

MINUTES
BOARD OF DIRECTORS MEETING
AUGUST 18, 2009, AT 7:00 P.M.

The regular meeting of the Board of Directors was held on Tuesday, August 18, 2009, at 7:00 p.m., Board Chambers, City Hall, with Mayor Mike Bush presiding.

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

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

1 **Roll Call**

Roll call was as follows: Present: Directors Peggy Maruthur, Elaine Jones, Cynthia Keheley, Rick Ramick, and Mike Bush, total 5. Absent: Director Tom Daniel.

2 **Approval of Agenda**

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

3 **Approval of Minutes of August 4, 2009 Board Meeting**

A motion was made by Director Maruthur, duly seconded by Director Keheley, that the minutes of the August 4, 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 thanked the citizens of District No. 3 and all of those who attended the District 3 Town Hall Meeting last Thursday evening, which was a great turnout. She acknowledged the wonderful briefings from the City staff and thanked them for their participation. She said the City is very proud and honored to have such dedicated and professional public servants and especially to City Manager Lance Hudnell for his leadership.

Director Jones wished Mr. Don Thomason, reporter with The Sentinel-Record, a Happy Birthday.

Director Maruthur wished a Happy Birthday to Brannon Castleberry.

Director Ramick announced that Director Daniel's mother is 98 years young today.

City Manager Lance Hudnell stated that on behalf of Director Daniel, he had asked him to express his regrets for not being at the meeting tonight; but this is his mother's birthday (Ina Daniel Warner) and wanted to wish her a happy birthday on the air. He also announced that Deputy City Clerk Janet Heath is not present tonight due to attending the funeral of her father in Texas.

Director Maruthur stated that last evening at the Tower of Strength Ministries on Park Avenue, the Park Avenue Association had a very informative meeting, which was very productive.

CONSENT AGENDA

The Consent Agenda consisted of the following:

6 **Public Safety Report** (August 4, 2009).

7 **Proposed Resolution No. R-09-192** Approving Certain Bid Awards (a) Paving Family Park Trails and Basketball Court - Parks [awarded to Redstone Construction in the amount of \$22,124]; (b) Resurfacing Portion of Transfer Station Floor - Sanitation

[awarded to Evans Industrial Coating in the amount of \$32,315.56]; and (c) Bearings and Seals - Utility Administration (**Reject and Rebid**).

8 Proposed Resolution No. R-09-193 Appropriating Funds for Replacement of Damaged Roof to Hangar A-4 at the Hot Springs Municipal Airport.

9 Proposed Resolution No. R-09-194 Accepting a Grant from the U. S. Department of Justice Pursuant to the Edward Byrne Memorial Local Justice Assistance Grant (JAG) Program for Certain Law Enforcement Services.

10 Proposed Resolution No. R-09-195 Confirming the Appointment of Dennis L. Bosch to the Hot Springs Housing Authority.

11 Proposed Resolution No. R-09-196 Waiving the Room Use Fee at the Transportation Depot for the Hot Springs Jazz Festival to be Held on September 19, 2009.

A motion was made by Director Ramick, duly seconded by Director Jones, that the Consent Agenda be approved; and upon roll call, the following voted “aye”: Directors Maruthur, Jones, Keheley, Ramick, and Bush, total 5. Absent and not voting: Director Daniel; motion unanimously carried.

NEW BUSINESS

12 Proposed Ordinance No. O-09-33

An ordinance entitled, “AN ORDINANCE ESTABLISHING RATES AND CHARGES FOR THE HOT SPRINGS MUNICIPAL WATER SYSTEM; AND FOR OTHER PURPOSES,” was taken from the agenda for consideration.

A motion was made by Director Ramick, duly seconded by Director Jones, that the rules be suspended and the ordinance be placed on its first reading by title only; and upon voice vote, the motion unanimously carried.

The ordinance was then read for the first time by title only.

Mayor Bush announced that concludes the first reading as required by statute, and a requirement by statute is to now entertain a motion and second to set a public hearing at the Board's next regularly scheduled meeting, which is September 1.

