arlington. She noted that Richard and Laura Rosenberg have collected incredible talent for this year's performances; and Hot Springs is fortunate to have this event each year, which would be the envy of cities ten times the size of Hot Springs. Also, this Saturday morning at 8:00 a.m. to 8:30 a.m., the musicians will be performing at the Downtown Farmers' Market.

Director Jones announced that the 2nd Annual NAACP fund-raiser will be held Saturday, June 13, starting at 7 a.m. at Webb Community Center. Also, this Saturday, at 1 p.m., the Pleasant Street Association will have its monthly meeting.

Director Maruthur stated there will be a meeting with the Whittington Valley Neighborhood Association and the representative from Terraforma, and the date will be announced in the newspaper.

Mayor Bush asked that an e-mail be sent to the Board Members regarding that meeting.

Director Weatherford stated he has been very supportive of the Sister City Program since he has served on the Board; and on more than one occasion, he has made the trip to Hanamaki, Japan, when no other Board Members could not or would not go. He mentioned that he has recently been criticized for being a part of the

delegation scheduled to go in September, and he is paying for his wife to travel with the delegation. He said they have discussed their passion for the Sister City Program and are saddened by the negative comments associated with his traveling to Hanamaki to represent the City of Hot Springs. He said he does not wish to be a distraction to the program that he has supported all of these years. Therefore, he and his wife have decided they will pay for his trip to Hanamaki in September. He thanked everyone who has supported the Board's decision to send a representative of the Board to Hanamaki and hopes this will put an end to the negative light cast upon the Sister City Program.

6 Acknowledgment of Financial Statements for March and April 2009

Mayor Bush announced that the Financial Statements for March and April 2009 are in file in the Finance Department for review by the Board.

CONSENT AGENDA

The Consent Agenda consisted of the following:

- 7 Public Safety Report** (May 19, 2009).
- 8 Proposed Resolution No. R-09-120** Approving Certain Bid Awards (a) Container Delivery Vehicle - Sanitation [awarded to Truck Center of Arkansas in the amount of \$87,450]; and (b) Blended Polyphosphate - Water Treatment [annual supply contract awarded to Carus {bulk} and Pristine Water {totes}].
- 9 Proposed Resolution No. R-09-121** Awarding a Contract to Martin Marietta Materials, Inc. for Airport Improvements (Runway 13/31 Rehabilitation Project, Phase III).
- 10 Proposed Resolution No. R-09-122** Authorizing the Mayor to Execute Lease Addendum No. 1 to the Contract with Delta Airport Consultants, Inc. for Runway 13/31 Rehabilitation, Phase III.

- 11 Proposed Resolution No. R-09-123** Accepting a Grant from the Federal Aviation Administration (FAA) for Certain Airport Improvements (Rehabilitation of Runway 13/31).
- 12 Proposed Resolution No. R-09-124** Authorizing the Mayor to Execute a Lease Agreement Between the City and Western Pilot Service, Inc. for Hangar A-6 at the Airport.
- 13 Proposed Resolution No. R-09-125** Authorizing the Mayor to Execute a Lease Agreement Between the City and Southern Flying Service of America, Inc. for Office Space in the Terminal Building at the Airport.
- 14 Proposed Resolution No. R-09-126** Authorizing the Filing of a Grant Application with the U. S. Department of Justice Pursuant to the Bureau of Justice Assistance, Bulletproof Vest Partnership Program.
- 15 Proposed Resolution No. R-09-127** Authorizing the Filing of a Grant Application with the U.S. Department of Justice Pursuant to the Community-Oriented Policing Services (COPS) Grant Program for Certain Technological Equipment.
- 16 Proposed Resolution No. R-09-128** Approving the Transfer of Sightseeing Permit #21 from Cecil Martin, d.b.a. The Ducks of Hot Springs, to Stacy Roberts, d.b.a. Roberts Family Duck Tours. **(Removed from Consent Agenda for Separate Consideration)**
- 17 Proposed Resolution No. R-09-129** Designating a “Free-Ride/Dump the Pump Day” for Hot Springs Intracity Transit.
- 18 Proposed Resolution No. R-09-130** Accepting a Grant from the Federal Transit Administration, United States Department of Transportation, for Federal Transportation Operating Assistance as Authorized by American Recovery and Reinvestment Act (ARRA).

