

MINUTES

BOARD OF DIRECTORS MEETING

JULY 21, 2009, AT 7:00 P.M.

The regular meeting of the Board of Directors was held on Tuesday, July 21, 2009, at 7:00 p.m., Board Chambers, City Hall, with Mayor Mike Bush presiding.

The invocation was given by Ms. Lynda Hogaboom, 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 Daniel, duly seconded by Director Ramick, that the agenda be approved; and upon voice vote, the motion unanimously carried.

3 Approval of Minutes of July 7, 2009 Board Meeting

A motion was made by Director Daniel, duly seconded by Director Keheley, that the minutes of the July 7, 2009 Board Meeting be approved.

Upon discussion, Director Maruthur requested that the minutes be corrected to reflect that she voted "yes" on Proposed Resolution No. R-09-170 (A Resolution Approving Elaine Terrace Preliminary Subdivision Plat for a Residential Six-Lot Subdivision on 1.77 Acres on Emory Street Between Fleet and Roberts Streets).

Mayor Bush then called for a vote on the motion to approve the minutes, as amended; and upon voice vote, the motion unanimously carried.

4 Recognition of Guests

There were no guests present for recognition.

5 Board of Directors Announcements

Director Keheley invited the citizens and Board Members to the Wellness Fair to be held at the Farmers' Market (Transportation Plaza), on Saturday, July 25, with the focus being on health and wellness. She mentioned the Friends of the Farmers' Market will have free blood pressure checks by the National Park Medical Center, blood sugar screening by Convenient Care Clinic, and BMI screening by St. Joseph's Mercy Health Center. There will be dancing demonstrations, YMCA demonstrations, New Awakenings, Garland County Care, and Recovery Walk. Also, people will be able to shop for summer produce and crafts. She advised that the Oaklawn Senior Health Care Center opened yesterday at 210 Woodbine and will operate in partnership with the University of Arkansas Medical Center. She thanked Dr. Robert Kleinhenz, the new director, and congratulated Mr. Darrell Meyer and his board of directors for their commitment. She announced that on Tuesday, July 28, at 5:30 p.m., Room 205, Hot Springs Civic and Convention Center, there will be a public hearing on the water treatment plant that will affect all of the citizens; and everyone needs to make an effort to attend the meeting.

Director Maruthur announced that the Park Avenue Community Association will hold a special meeting on Monday, July 27, 6 p.m., at the Tower of Strength Ministries, to address an issue regarding the magnet school. Ms. Joyce Craft, superintendent of the Hot Springs School District, will be present; and those individuals interested in the future of Park Avenue are welcome to attend.

Director Ramick extended an invitation to the Spa City Rib Cook-off this weekend. He stated competition begins at 8 a.m., and judging will be at 2 p.m. Anyone wanting to cook, may contact Tom Daniel. The tickets are \$5 and will begin serving at 3 p.m.

Director Daniel stated the proceeds go for lighting downtown and is sponsored by the Downtown Merchants' Association and will be held at the Exchange Street Parking Facility.

Director Maruthur noted this effort with the cook-off is to help District No. 1 and the Historic Downtown. Director Daniel added that they also give scholarships in other areas of the City.

CONSENT AGENDA

The Consent Agenda consisted of the following:

- 6 Public Safety Report** (July 7, 2009).
- 7 Proposed Resolution No. R-09-180** Repealing Section 2 of Resolution No. 6978 Regarding a Convenience Fee of \$2.00 for Credit Card Usage.
- 8 Proposed Resolution No. R-09-181** Awarding a Contract for Planning Services to Studio Cascade Community Planning and Design to Update the City of Hot Springs Comprehensive Plan.
- 9 Proposed Resolution No. R-09-182** Authorizing the Mayor to Execute a Wireless Communications Lease Agreement Amendment with SBA Properties, Inc. at 1311 Golf Links Road.
- 10 Proposed Resolution No. R-09-183** Accepting a Certified Local Government Grant from the Arkansas Historic Preservation Program to Provide Funding for Historic District Commissioners and Staff Training.
- 11 Proposed Resolution No. R-09-184** 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. 6426.

A motion was made by Director Daniel, duly seconded by Director Ramick, that the Consent Agenda be approved; and upon roll call, the following voted "aye":

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

NEW BUSINESS

12 Request from Ms. Pearl DeAcutis Regarding Changes to Animal Control

Ms. Pearl DeAcutis requested changes in the Animal Control definitions, such as “owner” changed to “guardian” or “caretaker” because owner implies a piece of property; and an animal is not a piece of property. She added the term “guardian” or “caretaker” defines what this person should be doing. Also, she would like to see the owned animals have microchips. She said she called two or three veterinarians; and the prices were \$55, \$65, and \$45. She mentioned in Little Rock, they can get it done for \$10 and was told the City would have to find a vet that does it cheaper. She said she had talked with someone who was familiar with it and was told Animal Control might be able to get together with the Little Rock Animal Control and others; and by ordering large quantities, they are not as expensive. She stated there is a law that people cannot feed more than four animals at a time. However, this goes against everything that she has learned. She said she hoped the public could be informed about how many cats and dogs are destroyed, adopted, or euthanized, weekly or monthly by Animal Services in order to determine if there are improvements.