A motion was made by Director Ramick, duly seconded by Director Jones, that a public hearing be set for September 1.

Upon discussion, Director Maruthur questioned if anyone had signed to speak to this item, and Mayor Bush advised that they did; but he would recognize those individuals after the roll call to set the date for the public hearing.

Director Maruthur stated that she was not in favor of setting the hearing.

Mayor Bush pointed out that a public hearing is required by law and requested that be included in the minutes.

Director Maruthur responded that she wanted to hold the public hearing tonight. Mayor Bush commented that the Board is not going to have the public hearing tonight and is setting it for September 1.

City Attorney Brian Albright explained that state law requires that the City have a public hearing on both of these ordinances, which has to be at a meeting subsequent to its introduction. He added tonight is the introduction, reading by title only for the first reading. However, if the Board wants to entertain additional discussion on that issue, he said that is the Board's prerogative. He stressed that the Board has to set a public hearing pursuant to the state statute.

Mayor Bush then called for a vote on the motion to set the public hearing for September 1, 2009; and upon roll call, the following voted "aye:" Directors Jones, Keheley, Ramick, and Bush, total 4. Casting a vote of "present": Director Maruthur. Absent and not voting: Director Daniel; motion carried.

City Attorney Brian Albright announced the motion passed 4-1, and there will be a public hearing on September the 1. He stated if Mayor Bush wants to open up the floor for additional discussion on the first reading of the ordinance by title only, then that is his prerogative.

Mayor Bush recognized Mr. Wayne Roberts, 515 Jerome Street, who stated that he is not for or against but only has comments. He said that he attended the meeting that was held at the Board of Directors Meeting

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Hot Springs Civic and Convention Center on the water rates, and it was well done. However, in a meeting such as that, everything needs to be set. He said it is terrible to have this in the paper the next day and mention things that are not right. He stated they need to have that where they can talk about it, and he discussed that with Director Ramick. He noted there are a number of people in the community who are 65 and older that are on a fixed income, and the City is going to raise these rates. He mentioned he went on the internet and did a study; and there is approximately 23 percent between 5 and 19 in the County and the City; and 26 percent between 60 and 85. He said that is 50 percent of the people who are either on a fixed income or do not pay any money. Of the people that pay money, there are many who only make a minimum wage. He mentioned that it was on the news tonight that the average person in Arkansas takes 16 different prescriptions. He noted when adding that all together, they are not going to be able to pay their bills.

Mr. Thomas Brown, 317 Bethel Street, stated that he is 65 and on a fixed income and is opposed to this rate increase because he has seen so much of the wasteful money of the water and sewer company. He said the branch that runs in front of his house has sewage in it, as well as where he lived before (behind Highland). He commented he believes it is wrong to raise the rates due to the poor economy.

Mr. Ted Burhenn, 318 Trapp Mountain, said that he is not present tonight to say that the rates need to be increased or should not be increased, but more information is needed. Also, there is a lot of miscommunication. He noted there is a 1.5% multiplier for the County, and he lives in the County but also has houses in the City. He added that rate was based on a study made which said that the variable rates have gone up, and it is his understanding that these rates are to take care of capital, yet uses the same multiplier. He requested that the Board, between now and September 1, study that and also study the source of some of the things that have been happening. He said the public has been told that the City needs a water treatment plant and has been told it has to be at one end of the lake, which is the polluted lake. He mentioned he has a copy of a letter from the Health Department that was mailed out June 3 that discounted that decision, and they said that was not a good decision; and they were very upset with the City for making that decision. He noted that around \$3.6 million was spent to Jacobs Engineering to promote that one location. He said that he is asking the Board take a good look at some of this information between now and September 1 to verify that it is factual. He said that according to the Arkansas Department of Health, priority should be given to the selection of the purest source of water and says this proposal represents a dramatic shift in the City for its long-term water supply. He noted they also called it inadequate and it regrettable, etc. He said this was given to him June 3. Their staff had that shortly thereafter, yet they still promoted it as being the only solution that was viable at least twice since that time. He questioned why the staff continues to

promote that. He stated once they get the credibility down to staff level, then maybe they can look at these rates and accept them or deny that they are even valid.