- 19 Proposed Resolution No. R-09-131** Accepting a Grant from the Federal Transit Administration, United States Department of Transportation, for Federal Transportation Operating Assistance as Authorized by 49 U.S.C. Chapter 53, Title 23, United States Code, and Other Federal Statutes Administered by the Federal Transit Administration.
- 20 Proposed Resolution No. R-09-132** Amending a Community Development Block Grant (CDBG) “FY 2008 Annual Action Plan” Application to the U. S. Department of Housing and Urban Development (HUD) for Various Comprehensive Revitalization Projects.
- 21 Proposed Resolution No. R-09-133** Extending an Agreement with Regions Bank for the Provision of Certain Banking Services.
- 22 Proposed Resolution No. R-09-134** Awarding a Contract to Co-Bar Contracting, Inc. for Water and Wastewater Line Relocations on Carpenter Dam Road.
- 23 Proposed Resolution No. R-09-135** Awarding a Contract to Co-Bar Contracting, Inc. for Water Line Relocation on South Moore Road.
- 24 Proposed Resolution No. R-09-136** Appointing Jerry Thompson to the Civil Service Commission.
- 25 Proposed Resolution No. R-09-137** Appointing J. David Hair, Steve Fulenwider, Dr. Jay Robbins and Phillip Jones to the Airport Advisory Committee.
- 26 Proposed Resolution No. R-09-138** Appointing Sandy Scott, Jonathan M. Wright and Dick Antoine to the Animal Services Advisory Committee.
- 27 Proposed Resolution No. R-09-139** Appointing Ann Caruso, June Simmons, John Martineau, Jason Spavins, and Willie Gilbert to the Arts Advisory Committee.

- 28** **Proposed Resolution No. R-09-140** Appointing Alijan Roshan Torres, Terry Holstine, Cheryl Batts and Marcia Dobbs-Smith to the Community Development Advisory Committee.
- 29** **Proposed Resolution No. R-09-141** Appointing John Martineau, Cheryl Denton, Helen Oliver, and Dr. J. D. Ayers to the Parks and Recreation Advisory Committee.
- 30** **Proposed Resolution No. R-09-142** Appointing Thaddeus Singer and Elmer Beard to the Transportation Advisory Committee.
- 31** **Proposed Resolution No. R-09-143** Appointing Linda Palmer, Mark Fleischner, Martha Jane Murray, Jack Thorp and John Slater to the Urban Forestry Advisory Committee.

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

Upon discussion, Director Weatherford requested that Item No. 16 (Proposed Resolution No. R-09-128 Approving the Transfer of Sightseeing Permit #21 from Cecil Martin, d.b.a. The Ducks of Hot Springs, to Stacy Roberts, d.b.a. Roberts Family Duck Tours) 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

- 32** **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 the Agenda)**
- 33** **Proposed Resolution No. R-09-145**

A resolution entitled, "A RESOLUTION SELECTING LIFENET, INC. AS THE PROVIDER OF CERTAIN AMBULANCE SERVICES WITHIN THE CITY AND AUTHORIZING A NEGOTIATION OF A FRANCHISE AGREEMENT," was taken from the agenda and read by title only.

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

Upon discussion, Mr. Don Schnipper, attorney with Wood, Smith, Schnipper, Clay and Vines, said that he represents LifeNet in connection with their bid to be the ambulance provider for the City. He mentioned there are several principals with the company present tonight, whom he introduced: Mr. David Baumgardner, executive director; Mr. Dave Snavely, general manager in Hot Springs; Mr. Jason Gartner, director of operations; Dr. Wagenhauser, medical director; and Dr. Gene Shelby, member of the board of directors of LifeNet. He requested that the Board pass the resolution and follow the recommendation of the Ambulance Service Proposal Review Committee. He said the Board's choices are either to accept the recommendation and pass the resolution and go forward with the contract, which will be about a 5½ -year contract, or to reject the recommendation and order a third RFP and extend the temporary license. He pointed out the recommendation is unanimous.