Mayor Bush expressed appreciation to Ms. DeAcutis for her presentation and then called for the next order of business.

13 Proposed Ordinance No. O-09-27

An ordinance entitled, “AN ORDINANCE AMENDING THE ZONING CODE OF THE CITY OF HOT SPRINGS, ARKANSAS, BY REZONING PROPERTY ON THE SOUTH SIDE OF THE 100 BLOCK OF WRIGHTS STREET FROM C-TR, COMMERCIAL TRANSITIONAL DISTRICT, TO C-2, GENERAL BUSINESS DISTRICT, AND AMENDING THE FUTURE LAND USE MAP BY RECLASSIFYING THE

SUBJECT REAL PROPERTY TO COMMUNITY COMMERCIAL CENTER," was taken from the agenda for consideration.

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

Upon discussion, Ms. Kathy Sellman, Planning and Development Director, stated the applicant is Arkansas Nephrology Services, Ltd., on behalf of the property owner JRS Properties, and they are seeking C-2, General Business District zoning, on 2.68 acres in Wrights Subdivision. It is located on Wrights Street, just west of the Candlewood Hotel on Central Avenue. She said the applicant states that the zone change is to enable development of a medical dialysis center and because this is located in the general vicinity of St. Joseph's Regional Health Center property and in a number of medical and related professional offices and centers in this area, the proposed use of this property appears to be compatible with clustered medical uses in the area. The Planning Commission heard public testimony on July 9 and accepted the staff findings and voted 9 to 0 to recommend that the Board approve an ordinance to effect this change from Commercial Transitional to General Business District and also amending the Future Land Use Map to designate the property Community Commercial Center; and in that way, the application will comply with the Hot Springs Code.

Director Maruthur pointed out at the agenda meeting she questioned this being Wrights Lane because that is what it was for many years. She said she drove out there, and it just says Wrights because it is now Wrights Street and a lot of people remember when it was Wrights Lane.

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.

14 Proposed Ordinance No. O-09-28

An ordinance entitled, "AN ORDINANCE ACCEPTING SAWTOOTH OAK STREET AS A PUBLIC STREET; AND FOR OTHER PURPOSES," was taken from the agenda for consideration.

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

Upon discussion, Mr. Denny McPhate, Public Works Operation Manager, stated this is an ordinance accepting Sawtooth Oak Street for maintenance and the right-of-way. He said it is in a new subdivision and has been inspected by engineering personnel, and they find that the street meets all city specifications. Therefore, staff recommends to accept it for maintenance.

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.

15 **Proposed Ordinance No. O-09-29**

An ordinance entitled, "AN ORDINANCE GRANTING A FRANCHISE TO RESORT TELEVISION CABLE TO CONSTRUCT, OPERATE, AND MAINTAIN A CABLE SYSTEM IN THE CITY OF HOT SPRINGS, ARKANSAS; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE FRANCHISE; PROVIDING FOR REGULATION AND USE OF THE SYSTEM AND THE PUBLIC RIGHTS-OF-WAY; PRESCRIBING PENALTIES FOR THE VIOLATION OF THE PROVISIONS HEREIN; AND FOR OTHER PURPOSES," was taken from the agenda for consideration.

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

Upon discussion, Director Maruthur pointed out this is going to include a three percent franchise fee; but the legal limit is five percent; and Lifetime channel is not included.

City Manager Lance Hudnell advised that the franchise fee does not set the channels, but Lifetime is not a current channel.

Director Daniel questioned when the Lifetime channel would be available; and Mr. Paul Morbeck, 115 East Capitol, Little Rock, representing Resort Television Cable, advised that Lifetime is one of the channels they provide. He said they currently provide 227 channels in Hot Springs, and each of those channels is contracted. He noted there is nothing they show without a contract, and the contract negotiations with Lifetime Television broke down last year. Therefore, they were required to drop the service because they could not get their contract renewed. He advised they are continuing to work with those people and hope to bring the programming back. However, at this point, there is not any prediction he can make about when that might happen.

Director Ramick questioned if the golf channel will be included, and Mr. Morbeck advised that they need to contract for every one of those channels; and every week they are in one renewal discussion or another. He added they are not expecting to add the golf channel at this point, but it may happen sometime in the future.

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.