Director Maruthur said that she brought her water bill and a \$30 bill comes out to \$100, which is not good. She noted she brought the Water and Wastewater Master Plan that was done in March or May 2004 and was to suffice the City until 2024. She stated she attended the entire presentation and has the long-term financial forecast that was done in 2004. She commented she believes it was sincerely done, but factors change. She said there is water that is missing, and it is unknown where it is. Also, there is an intake and an infiltration problem; and the City has been issued an Administrative Order by the federal government to comply. She mentioned she has been discussing this with City Attorney Brian Albright, and she has also been receiving e-mails. She added that people really do understand what is going on. She mentioned she has the last, long-term and final rate study that was going to last the City forever; and in July 2001, the Water Department had enough revenue. She commented that in December 2001, the Water Department began to experience revenue problems; and now the things are in a mess. On May 16, she was contacted by Mr. Greg Rogers, an engineer, regarding compliance; and he said he would like to put in a bid for his services because the City was supposed to comply to something environmental. She referred him to the City Manager, and he came here once or twice; but his services were not used. She said she did not believe the City complied. She questioned if the City was fined or did it work out a deal.

City Attorney Brian Albright advised that a deal has not actually been worked out as yet, and the City is currently under a tolling agreement with the Department of Justice. In March of this year, he brought to the Board for its consideration an agreement that was submitted to him by Robin Hanson, an attorney in Washington, DC, with the Department of Justice, in which she requested that the City continue its efforts to work with the State, ADEQ, and the EPA. He advised that she was satisfied with Mr. Mallett's work with the divisional office in Dallas; and with his efforts through EPA to the extent that she extended what is known as a tolling agreement, which expires two days from today (August 20). He reported that last Friday, she called him to advise that she had been in contact with the representative in Dallas and had received supports from the State, ADEQ, and again was satisfied with the efforts that Mr. Mallett, Deputy City Manager for Public Works and Utilities and City Manager Lance Hudnell had made. He commented this is primarily a wastewater issue even though a water issue is being discussed. He advised that she has sent him, which he forwarded to City Manager Lance Hudnell, a new proposed tolling agreement that would extend it out another six months. He pointed out they want to continue to see the efforts the City is putting into trying to rectify the problems.

Director Maruthur explained her point in bringing this up is that she looked in her records and found a telephone call, and he gave her numerous papers. She commented she is not an engineer or in water or wastewater management; but as a steward of the City's money and wanting to be in compliance and not going to court and not getting in trouble, she tried her best to get the previous City Manager to do something. She noted she also asked these questions of the former City Manager, and to date, these have not been answered. She said this had to do with the 2004 need for a rate increase for water and wastewater and what caused the situation where the City had to triple its rates. She stated that she was given an answer that "things have gone up."

Mayor Bush asked who gave it to her, and Director Maruthur replied that it was former City Manager Kent Myers.

Director Maruthur questioned how the City can establish any projections of need regarding water and wastewater when it cannot find the missing water. Also, she asked how the City can make a projection if it has water that is not metered or it is infiltrating in the ground. She said she had a problem supporting the methodology that Dan Jackson used in 2004 because there were so many unanswered questions. She pointed out after the City had a well-paid-for study done by a professional, who she is sure did a very good job, but questioned why this is back again. She asked why the City is continuing to extend water for miles outside of the City when its infrastructure within the City needs to be replaced. She pointed out this has been a point of contention for her for the last 20 years. She mentioned in the 1970s, there was a moratorium. She said that she is in complete agreement with everything the federal government does; but when they see that the City is overburdening a system, they have rules and come down on the City. She questioned how can the City sustain its water/wastewater needs when it is continuing to overburden its existing facilities. She noted this was asked of the previous City Manager Kent Myers. She also questioned why one of the penalties for environmental non-compliance is a moratorium on any new water hookups. She said she had posed a question several days ago to City Attorney Brian Albright what the federal government is going to do if the City does not comply.

