

## MINUTES

### BOARD OF DIRECTORS MEETING

FEBRUARY 16, 2010, AT 7:00 P.M.

The regular meeting of the Board of Directors was held on Tuesday, February 16, 2010, at 7:00 p.m., Board Chambers, City Hall, with Mayor Mike Bush presiding.

The invocation was given by Ms. Gwen Wright, and Pledge of Allegiance to the Flag was led by Mayor Bush.

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

#### **1** Roll Call

Roll call was as follows: Present: Directors Peggy Maruthur, Elaine Jones, Cynthia Keheley, Pat McCabe, Rick Ramick, Tom Daniel, and Mike Bush, total 7.

#### **2** Approval of Agenda

A motion was made by Director Daniel, duly seconded by Director Ramick, that the agenda be approved.

Upon discussion, Mayor Bush advised that due to illness, Mr. Patrick Naven has requested that Item No. 15 (changes to water leak policy) be withdrawn from the agenda and rescheduled for the March 2 Board Meeting.

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

#### **3** Approval of Minutes of February 2, 2010 Board Meeting

A motion was made by Director McCabe, duly seconded by Director Ramick, that the minutes of the February 2, 2010 Board Meeting be approved; 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 Maruthur asked for a moment of silent prayer for the families of Dr. Martin Draper and Dr. Edward Cooper, along with his two daughters, who were killed in a plane crash, and also for the family of Ms. Madhuben Patel, owner of a motel in Hot Springs, who died from a tragic incident Saturday night. Mayor Bush also requested prayers for Mayor Steve Northcutt and his wife, Libbey, who lost their son, Shane Northcutt, in a tragic incident last Sunday. He was 30 years old, lived in Malvern, and worked in Hot Springs. He graduated from Malvern High School and attended Henderson State University, the University of Arkansas at Little Rock, and the Ouachita Technical College.

Director Keheley commended Entergy, the Police Department, the Street Department crews, and Resort Television Cable in restoring power in the Quapaw/Prospect area. She stated several hundred residents were out of power and thanks to those who worked in the ice and cold weather, service was restored in about four or five hours.

### **CONSENT AGENDA**

The Consent Agenda consisted of the following:

**6 Public Safety Report** (February 2, 2010).

**7 Proposed Resolution No. R-10-35** Approving Certain Bid Awards (a) Ammunition-Police Department [awarded to Cruse Uniforms in the amount of \$16,213.28 and Gulf States Distribution in the amount of \$6,192].

**8 Proposed Resolution No. R-10-36** Awarding a Contract to Grimes Consulting Engineers, Inc. for Engineering Services to Develop Plans for Self-Fueling Installation at the Airport.

- 9 Proposed Resolution No. R-10-37** Extending an Agreement with the Southwest Central Regional Solid Waste Management District for the Operation of a Regional Recycling Center.
- 10 Proposed Resolution No. R-10-38** Authorizing the Filing of a Grant Application with the Federal Transit Administration, United States Department of Transportation, for Federal Transportation Assistance Authorized by 49 U.S.C., Chapter 53, Title 23, United States Code, and Other Federal Statutes Administered by the Federal Transit Administration.
- 11 Proposed Resolution No. R-10-39** Appointing Director Pat McCabe to the Community Services Office Board of Directors.
- 12 Proposed Resolution No. R-10-40** Authorizing the Mayor to Execute a Third Tolling Agreement Between the United States Environmental Protection Agency for Claims Under the Clean Water Act.
- 13 Proposed Resolution No. R-10-41** Awarding a Contract to Brown Engineers, LLC for SCADA RTU Programming Development and Factory Acceptance Testing - Phase I.
- 14 Proposed Resolution No. R-10-42** Awarding a Contract to FTN Associates for a Hydraulic Impact Evaluation for the Valley Street Creekwalk, Phase II.

A motion was made by Director Jones, duly seconded by Director Maruthur, that the Consent Agenda be approved; and upon roll call, the following voted "aye": Directors Jones, Keheley, McCabe, Ramick, Daniel, and Bush, total 6. Voting "no": Director Maruthur; motion carried.

### **NEW BUSINESS**

- 15 Request from Mr. Patrick Naven Regarding Changes to Water Leak Policy**  
(Removed from the agenda at the request of Mr. Naven).