16 Proposed Ordinance No. O-09-30

An ordinance entitled, "AN ORDINANCE AUTHORIZING THE LEVY OF AN ADDITIONAL \$20 FINE TO HELP DEFRAY THE EXPENSE OF INCARCERATING CITY PRISONERS PURSUANT TO ACT 209 OF 2009; TO REPEAL ORDINANCE NO. 5026; 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 Daniel, duly seconded by Director Ramick, that the ordinance be passed as read.

Upon discussion, City Attorney Brian Albright explained that currently the law authorizes a \$5 fine to be added to existing misdemeanor and traffic fines that help facilitate the cost of incarcerating city prisoners; and that amount of money has to be put into a special fund that can only be used toward helping defray the costs of incarcerating those prisoners. He advised the law was changed and went into effect July 1 pursuant to an emergency clause enacted by the State Legislature that allows cities and counties to increase that from \$5 up to \$20. He mentioned the County has already passed such an ordinance and will begin collecting those fees immediately. He stated currently the \$5 fee that is collected on the fines that are assessed by District Court now have generated approximately \$65,000 per year. If the Board enacts this ordinance, it will increase and if the City extrapolates the \$5 out, it will be \$261,000 per year. He mentioned the City's current budget for jail expense is \$650,000 per year, and it will not cover the cost. However, it will help reduce it and will do it in a way that will assess the penalty to the ones who are actually in court rather than to the general citizens who are not in court.

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. At this time, City Attorney Brian Albright read the emergency clause. A motion was made by 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.

17 Proposed Resolution No. R-09-185

A resolution entitled, "A RESOLUTION APPROVING AN AGREEMENT WITH STEPHENS, INC. AND MORGAN-KEEGAN & COMPANY, INC. FOR CERTAIN BOND UNDERWRITER SERVICES RELATED TO VARIOUS CAPITAL IMPROVEMENT PROJECTS," was taken from the agenda and read by title only.

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

Upon discussion, City Manager Lance Hudnell explained this resolution engages the firms of Morgan-Keegan and Stephens to assist the City with bond issues at such time as it is at that point, which will be over the next several years with regard to water, wastewater, and airport projects. He said the City is doing this at this time in order to have these firms on board so they can run the numbers as the City begins to refine its rates, etc. He pointed out it is important to have them as bond underwriter as part of the overall team so the City can assess the numbers that it will need with regard to what those bond issues and projected interest rates might look like. He said the particulars will be addressed at such time as there actually is a bond issue on the table with regard to management fees. At this point, this is just getting these people as part of the team, then ultimately later on down the road, is when the Board will actually consider various bond issues. He stated should the Board decide not to do any bond issues, then there is no fee owed to the firms. He advised that staff went through the rating and ranking process and had five different firms submit proposals. The staff committee reviewed the proposals, and then the two top firms worked together to come up with the agreement that is before the Board regarding a senior manager and co-manager situation. In discussing this with the Arkansas Municipal League, he said they were very much in favor of this. Mr. Paul Young is now the financial advisor with the Arkansas Municipal League, and he stated that he relied heavily on him in discussing this particular issue and the advantages and disadvantages of doing it in this manner. Mr. Young said it was a good idea to do it this way because it would assist the City in selling the bonds by having both firms involved and would assist in acquiring a better interest rate. He added this is simply engaging these firms so the City can begin to have them run the numbers. In the past, the City has asked a bond house to run numbers without the Board formally selecting them, which is alright under Arkansas law. However, he personally did not feel comfortable with that and felt more comfortable with the Board approving who he is asking to run the numbers. He pointed out that way there is no question when the City comes to the bond issue about who is in charge and who is not by having this up-front agreement.

Mayor Bush recognized Mr. Clyde Ratcliff, 141 Cannon Ridge Point, who stated he is against the water treatment plant and sees no reason for putting the water treatment plant on the county side of the river when 90 to 95 percent of water is going to be used on the city side. He said the additional money that will be spent in pushing the water a half a mile away from where it is going to be used and then a half a mile back, through two 36" pipes, that is tons of water that has to be pushed uphill back to be used again. He suggested pumping the water out of the lake to the city side and save

the expense. He added this is going to be a 50-year project and is going to be additional horsepower electricity, etc. for 50 years.