City Attorney Brian Albright advised that is one of the remedies they have available. He noted they can assess daily fines; they can assess a lump sum fine; or they can, as Director Maruthur said, impose a moratorium which would preclude City or County residents from connecting to the City's system.

Director Maruthur commented it is her personal opinion, and it appears that they have penalties, such as moratoriums, as safeguards for people who cannot stop doing whatever it is

that is causing non-compliance with the environmental issues. She said if a plumber is asked what a dripping faucet costs at the end of 365 days, people are going to be surprised at the amount. She stated she will get that number from someone. She commented that her point is that the City has been losing water, and the City has not received the proper answers in order to do a projection on what it is going to need. She stressed that the City has not fixed what it needs to fix first, and it is losing money. She pointed out that the City has water that is not metered that would be revenue.

Mayor Bush commented whenever it is in a house and it goes to a faucet and it drips, it is metered.

Director Maruthur stated that the City's failure to control the extension of water to the point that the City must look again for money from the taxpayers through fees, she feels is irresponsible. She pointed out that PC&E, ADEQ, and EPA know the City's name well and is the one that maxed out its cards due to poor financial management. She stressed she is not talking about general accepted accounting principles because Finance Director Dorethea Yates has done a very good job and has received awards. However, she is talking about an efficiency study that should have been done years ago to make sure that the important business was taken care of first. She said everybody she knows is concerned about infrastructure, as well as every city in the country. She noted they are worried about bridges, water system, and things that are dated. However, they cannot support the life that is enjoyed in 2009. She mentioned the money that the taxpayers are giving to the City should be the amount of money that it uses, and there should be a reserve. She added that perhaps the City should have a financial efficiency study. She commented the City should have been funding the needs of the City first and making its wish list after the responsibility to the people of the City were satisfied, which is her personal opinion. She stated she will not vote "yes" to raise the fee increases, pointing out the people of Hot Springs need money just to survive in today's economy. She said in her opinion, the water/wastewater situation was not caused by the citizens but by the management of the money. She emphasized that she has everything that was presented in 2004 that was projected to keep the City until 2024. She said she hopes the City gets it and that the Board can look at the budget and start cutting back without hurting the services to the citizens. She stated the City has overextended and overburdened its facility and is continuing to pay. She pointed out that it is taking the federal government to come in and say that is enough. She commented that she is looking out for the City and is not with any group. She said she is sure there is a large amount of people in some groups who are not going to like a moratorium on any more hookups, but that is not the point.

Mayor Bush asked if she has ever approved additional hookups in the County during her time on the Board, and Director Maruthur replied that she has at times. However, she was not the deciding vote; and he was.

Director Ramick pointed out the City has an aging water system, and there has been a burden put on it by the growth; but ever since he has been on the Board, there has been discussion about water all the time. He said he believes the Water Department now is making great strides in repairing the leaks and installing new meters. He commented it is his understanding that part of this money, if the rates are increased, is going to be to continue those efforts. Therefore, he did not know another way the City is going to pay for it.

Director Maruthur commented that the person whom he replaced, Mr. Bill Edwards, looked out for the “little guy.” She said she believes if he were sitting there right now, perhaps he would be worried about the increase and the “little” people.

Mayor Bush commented that Mr. Edwards is no longer here, and Director Maruthur replied that he is not. She stated that she would like that on the record. Mayor Bush commented he also would like it on the record.

There being no further discussion, City Attorney Brian Albright advised there is nothing on the floor to vote on; and this was just an introduction.

13 Proposed Ordinance No. O-09-34

An ordinance entitled, “AN ORDINANCE FIXING RATES FOR SERVICES RENDERED BY THE WASTEWATER SYSTEM OF THE CITY OF HOT SPRINGS; AND PRESCRIBING OTHER MATTERS RELATING THERETO,” was taken from the agenda for consideration.

A motion was made by Director Ramick, duly seconded by Director Keheley, that the rules be suspended and the ordinance be placed on its first reading by title only; and upon voice vote, the motion unanimously carried.