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.

34 Proposed Resolution No. R-09-146

A resolution entitled, "A RESOLUTION APPROVING AGREEMENTS REGARDING MAGIC SPRINGS AND CRYSTAL FALLS AMUSEMENT PARK," was taken from the agenda and read by title only.

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

Upon discussion, City Manager Lance Hudnell explained these are documents that need the Mayor's signature with regard to some financial arrangements between the old owners and new owners, Arkansas Economic Development Commission, and Arkansas Development Finance Authority; but the Mayor has to have the Board's

authority to sign. Also, this has been reviewed by the Friday, Eldredge and Clark Law Firm.

City Attorney Brian Albright advised at the last Board Meeting, the Board approved a deferment of the payments under the Escrow Agreement for a three-year term. He said the agreements that are before the Board tonight incorporate that deferment but also take into account all of the other obligations among the various companies, buyers, sellers, banks, state guaranty corporations, etc. He explained the idea that was used in formatting these agreements was to take everyone's obligation and memorialize them into one agreement rather than having all of these various agreements that have been entered into over the years. He stated it solidifies all of the obligations of the other parties and incorporates the deferment that the Board authorized two weeks ago.

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.

16 Proposed Resolution No. R-09-128

A resolution entitled, "A RESOLUTION APPROVING THE TRANSFER OF SIGHTSEEING PERMIT NO. 21 FROM CECIL MARTIN, D.B.A. THE DUCKS OF HOT SPRINGS, TO STACY ROBERTS, D.B.A. ROBERTS FAMILY DUCK TOURS," was taken from the agenda and read by title only.

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

Upon discussion, Director Weatherford said he asked that this resolution be removed from the Consent Agenda due to the fact this past several months, he and Director Ramick have been accused of conflicts of interest; and he wanted to know if Directors Keheley and Maruthur were going to vote on this since they received large contributions from this family during their campaigns last year.

Director Keheley responded that she plans to vote and has no knowledge of the business of this company and has no financial interest or personal interest.

Director Maruthur said it was on the front page of the newspaper, and she concurs with Director Keheley. She stated that she in no way benefits or knows anything about the duck business.

Director Weatherford commented he did not say she benefitted from the duck business. Director Maruthur replied that she is not in business with them and is not related to them. She said she would not know the difference between the people who are transferring the vehicles to the other people. She mentioned that she appreciated the contribution, but it was not solicited. She asked if he received one, and Director Weatherford replied that he did not.

Director Ramick stated he did not understand on the conflict of interest if a Director accepts money from a group how he or she can possibly vote in this case.

Mayor Bush said he believes that is personal and asked for an opinion from the City Attorney.

City Attorney Brian Albright commented he does not intend to act as the referee on a Director's conscience. He said they have to know within their heart whether or not they feel like it is a conflict of interest. If they do not, then they need to let their conscience be their guide. He stated this is a matter that is essentially ministerial on the part of the Board, and he is sure it would pass without Director Keheley or Maruthur voting on the resolution. He pointed out there used to be a need factor with regard to sightseeing permits, but that was eliminated away years ago; and now the applicant does not have to show a need. He said it is simply a transfer of the permit, which becomes a ministerial act on part of the Board. He commented if a Director feels that receiving a contribution from a member of this family would in anyway influence their vote one way or the other, then his encouragement would be to abstain. However, if they do not, then move forward.

Director Keheley pointed out that she received contributions from people throughout the entire City, and she would have to recuse herself on anything that comes up in any neighborhood.

City Attorney Brian Albright said the bottom line question they have to ask is whether or not they feel it would influence or in any other way affect the way that they vote. He said if they do not feel like it would influence their vote, then they need to move forward.

Mayor Bush then called for a vote on the motion to adopt; and upon roll call, the following voted "aye": Maruthur, Jones, Keheley, Weatherford, Ramick, Daniel, and

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

35 Proposed Ordinance No. O-09-20

An ordinance entitled, "AN ORDINANCE AMENDING THE ZONING CODE OF THE CITY OF HOT SPRINGS, ARKANSAS, BY REZONING PROPERTY AT 980 SHADY GROVE ROAD AND BRODRICK STREET, FROM R-1, RURAL RESIDENTIAL DISTRICT, TO C-3, OFFICE/NEIGHBORHOOD COMMERCIAL DISTRICT," was taken from the agenda for consideration.