## **16 Mid-America Museum Update**

Mr. Gordon Mahoney stated bids were opened in November 2009, for the Mid-America Museum fire alarm and HVAC Project, which came in about \$325,000 over budget. He stated Pettit and Pettit are the engineers and made a recommendation to cut items out to bring within budget. He said there is a \$900,000 construction budget and \$1 million total budget, which includes engineering fees. He advised the Advertising and Promotion Commission's position has been to let the operators work with Pettit and Pettit and develop what they want because they are going to be operating this museum long-term; and they are looking at some future, possible lead certification and sustainability issues that could be worked into this entire project. However, some of that had to be scaled back. He reported they plan to advertise for bids on February 28, 2010; open bids on March 23, 2010; and ask for a vote from the Board on April 6, 2010, to award a contract. He noted they hoped to get it done over the winter, but there are some savings to be realized by not trying to follow such an aggressive schedule; and around \$40,000 is what they are projecting. He commented the Museum is comfortable saying they are going to try to get it done over the next eight or nine months. He stated Mr. Anthony Taylor has been working with Pettit and Pettit; and they have done a good job in submitting solutions, suggestions and recommendations. He advised the two main goals were to bring the fire alarm system up to code and rework the controls in the HVAC system so that they would have the liability and realize some energy efficiencies with today's technologies.

Director Keheley questioned the revised time line since the tourist season is nearing, and Mr. Mahoney advised they are going to work around the Museum schedule. He stated they plan to let the contract out in April; but there is no set time line and will be identified during the contract process. He explained rather than putting a time line on now and possibly having to pay some overtime fees, they want to work with the contractor and realize what savings they can now.

Director Maruthur pointed out one of the important issues related to the bond issue for the Museum is in regard to keeping the Smithsonian and meeting their standards. She asked if this delay would affect any of the displays they are supposed to have. Mr. Mahoney introduced Mr. Andy Marquart, director of the Museum, who advised there are no delays as far as the Smithsonian is concerned in any of the exhibits that they have been able to maintain. He said many of the exhibits are out of

their reach right now because of the current system. He noted the system is highly unreliable so they are wanting to put together an adequate system, but the humidity controls have remained in place for the entire project.

Mayor Bush asked when the Board could expect another report from the Museum, and Mr. Mahoney suggested in July.

## **17 Report from Public Safety Committee Regarding Spring and Malvern Intersection Signalization**

City Manager Lance Hudnell explained there has been a temporary signalization at the Spring and Malvern intersection in order to determine how it would work, and that has been under review for several weeks.

Mr. Charlie Bocksnick, superintendent of Traffic Services, reported that no complaints have been received. He said a few people have called and like it; and if it is left as it is, he can make improvements and improve the pavement marking.

Mayor Bush said that he personally likes it.

Director Daniel spoke of an incident coming down Spring Street where he came close to being hit by an Intracity bus and believes this is confusing with flashing yellow caution and flashing red lights. He stated he believes signage is going to be the key to it because people do not know.

Director Ramick recommended the installation of yield signs.

Mr. Bocksnick pointed out that Central Avenue is moving better.

Director Maruthur stated she likes the concept and has heard good comments. She said that she agreed the signage needs to be watched and adjusted so it is not as confusing. However, with the price of gasoline and the economic situation, she stated it is a waste of time and gasoline to sit at Malvern when there is no traffic going up and down Spring. She added that she used to see many people go through that light.

Director Keheley suggested that the City continue to study it, especially during the tourist season, before making it permanent and get it right for public safety.

City Manager Lance Hudnell stated the City will continue to make some minor adjustments before bringing it back to the Board for permanency.

Director McCabe commended Mr. Bocksnick and his department and spoke of the high-tech equipment in his department, pointing out he has everything within finger range and can show all of the intersections with the lights and does a great job in controlling all of the traffic lights.

## **18 Proposed Ordinance No. O-10-15**

An ordinance entitled, "AN ORDINANCE AMENDING ORDINANCE NO. 4306 BY ADDING ADDITIONAL USES TO COMMERCIAL PLANNED DEVELOPMENT ZONING DISTRICT (PD) FOR LAKE HAMILTON RESORT AT 2803 ALBERT PIKE, CITY OF HOT SPRINGS, ARKANSAS," 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 Daniel, duly seconded by Director Maruthur, that the ordinance be passed as read.

Upon discussion, Ms. Kathy Sellman, Planning and Development Director, advised that the applicant, Mr. Brian Gherki, on behalf of the property owner, is requesting an amendment to an existing Planned Development by adding allowed uses.