A motion was then made by Director Keheley, duly seconded by Director Ramick, that a public hearing on the proposed wastewater rates described in the resolution be called for September 1, 2009, and upon roll call, the following voted “aye”: Directors Maruthur, Jones, Keheley, Ramick, and Bush, total 5. Absent and not voting: Director Daniel; motion unanimously carried.

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14 Consider Presentation of Condemnation Resolutions

Mr. Bart Jones, Neighborhood Services Administrator, gave a slide presentation on the following condemnation resolutions.

14a Proposed Resolution No. R-09-197

A resolution entitled, “A RESOLUTION CONDEMNING CERTAIN REAL PURSUANT TO ORDINANCE NO. 4623” (**1031 Spring Street**), was taken from the agenda and read by title only.

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

Upon discussion, Mr. Bart Jones, Neighborhood Services Administrator, stated this structure is wide open; and people are entering and exiting the structure. Also, it is leaking causing interior and structural damage. He said the City would like to get it condemned and possibly torn down. He advised that proper notice has been given to the owner.

Mayor Bush then called for a vote on the motion to adopt; and upon roll call, the following voted “aye”: Directors Maruthur, Jones, Keheley, Ramick, and Bush, total 5. Absent and not voting: Director Daniel; motion unanimously carried. Whereupon the resolution was declared adopted.

14b Proposed Resolution No. R-09-198

A resolution entitled, “A RESOLUTION CONDEMNING CERTAIN REAL PROPERTY PURSUANT TO ORDINANCE NO. 4623” (**208 Tom Ellsworth**), was taken from the agenda and read by title only.

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

Upon discussion, Mr. Bart Jones, Neighborhood Services Administrator, stated that the structure is open; and there are individuals staying inside the structure. He noted the Police Department runs them out. He stated the City has had contact with the owner and has proper

notice. He said there is also some structural damage, and the City would like to get this condemned and torn down.

City Attorney Brian Albright asked if there was anyone to speak in opposition to the resolution; and there being none, Mayor Bush called for a vote on the motion to adopt; and upon roll call, the following voted “aye”: Directors Maruthur, Jones, Keheley, Ramick, and Bush, total 5. Absent and not voting: Director Daniel; motion unanimously carried. Whereupon the resolution was declared adopted.

15 Proposed Resolution No. R-09-199

Director Keheley requested that a draft resolution be presented to the Board for consideration to establish a policy for filling the vacancy on the Board of Directors. She stated the District 4 citizens deserve the very best efforts to find a suitable Director for the next 16 months; and the process should, as much as possible, mirror the same requirements as is in place for all City Director candidates – being a qualified voter of District 4, City of Hot Springs Board Application form, a Disclosure Statement, and a petition with signatures of 50 qualified District 4 voters to demonstrate having support for the candidacy same as all Directors had to do. She stated it is a routine requirement for office seekers and a personal résumé. She commented the City needs to have this policy and procedure in place to handle this situation if it ever comes up again, which it may through resignation, a death, illness, etc. She pointed out there have been two Directors during this one term, and this is most unusual that there have been vacancies. She urged the Board to have a published policy in place to handle this situation for the present and the future.

City Attorney Brian Mr. Albright advised that the office was not vacant at the time the agenda meeting was held last Tuesday. However, the Board’s rules do allow for the adding of an item to the agenda if there is an affirmative vote of two-thirds ($\frac{2}{3}$) of the Board body. In this case, it would be all of the Directors tonight because that is five. He stated if all of the Directors agree to add this to the agenda this evening, then this resolution can be considered as an item of business.

A motion was made by Director Keheley, duly seconded by Director Ramick, to add the resolution to the agenda; and upon roll call, the following voted “aye”: Directors Maruthur, Jones, Keheley, Ramick, and Bush, total 5. Absent and not voting: Director Daniel; motion unanimously carried.

A resolution entitled, “A RESOLUTION ESTABLISHING A POLICY FOR FILLING OF A VACANCY ON THE BOARD OF DIRECTORS,” was taken from the agenda and read by title only.