A motion was made by Director Weatherford, 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 Maruthur, that the ordinance be passed as read.

Upon discussion, Ms. Kathy Sellman, Planning and Development Director, stated the applicant is John Fullen, on behalf of Nephra LLC; and the request is for C-3, Office/Neighborhood Commercial zoning, for a single parcel of land at 980 Shady Grove Road but has more frontage on Brodrick. She said the Future Land Use Map designates the property Commercial Enclave, and the area is in Board District 6. She advised the applicant stated the reason for the change is to locate a branch bank on the lot, and all of the adjoining properties currently are zoned R-1, Rural Residential. Also, there is a large C-3 Office/Neighborhood Commercial District that exists about 200 feet to the south. She said it is a fairly sparsely populated area and adjacent uses include a car wash, a vacant convenient store, single-family dwelling, and a lawn tractor store. The staff finding to the Planning Commission was that the request is consistent with the Comprehensive Plan Future Land Use Map designation of Commercial Enclave, and the subject property is designated Commercial Enclave. She stated once zoned to C-3, the subject property would be allowed the broad range of commercial and conditional use possibilities that are designed to exist in close proximity to residential uses. The Planning Commission advertised the hearing and considered public testimony at the May 14 meeting. They accepted the staff findings and voted 9 to 0 to recommend that the Board approve a zone change from R-1, Rural Residential, to C-3, Office/Neighborhood Commercial because the application demonstrates compliance with the Code requirements.

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.

36 Proposed Ordinance No. O-09-21

An ordinance entitled, “AN ORDINANCE AMENDING THE ZONING CODE OF THE CITY OF HOT SPRINGS, ARKANSAS, BY REZONING PROPERTY AT 1608 ALBERT PIKE ON THE NORTHWEST CORNER OF ALBERT PIKE AND MISSION STREET, FROM C-2, GENERAL BUSINESS DISTRICT, TO C-4, REGIONAL COMMERCIAL OPEN DISPLAY DISTRICT; AND AMENDING THE FUTURE LAND USE MAP BY RECLASSIFYING CERTAIN REAL PROPERTY AT 1608 ALBERT PIKE ON THE NORTHWEST CORNER OF ALBERT PIKE AND MISSION STREET,” was taken from the agenda and read by title only.

A motion was made by Director Weatherford, 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 Weatherford, that the ordinance be passed as read.

Upon discussion, Ms. Kathy Sellman, Planning and Development Director, advised this is a recommendation to approve the ordinance to rezone the property known as Car Mart and some adjacent properties. She stated Car Mart is located at 1608 Albert Pike; and the recommended rezoning is to C-4, Regional Commercial Open Display District, and to amend the Future Land Use Map to designate the property as Regional Commercial Center. The applicant is America’s Car Mart, Inc. on behalf of the property owner, the Fleeman Family Limited Partnership; and C-4, Regional Commercial Open Display zoning is requested for three parcels. The subject property is now C-2, General Business District. The Future Land Use Map designation is Linear Commercial Corridor and is in Board District No. 4. The applicant’s reason for requesting a zone change is to make improvements to the parking and display area at a nonconforming car mart auto dealership that is currently on two of the three parcels. It is about 1.16 acres of land, and there is an existing C-4 zone across Albert Pike and continuing westward from this property. The property is to the west and east of the subject property currently zoned C-2, General Business, and the adjacent property to the north is zoned C-TR, Commercial Transitional. Establishing a vehicle use or in this

case, expanding it in a C-4 zone district does require Planning Commission's specific approval of a separate conditional use application with a detailed site plan. While this does recommend changing the zoning, it does not authorize the expansion. Once rezoned to C-4, all of the broadest commercial uses and conditional use possibilities that are allowed by the zoning ordinance would be possibilities. The Planning Commission advertised the hearing and considered public testimony on May 14. They accepted the staff findings and voted 9-0 to recommend that the Board approve a zone change from C-2, General Commercial District and R-4, Medium/High Density Residential, to C-4, Regional Commercial Open Display District, as well as amending the Future Land Use Plan Map, to Regional Commercial Center because with the Future Land Use Plan Map amendment, the application will demonstrate the required compliance with Hot Springs City Code.