Mr. Bob Driggers, 3 Stonegate, stated that the bond people are not needed at this stage; and typically they come in at the end. He said that he would like to pose eight questions and recently went to an Entergy Focus meeting that answered those. He stated that he is going to pose those eight questions and then propose the answer that he believes fits. Question No. 1: "Why would the City hide a \$3.6 million engineering contract in a Consent Agenda?" Question No. 2: "Why would the City even consider paying \$200 million for water projects that should be accomplished for ¼ of that amount?" Question No. 3: "Why would the City not first work to eliminate its 43 percent water loss?" Question No. 4: "Why would the City allow no public input or comment at most of its workshops and so-called public meetings?" Question No. 5: "Why would the City consider taking water at the most polluted point of the most polluted body of water in Garland County?" Question No. 6: "Why would the City give up on Lake Ouachita water and other locations so easily?" Question No. 7: "Why would the City even think of building a water intake and treatment plant on the opposite side of the lake and then build a pedestrian bridge to get the water back to the other side of the lake?" and Question No. 8: "Why does the City need two more huge parks including a frisbee golf course when we already have 17 parks, plus a Greenway, and a frisbee golf course that is seldom used?" He said the two proposed parks are not even in the City, and he believes the answer came up at the Focus meeting he attended which is because the unnecessary parks, excessive expenditures, and the "screwball" engineering would result in Entergy getting Hot Springs to pay for the recreation facilities they are mandated by FERC (Federal Energy Regulatory Commission) to build. He commented that is not right; and Energy's ratepayers in the several states they serve should pay for the expenses, not the already overtaxed, overcharged citizens of this area.

Director Maruthur said that she missed Question No. 2 (why would the City consider paying \$200 million for water projects that should be accomplished for much less than that?). Mr. Driggers explained that is the number that he heard from the deputy city manager that the water projects could cost over \$200 million. Director Maruthur noted that on Question No. 4 (regarding no public input), there have been public meetings. Mr. Driggers responded they were called public meetings. He added there were board workshops they attended and were not allowed to speak which they never are, and he understands that. However, at the open houses that were held in the Hot Springs Civic and Convention Center, the public was not allowed to speak during the public forum. He said the public was only allowed to speak at tables outside of the meeting room after the meeting was over, and the public did not get the benefit of

hearing the other public's comments so they do not get the whole picture but only get one side of it.

Mr. Chris Reimers, 111 Squaw Valley Trail, commented that under Item No. 17, it states that these underwriter services are related to various capital improvement projects and questioned what these projects are. City Manager Lance Hudnell advised they will be water and wastewater projects, and possibly airport projects if the revenues of the airport so support. He noted the airport has been needing to build some hangars for a number of years. Mr. Reimers questioned what the water projects will consist of, and City Manager Lance Hudnell advised they will primarily be associated with the water treatment plant. He stated there may be some other water improvements in addition to that. Mr. Reimers asked if this will be a new treatment; and City Manager Lance Hudnell advised that it would, plus related facilities. Mr. Reimers commented that Mr. Driggers had mentioned a \$200 million cost and asked if there is a project estimate at this time, and City Manager Lance Hudnell advised there is not a firm estimate at this time. However, there are a number of projects that make up that \$200 million, the majority of which being around \$100 million for the new treatment plant and the related facilities associated with it. Mr. Reimers asked how the project will be paid for; and City Manager Lance Hudnell replied that it will be by bond issues, which are supported by the rates. Mr. Reimers asked if the rates will increase in the water costs, and City Manager Lance Hudnell advised that they will. He added the item on the floor tonight is just engaging the bond underwriters to work with the City in developing numbers and not approving or disapproving any bond issues. Mr. Reimers said that he understood that; but his opinion is if there is not a project estimate, there is not an estimate of what this is going to cost each individual person who is paying for water. City Manager Lance Hudnell advised there are estimates included in the rate study; but they are not the final, firm engineering estimates and are the rough engineering estimates that are in the rate study that the Board will be discussing at a later time and will also be subject to public hearings. Mr. Reimers asked if he could give a rough estimate, and City Manager Lance Hudnell explained that he could not because that is not on the agenda tonight. He said at the next meeting, he will be glad to or if he wants to stop by his office, he will be glad to show him the rate increases when that is on the floor for discussion. In reply to Mr. Reimers, City Manager Lance Hudnell advised that this Tuesday's public hearing is exactly what Mr. Driggers was asking about, which is the location of the water treatment plant. He said it will be the public hearing style where everybody can hear everything. Mr. Reimers asked if the public will have an opportunity to speak at that meeting, and City Manager Lance Hudnell replied that they would. He added that will be on the August 4 Board Agenda, and the public can also speak at the Board Meeting. Mr. Reimers said that he feels like a project this large (\$200 million), the

City should put out some type of press release; and City Manager Lance Hudnell advised that the City has done a number of those, as well as display ads, and radio and television programs. However, the City still needs help in getting the word out. Mr. Reimers asked if there will be more ads put in the newspaper before Tuesday; and City Manager Lance Hudnell advised that the City would, not only with regard to this but also with regard to the rates. Mr. Reimers asked if there is a place where he can pick up this plan, and City Manager Lance Hudnell advised there is a website dedicated specifically to this project (www.cityhs.net) and click on the water icon. Mr. Reimers said that he can study that, which should help him for Tuesday's meeting. Mr. Reimers commented it is his opinion if this is going to be a project that is going for a long term, this is something that is just preliminary, and he would suggest waiting and listening to the people on Tuesday before making a decision on this issue tonight. City Manager Lance Hudnell stressed this is just engaging the firms, and he wished the City had them engaged six months ago. He explained that normally, they are involved very early in the project to help decide how to run the bond issue, what projected interest rates look like, etc. He added they are the City's advisor through this whole process; and at the end of the process, that is when they get into selling the bonds and actually putting the bond issue together. However, there is a lot of preliminary information long before that which normally they just do out of the goodness of their heart without being engaged.