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

Upon discussion, Mayor Bush stated his only concern would be that the Board needs to do this as quickly as it can to fill the slot; but hopefully those who are interested could get this done as quickly as possible.

City Attorney Brian Albright explained this is a resolution that will establish a policy for filling a vacancy on the Board of Directors. The resolution states that “Whereas, a vacancy may occur from time-to-time on the Hot Springs Board of Directors due to resignation, death, or recall of a Director or the Mayor; and that whereas, *Arkansas Code Annotated § 14-47-113* states ‘Whenever a vacancy shall occur by any reason in the office of a director, the board of directors shall by a majority vote elect a person to fill the vacancy and serve the unexpired term thereof’; and whereas it is in the best interest of the Board of Directors and the public generally to establish a fair and consistent policy for filling such vacancies. Now, therefore, be it resolved by the Board of Directors of the City of Hot Springs that: Section I: Whenever a vacancy shall occur by any reason in the office of Director or Mayor, the remaining Directors and Mayor (as the case may be) shall consider applicants and elect a person to fill said vacancy in the following manner: (a) All persons wishing to be considered for said vacancy shall be a qualified voter, qualified elector, I’m sorry, of the jurisdiction being sought to represent – District in the case of Director and City-wide in the case of the Mayor – and shall submit the following to the Office of the City Clerk within a time frame to be prescribed by the remaining Board of Directors at the time of the vacancy. Those requirements are (a) they would submit an application in substantially the same form as that required by City boards, commissions, and advisory committees; (b) a statement of financial interest and any other ethics forms required of elected candidates to the office of Director or Mayor as the case may be; (c) a petition in substantially the same form as that required by *Arkansas Code Annotated § 14-47-110(a)(3)(b)* signed by not less than 50 qualified electors of the jurisdiction within the vacancy exists; and (d) a personal résumé and any other information the applicant wishes to submit in support of his/her application. Upon the expiration of the established application deadline, the Board shall meet in executive session to review the applications and determine one or more applicants to consider for personal interviews. At the time set by the Board of Directors, the Board shall meet and conduct personal interviews with those selected for such interviews. Upon conclusion of the personal interviews and at a time set by the Board, the Board shall vote by secret ballot for a person to fill

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the vacancy. A majority of the remaining Board Members being necessary for appointment. Upon conclusion of the balloting process, the City Attorney shall prepare a resolution confirming the appointment of the person so selected by the Board and shall consider said resolution at the earliest possible Board meeting being duly announced for such purpose. Once confirmed, the person so named shall take the oath of office as required by the *Arkansas Constitution, Article 19, § 20* and thereafter take office immediately. Section II states that it is the intention of the Board to establish policies that are consistent with State law. To that end, any appointment confirmed under this resolution shall entitle the confirmed appointee to serve the remaining unexpired term of the previously vacated office. Furthermore, such appointee shall be at liberty to run to succeed himself/herself at the next regular election for said position.” He advised that a proposed time line has been attached to the resolution for carrying out of this proposed resolution.

Director Maruthur said she wanted to sum that up for those who could not hear everything that was said very eloquently by the City Attorney. She noted the person that will be appointed to take City Director Carroll Weatherford’s place will have to go through the same requirements as a candidate that runs for office. She said they will have to present the identical criteria that all Directors had to go through, but they go one step further and that is, 50 signatures from that district are going to be required. She said they will not be at large, and she believes it is an excellent resolution.

Mr. Chris Reimers, 111 Squaw Valley Trail, was recognized stating in his opinion, since it was the voters of District 4 that recalled Mr. Weatherford, he believes the Board should allow the voters of District 4 to have a say in who replaces him. He said the Board can allow the people to have a say if it wishes. He reiterated that the Board can do whatever it wishes in this regard, and his recommendation would be that the Board allow the residents in District 4 to make this decision.

Director Maruthur said she believes it would be wonderful to have an election by the residents in District 4 and let them choose their candidate for this position.

Mayor Bush stated they will in November 2010 during the normal process.