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.

37 Proposed Ordinance No. O-09-22

An ordinance entitled, "AN ORDINANCE ACCEPTING THE REMAINING PORTION OF LOTUS LOOP AS A PUBLIC STREET; AND FOR OTHER PURPOSES," was taken from the agenda for consideration.

A motion was made by Director Weatherford, 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 Maruthur, that the ordinance be passed as read.

Upon discussion, Mr. Steve Mallett, Deputy City Manager for Public Works and Utilities, advised if this ordinance is approved, it will accept the remainder of Lotus Loop, which is in the Lotus Valley Subdivision, for maintenance, and will include the street lights, right-of-way, and the surface of the street pavement. He stated approximately 1,134 feet of Lotus Loop has been accepted previously by the Board for City maintenance, and the developer is asking the City to accept the remaining portion of Lotus Loop.

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.

38 Proposed Ordinance No. O-09-23

An ordinance entitled, "AN ORDINANCE WAIVING THE REQUIREMENTS OF COMPETITIVE BIDDING FOR THE PURCHASE OF BLENDED POLYPHOSPHATE FOR OUACHITA WATER TREATMENT PLANT; CERTIFYING EMERGENCY ACTIONS BY THE CITY MANAGER; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES," was taken from the agenda for consideration.

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

Upon discussion, Mr. Steve Mallett, Deputy City Manager for Public Works and Utilities, explained if this ordinance is approved, it would approve an emergency purchase made on May 14, 2009, for a bulk delivery of blended polyphosphate to the Ouachita Water Treatment Plant in the amount of \$33,930 from Carus Corporation. He stated recently the City had issues of poor quality of the blended polyphosphate received from its vendor; therefore, the City terminated its existing annual supply contract with that vendor on April 24, 2009. The City promptly rebid the contract but was unable to operate on the existing supply that it had and had to make an emergency purchase until the new bid was approved, which was included in the bid awards on the Consent Agenda on tonight's agenda. Therefore, the City contacted the previous second, low bidder and negotiated a price within two cents of what the original low bid was; therefore, it has a very minimal impact on his budget compared to what he normally would have had. He stated failure to do so would have compromised the City's ability to effectively treat the water. Therefore, staff recommends approval of the purchase.

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. City Attorney Brian Albright then read the emergency clause; and

upon motion of Director Daniel, duly seconded by Director Maruthur, that the emergency clause be passed; and upon roll call, the following voted "aye": Directors Maruthur, Jones, Keheley, Weatherford, Ramick, Daniel, and Bush, total 7; motion unanimously carried. Whereupon the emergency clause was declared passed.

OTHER BUSINESS

39 Board of Directors Items for Discussion

Director Maruthur said she is very disappointed the people who showed up tonight did not have an opportunity to speak. She stated she misunderstood Option No. 3, but it would not have made any difference because the vote by the Board would not have allowed it anyway. She said she misunderstood the Board could have discussion if it got to the item and tabled it. She reminded everyone to sign up for CodeRED, which includes a notification of Sanitation holidays and emergencies. She stated citizens may call Paula Brown at 321-6861. Also, there is an account set up at Regions Bank for the family of deceased firefighter Gene Yarbrough. She mentioned that she began her own "Peggy's Politeness Program" where she issues demerits according to behavior, and Director Weatherford received three extra demerits tonight; and Director Ramick received two extra demerits. She stressed that she is very disappointed that the people who showed up were not allowed to speak and apologized to those people. She added that only one person called her today, but they did not show up tonight.

Director Weatherford questioned if asking a question is considered impolite. He said that Director Maruthur has asked him the same question; and in his demerit list, she received ten. Director Maruthur replied that she had him down for ten at first.

Mayor Bush reported that he has received several calls on people who have been cutting grass in either yards or commercial establishments and blowing the grass in the streets. He said that he talked to a person about this, which was not appreciated by the individual. Also, he mentioned that Director Edwards always urged residents to remove their yard sale signs and not place them on telephone poles, which is against the law. He said that he has seen people walking in the mornings, and they remove them because they know it is not right.