This is located at 2803 Albert Pike and is known as Lake Hamilton Resort. She stated the Future Land Use Map designation of the property is institutional, and the property has a zoning classification of PD. She mentioned the property was fully constructed and in use as a hotel and condominiums upon annexation in November 1992. After that time, the Board established a zoning classification of PD (Planned Development); and the Code in effect at that time did not require a list of uses. She noted the assumption is that the existing uses (hotel and condominium dwelling units) are the allowed uses in the Planned Development, and the existing code does require allowed uses. Therefore, the petition that is before the Board tonight requests a number of uses related to the desired new primary use, which is a nursing and convalescent home. She pointed out there are a number of accessory uses, such as chapel, meeting room, exercise area, kitchen, etc., and are also included in that list of proposed new uses. She advised that the staff's finding is that the desired new uses would not impose additional noncompliant or nonconforming elements onto the property. She added existing parking exceeds the minimum code requirements for parking for a nursing home, and the existing sign would be compliant for all commercial zoned districts. She stated the requested uses are consistent with the Comprehensive Plan Future Land Use Map designation of institutional, and that is the designation on that map. She reported a public hearing was held by the Planning Commission on January 7, 2010; and the recommendation to the Board is to approve the ordinance.

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

## **19 Proposed Ordinance No. O-10-16**

An ordinance entitled, "AN ORDINANCE AUTHORIZING THE ISSUANCE OF A WATERWORKS REVENUE IMPROVEMENT BOND, SERIES 2010B, FOR THE PURPOSE OF FINANCING THE COST OF BETTERMENTS AND IMPROVEMENTS TO THE WATERWORKS SYSTEM OF THE CITY, INCLUDING PARTICULARLY WITHOUT LIMITATION, AUTOMATED METER INFRASTRUCTURE IMPROVEMENTS; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF THE BOND; AND PRESCRIBING OTHER MATTERS RELATED THERETO," was taken from the agenda for consideration.

A motion was made by Director Keheley, duly seconded by Director Jones, 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, Mr. Larry Merriman, Utility Operations Manager, explained this is the second part of what staff presented to the Board previously to finish out the AMI System (Automated Meter Infrastructure).

Director Keheley asked if they are going to give an advance notification to the residents when they are in their area that this is going to happen, and Mr. Merriman replied that they are. Director Keheley commented that some of the meters are over 30 years old and questioned when they are disconnected if the company is going to install them. Mr. Merriman advised that the City is going to try and do all that with staff.

Director Keheley asked if the City has sufficient staff to do that, and Mr. Merriman advised that it did.

City Manager Lance Hudnell pointed out that the company will be replacing the actual meters.

Director Keheley asked if there was going to be liability when they start taking out the old meters, and Mr. Merriman replied there will be. Director Keheley questioned who will assume the liability, and Mr. Merriman advised that the City will. He added if there is a direct effect from the installation of the new meter, then the City will assume that role and repair it.

City Attorney Brian Albright advised that when referring to liability, there will be no liability for damages. He explained there will be liability for the City to install the meter properly and make sure it is working properly before leaving the premises.

In response to Director Ramick regarding a leak on the customer's side of the meter, City Attorney Brian Albright advised that the meter is going to be disconnected. He commented it will have to be reconnected properly and be working properly before they leave the premises.

Director Keheley questioned after they leave the premises, and Mr. Merriman advised that the City will inspect it; and it will be free of defects before they leave.

Director McCabe asked if the City is incurring the cost directly or if it is being funded through the state program as part of taking the old meter out and repairing the

pipes as far back as they have to go. Mr. Merriman replied that the City is going to assume that role at this point.

Director Daniel pointed out he talking about assuming from where the supply line is to the meter, not from the meter to the house. Mr. Merriman stated that is correct, and the meters they are exchanging are essentially drop-in meters. He explained they will not have to make a lot of modifications or revisions to the piping that exists. He commented that in 99.5 percent of the cases, they are going to remove two little couplings and drop this meter back in. He said that he agreed there are parts of town where galvanized piping is going to become an issue, and they will just respond accordingly to get this installed the correct way.

Director McCabe questioned what happens if from the meter to the house, ten, eight, or five feet of that is all crumbling; and Mr. Merriman advised that will be the homeowner's responsibility. However, the City will assess that before getting in that meter box. Director McCabe pointed out it was not crumbling before the City disconnected it. Mr. Merriman replied there will be situations where City staff will have to talk to the homeowners. He added if City staff does the initial assessment and there is a very high risk, they will talk to the homeowners before starting just to let them know what is occurring. He explained at the end of that, the result has to be that City staff has to get the meter changed for the system to be functional.