Director Maruthur pointed out that it says “shall appoint.” She questioned if there has been an Attorney General’s opinion that the City is prohibited from holding an election.

City Attorney Brian Albright advised that in March 2008, when there was a petition begun for the recall of Position 4, the Mayor asked him to produce a memorandum giving forth

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his understanding of the law. As part of that memorandum, he told Mayor Bush that the law required the Board to appoint the successor if one was required. He noted that was his opinion then and that is his opinion now. He mentioned since then, there has been an Attorney General's Opinion sought dated December 2008 in which Representative Samples asked the Attorney General whether an election could be held. The Attorney General said "no," that the law said "shall" and went a step further and used the word "must." He noted that on July 13, the Attorney General was asked to issue an additional Opinion and again he confirmed his prior Opinion that the law stating that it shall be appointed means "must" and, therefore, there is no option. He pointed out despite Mr. Reimers' comments, he is sure there are people who often think the Board does whatever it wants to do, the law in the State of Arkansas is not a home rule state. It follows Dillon's Rule, and the Directors are only authorized to do what the state has authorized them to do. Since the statute says that it shall be appointed, and the Attorney General has interpreted that to mean "must," he said he has no reason to disagree with his interpretation.

Director Maruthur asked if it was specifically excluded, and City Attorney Brian Albright advised that it "must."

Director Maruthur commented from this time forward, she is going to request that the City Board be supplied with these Opinions. She mentioned she was not a recipient of that. She also said she did not receive the correspondence from the Health Department and would like to because picking up the newspaper and seeing something that people assume the Board has seen is an uncomfortable feeling.

City Attorney Brian Albright responded to the Attorney General's Opinion, pointing out that the Attorney General's Opinion was not addressed to him or any member of the City but was addressed to Representative Sample; and he got it on-line.

Director Maruthur requested that he share the information with the Board if he finds something because people have called her. City Attorney Brian Albright replied that he did last week. He said he sent her two Attorney General's Opinions, but she said she could not open it and picked it up at his office yesterday.

Mayor Bush then called for a vote on the motion to adopt; and upon roll call, the following voted "aye": Directors Maruthur, Jones, Keheley, Ramick, and Bush, total 5. Absent and not voting: Director Daniel; motion unanimously carried. Whereupon the resolution was declared adopted

Regarding a timetable, City Attorney Brian Albright advised that a proposed timetable is attached to the resolution, which the Board just adopted, meaning that the application packets would be available on Friday, August 21, in the City Clerk's Office; and the deadline for filing the applications would be noon, Friday, September 11. Applications would be distributed to the Board for review on September 15 (Board Meeting Date). There would be a special Board Meeting on Tuesday, September 22, to conduct an executive session and select those for interviews. Then on Tuesday, September 29, following an agenda meeting, the Board would interview the finalist and then select and appoint that person. He stated the resolution would be voted on at that special Board Meeting so that the new Board Member could take office and begin with the first meeting of Tuesday, October 6. He advised that under the Constitution, a Board of Director has to take the Oath of Office, so it would not be possible for the Board to elect someone pursuant to a resolution and then just take a seat at that point.

City Manager Lance Hudnell mentioned that staff has provided a calendar in case the Board wanted to make other choices.

Director Maruthur questioned if they have to apply between August 21 to September 11, and City Manager Lance Hudnell replied that was correct.

Director Jones questioned the appointment to the Advertising and Promotion Commission, and Mayor Bush replied it is not on the agenda for tonight.

Director Ramick pointed out that the Commission is asking that the Board have someone in place by August 31. Director Jones noted that is for their retreat.

Director Keheley suggested calling a special meeting following the agenda meeting on August 25 for the purpose of appointing a member to the Advertising and Promotion Commission.

There were no objections from the Board.

At this time, Mayor Bush recognized Ms. Barbara Deuschle, 810 Lakeland Point, who questioned the statute read by City Attorney Brian Albright. He advised that it is Arkansas Code Annotated §14-47-113. Ms. Deuschle asked if there is a timeframe regarding how long a resident has to live in the district.