Director Ramick commented that he personally thinks the City Manager, Deputy City Manager, and City Attorney have been looking at this for a long time and have done a due diligence and should allow them to proceed. Mayor Bush said that he agreed.

Mr. Alexander, with Morgan-Keegan, said they appreciate the staff's choosing them to be a part of the financing team with Stephens, Inc. to work on the water and sewer projects. He mentioned they have had a long history of working with the City; and since 1991, they have been involved in \$107 million in bonds for the City – the main one being the Hot Springs Civic and Convention Center. He noted Mr. Paul Young is with Arkansas Municipal League, and Ms. Patricia Quinn is with Morgan-Keegan. He explained if the City does not do anything, it does not owe Morgan-Keegan anything.

Director Keheley asked that he speak on the July 15 news article regarding the possibility of the Security and Exchange Commission bringing legal action against Morgan-Keegan. Mr. Alexander responded that this was Morgan-Keegan Asset Management and is an investigation by the SEC and has nothing to do with their public finance part. He explained this was a mutual fund that paid 13 to 14 percent, and people had to know it was risky when they bought it. However, it was subprime loans

that was in this and is the same thing that got the whole banking system in a financial turmoil because everybody thought these subprime loans were good. He said they were rated at that time by the rating agencies, and it turned out they were not good; but that has nothing to do with Morgan-Keegan public finance. He said it has as much to do with Regions Bank as it does with Morgan-Keegan, and this was a subsidiary of Regions Bank. He explained the only way they lost was if a broker sold something to somebody who was not suited to buy it, such as an 80 or 90 year old person who did not need that.

Other than that, all of the cases have been basically solved; and very few have been awarded to the plaintiffs. He advised they are ranked this last quarter for the first six months of the year, No. 8 in the country for selling municipal bonds. He said Buyers and Issuers have faith in them, or they would not have been ranked 8th in the country, 1st in south central, 1st in southeast, and 1st in southwest with their offices around selling municipal bonds.

Director Keheley commented that the City is about to spend a great deal of money on some critically needed facilities, and she thinks it is imperative that the citizens have full faith and that he can assure the City they can have full faith in his company. Mr. Alexander replied that he has been in this business for 28 years, and this is a large bond issue. He mentioned when he first got into this business, all of the state would not do \$150 million. However, inflation is a big deal; and this is a big project and is important to the City to go forward.

Mayor Bush commented that the Board needs to remember that Regions Bank owns Morgan-Keegan.

Director Daniel commented that tonight, the City is not actually obligating itself to do any business with these people until it comes time to actually sell bonds.

City Attorney Brian Albright advised that is correct, and there are no fees that are generated. He said no compensation is paid to either Stephens or Morgan-Keegan unless and until there is a bond issue that sold, and their fees will be generated off of that.

City Manager Lance Hudnell pointed out that the Board tonight is entering into this agreement so that he and City Attorney Brian Albright and ultimately the bond counsel can call this company and say they need to know what a \$10 million bond is going to cost if it is run at 20, 25 or 30 years and what the projections look like for interest rates six months from now. He said the City's rate consultant, who is working with the rates, may need to talk to them about some issues he may have with regard to

the rates. He explained when they actually get to issuing a bond issue, that is when the fees will come in and will be part of the bond documents at that time. He commented staff has total faith in both of these firms and has worked with both of them on various bond issues.

Mr. Kevin Faught, representing Stephens, Inc., stated he worked on the last bond issue for the City and appreciates the opportunity to continue working with the City.

Director Keheley asked that he go over the team approach versus one firm having water and one the wastewater and splitting it up.

Mr. Faught replied that City Manager Lance Hudnell is accurate in saying that if there is more than one firm, particularly a bond issue this size, more investors can be reached, which could possibly translate into lower interest rates.

Director Maruthur commented on the Board Action Request Form, pointing out it mentions several different scenarios regarding the co-manager using one firm. She questioned why there was a lot of discussion included in the Board Action Request Form, and City Manager Lance Hudnell advised that he wanted the Directors to be fully informed on what they were voting for in case they wanted to do something different than what staff recommended.