Director Maruthur pointed out that the alternative is to do nothing, and the system the City has now is poor. She noted there are 30-year old meters, and the City has a real problem. She stated there might be some problems that occur through this, but the City has tort immunity. She questioned the percentage of leakage that the City has, and Mr. Merriman advised that it varies from 20 percent to in excess of 35 percent. Director Maruthur commented that it is out of profile of what is acceptable, which is her point. She stressed that the City has to do this.

Director Daniel pointed out these meters do not allow any more water going through them than the meters there; therefore, with the likelihood of them doing something on the other side of the meter, it is not likely there is going to be more pressure on their line. Mr. Merriman replied that the pressure is not being affected.

Director Keheley pointed out the ones who install these meters are going to minimize any damage and not cause any hardships, and the City is going to make every effort to make sure there is no liability.

Director Ramick stated that the pressure reducing valve is on the customer's side and mentioned they should use a back-up wrench.

Mr. George Pritchett, 125 Carl Drive, stated about 2½ years ago, S&S Plumbing moved all of the meters in Whispering Pines complex. He said there were 64 units, and they probably moved 48 of them. He commented in 60 to 90 days, they lost eight to ten regulators, and S&S did not necessarily do a bad job. He pointed out on the meter side, there was no problem from the city water. However, on the other side, when they disturbed those regulators, which had been there for 30 years, they started popping and popped about eight or nine of them. He said it cost the residents around \$3,000 total (about \$300 a meter). He stated that he supports this program and commended the work that city staff did on this metering project. He also expressed appreciation to the Fire Department in responding to a fire today at the Whispering Pines Complex, which was a cooking fire. He said there was no injury or loss of property and a nominal amount of damage.

City Attorney Brian Albright explained that the Board has already approved the selection and installation of these types of meters, and the Board is just discussing whether or not it is going to issue revenue bonds for the purchase and financing of these meters.

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

## **20 Proposed Ordinance No. O-10-17**

An ordinance entitled, "AN ORDINANCE WAIVING THE REQUIREMENTS OF COMPETITIVE BIDDING FOR THE PROCUREMENT OF SIMUNITION® TRAINING AMMUNITION AND ASSOCIATED ACCESSORIES; AND FOR OTHER PURPOSES," was taken from the agenda for consideration.

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

Upon discussion, Police Chief Bobby Southard stated that a brochure was distributed explaining some of the components. He commented this is an entire training program, which includes clothing, bullets, and weapons. He stated that Corporal Chris Hays has completed the training and instructor class and the safety course that goes with it in order for the Police Department to put this on effectively. He mentioned that the use of deadly force has come under considerable attack by the courts; and when it comes under attack, there are a number of things they look at. He noted one of the aspects they look at is the ability to do training. He mentioned the Police Department been practicing and playing with this equipment for about a year and half and has three instructors in order be able to put this on department-wide. Corporal Chris Hays then demonstrated the equipment (headgear, gloves, etc.) and explained the weapons and answered questions from the Board. Chief Southard stated that protective clothing is worn during the training exercises. He said the Police Department is asking the Board to permit them to purchase this equipment, which is from a grant and will be covered totally from the grant purchase. He stated they are also asking that the Board allow them to purchase it from ALS in Bull Shoals, Arkansas, which is the only provider of this equipment in the State of Arkansas.

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

## **OTHER BUSINESS**

### **21 Board of Directors Items for Discussion**

Director Jones announced this is Black History Month; and on Saturday, February 20, at 10 a.m. to 6 p.m., the Church of the Nazarene on Central, P.H.O.E.B.E. with Uzuri Project, will have a program. Then at 6 p.m., another program will start, which is free to the public; but donations will be taken. She said this will be a good storytelling event regarding their heritage in the City..

Director Maruthur stated if anyone is interested in signing up for the CodeRed-Program, they may call Ms. Paula Brown, at 321-6861.

## **22** City Manager's Report

### **State of the City Report**

City Manager Lance Hudnell announced this is the designated meeting for the State of the City Report, which was submitted under separate cover to the Board. Arkansas law requires that, within 60 days after the end of each fiscal year, the City Manager must prepare and submit to the Board of Directors a complete report of the finances and administrative activities of the City for the previous fiscal year. He then gave a brief review 2009, as well as the outlook for 2010.

## **23** ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 7:50 p.m., to meet again on Tuesday, March 2, 2010, at 7:00 p.m.

ATTEST: \_\_\_\_\_

APPROVED: \_\_\_\_\_

Lance Spicer, City Clerk

Mike Bush, Mayor