City Attorney Brian Albright advised that the resolution does not address how long, however, the election laws could come into place as to how long an individual has to be there. He stressed that this resolution is for the purpose of appointment and does not address that particular issue.

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OTHER BUSINESS

14 Board of Directors Items for Discussion

Director Maruthur announced if citizens would like to register for CodeRED, they may call Paula Brown at 321-6861. Citizens will be notified either by hard line or cell phone of impending bad weather and/or a delay in their sanitation pickup due to a holiday. She mentioned that she would like to correct her water bill and the usage was \$30. However, her bill could go up to \$105.60. She commented there is something wrong with the system.

Mayor Bush asked that Finance Director Dorethea Yates meet with Director Maruthur after the meeting regarding her bill.

Director Maruthur commented that she is sure the bill is correct, but it should not be that high because she used only \$30 of water.

Mayor Bush questioned why her bill was \$105.60, which is the gross amount. He then asked the amount of her sewer bill, and Director Maruthur stated that it is \$41.06. Mayor Bush then questioned the amount of her sanitation, and Director Maruthur stated it was \$15.

Mayor Bush pointed out that is a total of \$85 and asked how much the taxes were, and Director Maruthur stated that she did not know; but it does not make any difference. She added the bill for \$30 usage could come up to \$105.60.

Mayor Bush commented that she is forgetting that she is adding some other steps, and Director Maruthur stated that is her point.

Director Maruthur said in regard to how she voted, there were circumstances as far as an extension because she spoke at length about not doing it. She stressed that she has made it very clear that the Board should take care of the infrastructure in the City before it overextends itself. She mentioned she has voted 99 percent against extensions, much to some of her friends' dismay. She then announced there is an account set up at Regions Bank downtown for deceased firefighter Gene Yarbrough.

15 City Manager's Report

Board of Directors Meeting

August 18, 2009 at 7:00 P.M.

City Manager Lance Hudnell gave the following report:

1. A more thorough explanation of the need and rate scenario and methodology will be aired on Channel 15 at 5:30 tonight and will air again at 9:00 a.m., 2:00 p.m., and 5:30 p.m. tomorrow, Wednesday, and Thursday. A consultant will be there by virtue of having him on film. The rate ordinance that the Board has before it, as far as staff's recommendation, is Scenario 2, which does not include the water treatment plant scenario. The rates have been adjusted accordingly to remove the water treatment plant at this time.

2. A thank-you was addressed to Mike Toska, with the Utilities Department, for picking up a load of boards lying in the street on Higdon Ferry. He expressed appreciation for his work and other employees who do that kind of thing quite often.

3. There are a number of vacancies on the various boards, commissions, and committees, such as the Airport Advisory Committee, Animal Control Advisory Committee, Green Initiative Advisory Committee, Transportation Advisory Committee, Towing Advisory Committee, Arts Advisory Committee, Community Development Advisory Committee, and Construction Trades Advisory Committee. If anyone is interested in those positions, he would encourage them to apply.

Director Ramick questioned if citizens can get the applications on-line, and City Manager Lance Hudnell advised they can get the applications on-line, from the Clerk's Office, or his office. Director Ramick asked the website, and City Manager Lance Hudnell advised that it is www.cityhs.net.

4. There were a number of items approved on the Consent Agenda: (a) grant was received from the JAG Program for certain law enforcement services. Police Chief Bobby Southard is doing a good job of being certain that the City gets all the money that it can to assist the law enforcement efforts; (b) Mr. Dennis Bosch was appointed to the Housing Authority, and that position is selected by the Housing Authority and confirmed by the Board.

16 ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 8:00 p.m., to meet again on Tuesday, September 1, 2009, at 7:00 p.m.

Board of Directors Meeting

August 18, 2009 at 7:00 P.M.

ATTEST: _____
Lance Hudnell, City Clerk

APPROVED: _____
Rick Ramick
Assistant Mayor

Board of Directors Meeting

August 18, 2009 at 7:00 P.M.