Director Maruthur questioned if he could define what the relationship would be as far as the percentage; and City Manager Lance Hudnell explained that is contained in the agreement and basically the agreement is that Stephens will be the senior manager on wastewater and airport issues; Morgan-Keegan will be the senior manager on water issues; and on the opposite end of each other, they will be co-managers. He noted whoever is the senior manager gets 70 percent of the management fee; the co-manager gets 30 percent; and then they split the bond sales (split 65-35).

City Attorney Brian Albright stated if there are any airport bonds, that is 100 percent Stephens, and it is conceivable that the Board at a future date may choose to issue bonds on water, not issue bonds on wastewater, issue bonds on airport, or not issue bonds on water. He said it varies because this is not the issuance of the bond but is just retaining a professional to give the City advice. He noted in the past, this has not been done on the front end because Paul Young was the engaged financial advisor for the City and was retained in that capacity and utilized him to run the

numbers. At a later date, the City might issue the bonds to Morgan-Keegan or to Stephens or somebody else.

City Manager Lance Hudnell explained under the previous administration, Stephens had worked on Airport Bond issues and had done all of the front-end work already.

Director Maruthur asked if the management fees and the arrangement with the percentage would be locked in if the Board approves the agreement. City Manager Lance Hudnell replied that the arrangement with the percentage will be locked in, and the management fees themselves will be negotiated at the time the City does the bond issues. He added this is how they will cooperate with each other with regard to the bond sales.

Director Ramick commented the resolution the Board is considering tonight will not cost the taxpayers any money, but the City is engaging two companies to advise the City on what it needs to do with the bonds. City Manager Lance Hudnell explained there will be fees at such time as bonds are issued in accordance with this agreement. However, between now and then, they will run numbers and do work for the City. He stated if the City gets to the point that it does not want to issue that bond, then the City will owe them nothing. However, if the City wants to proceed with that bond issue, then it will owe them and will be paid as part of the bond issue.

Director Maruthur stated the City is setting up a structure for a commission for their cut, and City Manager Lance Hudnell replied that is correct. He added the bigger issue for him is giving him authority to deal with them in running these numbers. He pointed out the original proposal was to select one firm for one issue and the other firm for the other, but they approached the City and said it is better if they cooperate together. He said the City negotiated with them, and Mr. Young and Mr. Sheppard Russell assisted him to come up with this agreement after they convinced him this was a better approach to the way of handling this as having them both involved in all the issues as opposed to splitting them.

Director Maruthur pointed out that the Board is just now being presented with this arrangement; and there are numerous questions being posed, which concerns her because there should have been a meeting just dedicated to this issue. City Manager Lance Hudnell explained this is a fairly straightforward agreement and is about the same as many other items on the agenda.

Director Maruthur asked if Finance Director Dorethea Yates was previously employed by Morgan-Keegan because she had heard that she was, and Ms. Yates replied that she was not.

Mayor Bush then called for a vote on the motion to adopt the resolution; 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.

18 Proposed Resolution No. R-09-186

A resolution entitled, "A RESOLUTION AUTHORIZING REVISIONS TO THE 2009 BUDGET," was taken from the agenda and read by title only.

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

Upon discussion, City Manager Lance Hudnell stated that staff has no problem with the Board's voting on this at a different time, but the items presented by staff are fairly minor in nature as far as adjustments to the budget; however, the issues that Finance Director Dorethea Yates will be presenting will be significant.

Finance Director Dorethea Yates gave a summary of the midyear financial performance of the major funds. Regarding the strengths, she said the City is in much better position than many cities across the nation and state. Up until 2009, the fund balance reserves were adequate; and the City had a steady sales tax growth. There was a low turnover in key management positions, which she considers a financial strength. Most of the utility rates that the City set provided the infrastructure and working capital that was needed for those utilities. She mentioned the debt level is extremely low for a city of Hot Springs' size. Regarding some of the challenges staff faced last year and this year in preparing the budget was the decline of the fund balances. The General Fund balance has been depleted to below acceptable levels, and there has been stagnant sales tax growth in 2009. The City's expenses are increasing at a much faster rate than are revenues, and most of the enterprise funds are either breakeven or losing money. She mentioned that the City's infrastructure needs for 2010 and the future definitely need to be addressed.

She gave a Power Point presentation noting that the information is based on the actual expense and revenue as of June 30. She pointed out there are two months in

the year when there are three-payroll months. Typically, one of those months is in the first half of the year; and one is in the second half of the year. However, the way 2009 has fallen, both of those three-payroll months are in the last half of the year. In looking at expenses, it may appear only 45 percent of the budget has been spent through June 30; but the last six months, there will be two payroll months so those numbers will be higher.