Director Jones announced that the Arkansas Municipal League Conference will begin on June 17, 18 and 19.

Director Maruthur stated that the Board was advised by Mr. Steve Mallett regarding the car washes and the products going into the storm sewer. She said she has noticed car washes where people are trying to raise money for different organizations and questioned what action the City takes when young people are trying to help an organization.

Mr. Steve Mallett, Deputy City Manager for Public Works and Utilities, advised that it is against the Stormwater Ordinance and state law. However, the City does not actively police that as of the present time. He mentioned many of them happen on weekends, and his employees are not working at that time. However, if they see them during the day, his staff will remind them that it is against the law. He added the City does not cite them as of the present time because it is trying to get the word out to let them know. Director Maruthur asked if he had time to check out the product that she gave him, and Mr. Mallett replied that he did; but it is not on EPA's list. He said they do not recognize anything as being safe for stormwater, even that product. Director Maruthur stated there are some departments that are going to have to stop doing some of the services because of that. Mr. Mallett replied he was hoping he could find something also because the Fire and Police Stations all wash their vehicles; therefore, he is making arrangements to be able to address that issue down the road in all those areas. He mentioned the City is designating an area, and a berm was built to trap everything and it has to be covered. Also, it has to be tied to a sanitary sewer drain, not a storm drain.

City Manager Lance Hudnell added that the City has a city car wash in an area that is a mechanical car wash, but it can also be used for manual so the various departments are working together to try to set up a schedule so they can use that facility. He said it does meet all of the requirements, and it is hooked to the proper drains and is covered.

40 City Manager's Report

City Manager Lance Hudnell gave the following report:

1. Ms. Minnie Lenox, Human Resources Director, has requested that an announcement be made that the Hot Springs Greater Graduation Summit will be on Thursday, June 11. Meetings will be held at the school district offices in the former

Jones School Building at 400 Linwood. The purpose of this summit is to bring the Hot Springs community together to focus on causes and consequences of Arkansas high school dropout rate and discuss goals and ideas for improving the local four-year high school graduation rate. They have asked a number of city leaders to help sponsor that. Mayor Bush is one of the co-sponsors of that event, and Ms. Lenox is the designated representative for the City.

2. On June 25, at 6 p.m., in the Board Chambers, there will be a public hearing on the new cable franchise agreement. Staff will have discussions with the Board prior to that time, but there will be a public hearing for the purposes of the general public.

3. Next Tuesday, there will be a Board work session following the agenda meeting at 5 p.m. The purpose of this work session is to concentrate on the new water treatment plant. The engineers and people who have been working on that will be present, and the purpose of that meeting is to go into detail with the Board. There will be further public hearings following that.

4. June 18 is the IT Free Ride Day. This is also an appreciation for those who ride the transit system quite frequently. It is also National Dump the Pump Day.

5. On the Consent Agenda, there were a number of appointments to boards and commissions and committees. People can continue to apply as the City has vacancies, and those will be presented to the Board for consideration as they come up. That can be done on the City's website or by calling the City Manager's Office at 321-6811. There were also a number of grants on the Consent Agenda. With regard to the stimulus program, the grants that are a part of that are on the City's website so people can track those grants as the City progresses (www.cityhs.net).

6. The new Bill Edwards sign is installed, and there is still some landscaping to be done. The City will be setting up that grand opening as soon as the building is painted and other final touches are done.

7. With regard to the airline, the leading candidate withdrew their proposal, and Mr. George Downie, Airport Director, is doing some background checks on others. This is a decision of FAA and not the City, but they do accept a recommendation from the Airport administration.

8. He thanked the Ambulance Ad Hoc Selection Committee for its selection of the ambulance service, and Fire Chief Ed Davis reported that they did a very thorough job.

41 ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 7:55 p.m., to meet again on Tuesday, June 16, 2009, at 7:00 p.m.

ATTEST: _____

APPROVED: _____

Lance Hudnell, City Clerk

Mike Bush,

Mayor