Regarding the General Fund, Police Fund, and Fire Fund, she said all of these funds are on target with budget; and the City budgeted this year for those three funds a net deficit of about \$1,750,000. Sales tax is below last year's numbers by about .53 percent. She noted that sales tax typically runs two months behind so the latest number for actual sales tax is through April. She stressed that the City cannot continue to budget deficits of this magnitude as General Fund balance will be completely depleted in a very short time. She mentioned the combined, total fund balance is slightly below \$2.5 million, and the City did not budget an increase in sales tax for 2009.

Regarding the combined fund balances for General Fund, Police Fund, and Fire Fund, in 2004, there was a combined fund balance of about \$6 million and now is about \$2.5 million at the end of 2009. She advised that the ordinances state the General Fund balance should be around \$2.5 million or the equivalent of two months' operations. In two months' operations for Police Fund, Fire Fund, and General Fund combined is about \$5.1 million. Regarding a breakdown of the sources of revenue for General Fund, Police Fund, and Fire Fund, the largest source of revenue, which is about 60 percent, is the sales tax. She said if that number does not grow, then revenues are not growing very much.

The other General Fund support funds include Intracity Transit, District Court, and Street. All of those funds are running on target with budget with revenues and expenses. She noted the amount of capital being spent on street improvements continues to decline even though the City is taking on more additional streets.

The Higdon Ferry Widening Fund is used to purchase the right-of-ways needed for the Higdon Ferry Road; and \$700,000 was put in this fund, which was from the excess sales tax when the Civic Center Fund was repaid. The City spent about \$153,000 in 2009, and the balance of that fund is approximately \$272,000.

The Major Capital Projects Fund was created with the excess sales tax after the Civic Center bond issue was paid off and was created by transferring approximately

\$1.8 million into this fund. It was used in 2008 and 2009 to fund General Government Capital, and the City began this year with a balance of about \$1.2 million. At the end of 2009, most all of the capital will be spent, which has been providing for all of the capital needs for different funds. The 2009 major expenditures was used for ASMSA improvements, police cars, fire rescue vehicle, traffic coordination expenses, and parks grant matches.

Regarding the Airport Fund, as of June 30, this fund has lost \$130,000. At this point, they owe the General Fund \$33,000 but is waiting on various reimbursements from the state and federal government to be able to repay that. The Airport, under the leadership of Airport Manager George Downie, continues to make a lot of improvements to its infrastructure due to the fact that they receive federal and state grants. The fuel crisis had a major impact on its bottom line, but hopefully the new carrier will result in some additional revenue. Mr. Downie is also working on numerous issues related to rental property, and hopefully that fund will become a stable fund in the future.

Sanitation Fund through June 30, had a net gain of \$287,000; and that department has made some major additions to its fleet over the past few years. She and Sanitation Director Bill Burrough about five years ago developed a plan for five years of what capital he was going to need and what rate increases would be needed in order to support that. The last phase of those rates has been implemented, and that fund has worked very well under those rate increases. She mentioned they will probably need to continue to increase those in the future in order to maintain adequate fund balances.

In the Water and Wastewater Funds, Water has a net gain of \$470,000 through this point; and the revenue is slightly below last year. The City budgeted for this year a net gain of \$1,421,000. At the present time, there is about \$4 million available for capital; and overall this has been a very healthy fund. Wastewater Fund has net gain so far of \$67,000. Currently, it is running very close to budget; but it does owe the Utility Administration Fund \$252,000. The City budgeted a deficit in this fund of \$483,000 and needs to do some rate increases in order for this to be a stable fund. The wastewater fund is dealing with a cash crisis, and it is going to need a rate increase in the near future.

The Stormwater Fund had a net gain of \$233,000 and is running close to budget in that fund. It is meeting its budget targets and providing a source of funding for several of the City's needed stormwater improvements.

Regarding 2010 Challenges, the fund balances must be stabilized and need to increase revenues, decrease expenses, or some combination of those in order to get these fund balances to the level they need to be. She stated rate increases are going to be necessary (sanitation rates, water rates, and wastewater rates). She commended the Board on the job they have done in the past and pointed out that no one is in favor of rate increases. However, she believes the Board has done a good job in the past of keeping rates at a level to sustain good fund and improve the City's infrastructure. She mentioned there will be some critical prioritization of 2010 capital projects. She said there is very little capital budgeted in the General Fund, the Police Fund, and the Fire Fund these last two years. She pointed out there is an unknown impact of the stormwater lawsuit.

Director Maruthur pointed out that the Directors were give six pages of numbers after they arrived at the Board Meeting. She stated she did not want to come to a meeting and have this presented again. City Manager Lance Hudnell explained there are only two lines that are different than what was included in the Board packet. He noted that Ms. Yates had sent him this correction late and was covered in the Board Action Request Form, but it was not covered on the sheet. He explained the three line items under Intracity Transit Fund and the major capital projects fund were discussed on the Board Action Request Form but were not included in the printout. He said that he appreciated Director Keheley's catching that error because it was not in the printout.

Director Maruthur asked if staff could place a sticky note directing them to the change should this happen again, and City Manager Lance Hudnell replied that he could. He added that he intended to address that when the Board got to it.

Director Maruthur asked where the \$26,000 is located in the budget that has to be allocated to defend the City Manager, and City Manager Lance Hudnell advised that came out of Board Reserve. He mentioned the Board had already made that transfer and is not part of this since it was already done.

Director Maruthur said there are so many things on here that are vague, such as miscellaneous services. City Manager Lance Hudnell advised these are just the account titles so miscellaneous services could be a number of things. Director Maruthur said since it is only six pages, if the Board could have some information put in there, she would appreciate it.

City Manager Lance Hudnell replied that staff will try to accomplish that.

Director Daniel stated in regard to the widening of Higdon Ferry Road, there is a balance of around \$200,000. He asked if all of the right-of-way has been purchased, and Ms. Yates said she believes it has for one phase.

Mr. Denny McPhate advised that Phase I, which is under contract right now, has been purchased; and Martin Marietta is the contractor that has begun that work. He said the City is still acquiring right-of-way for Phase II from the expressway through Printers Place.

Director Ramick asked if the right-of-way still has to be purchased from Printers Place to Central, and Mr. McPhate advised that it is from Printers Place southward to where the five lane ends now just past the new shopping center.

Director Maruthur stated in Board of Directors Reserve, since she is not an accountant, she would like to have any adjustments, even if the Board approved them in a prior meeting, reflected because when she went through here Board packet, she did not see them in there.

City Manager Lance Hudnell explained there were some leftover funds from another transfer, and he asked Finance Director Dorethea Yates to add it to the Board Reserve (undesignated funds for the Board to do with as it wishes).

Director Maruthur said she is talking about anything that has been reflected even as a result of a special meeting where the Board approved it. City Manager Lance Hudnell explained that would not be proper for this document, but he could do that in a separate document because this document is for the adjustments the Board has not yet made and would do a double adjustment if that were done. He said that staff could create her a special worksheet separate from that. Director Maruthur said that would be fine.

Mayor Bush then called for a vote on the motion to adopt the resolution; 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.

OTHER BUSINESS

19 Board of Directors Items for Discussion

Director Maruthur said if people would like to sign up for CodeRED, they may call 321-6861, and Paula Brown will assist them. She noted residents can have their cell phone and regular phone registered with this program. Also, there is an account set up at Regions Bank for deceased firefighter Gene Yarbrough.

20 City Manager's Report

City Manager Lance Hudnell gave the following report:

1. On Consent Agenda, the Board approved a contract with Studio Cascade Community Planning and Design to update the City's Comprehensive Plan.

2. He thanked the staff, Board, and citizens for their patience with regard to power being out at the Airport and the Finance Office. He expressed appreciation to Mr. Steve Wince, at Information Systems, for his assistance.

3. There will be a public hearing a week from tonight at 5:30 p.m. at the Hot Springs Civic and Convention Center with regard to the final recommendation on the location of the water treatment plant. The City will also have the first of at least two public hearings on the water and wastewater rates on Tuesday, August 11, at 5:30 p.m., following the Board's agenda meeting. It will also be held at the Hot Springs Civic and Convention Center. That will be a general meeting; and then by law, the City has to introduce an ordinance and then by law have another public hearing, which will be on September 1. Following that, the City will present the final rate ordinance possibly on September 15.

4. The rate consultant asked him how the City felt about the impact fee, and it was his understanding from the consensus of the Board that it had little interest in increasing the impact fee portion of that. Unless he hears otherwise, he is going to instruct the consultant to retain the impact fee on the wastewater side the way it is and not consider an impact fee on the water side. From what he understood from the Board Work Session, the Board did not want to see any increases in the impact fee. He said that he will give the consultant those instructions.

5. He will be out of the office next Wednesday afternoon and Thursday with regard to an Arkansas Municipal League Meeting and then take off on Friday. Mr. Steve Mallett, Deputy Manager for Public Works and Utilities, will be back in the office at that time.

Police Chief Bobby Southard introduced officer Blake Haynie from the Arkansas Department of Corrections where he worked for 4½ years. He is 23 years old, married, and is attending Henderson State University. Officer Haynie thanked the Chief and the City for this opportunity and said he looks forward to serving the City for many years.

Director Maruthur pointed out under the Consent Agenda, the Board passed a resolution eliminating the convenience fee for paying a water bill with credit card usage.

21 ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 8:20 p.m., to meet again on Tuesday, August 4, 2009, at 7:00 p.m.

ATTEST: _____

APPROVED: _____

Lance Hudnell, City Clerk

Mike Bush,

Mayor