

MINUTES

BOARD OF DIRECTORS MEETING

JULY 20, 2010, AT 7:00 P.M.

The regular meeting of the Board of Directors was held on Tuesday, July 20, 2010, at 7:00 p.m., Board Chambers, City Hall, with Mayor Mike Bush presiding.

The invocation was given by Mr. Doug Gulley, 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, City Attorney Brian Albright advised that Item No. 15 (Consider Reconsideration of Repealing Ordinance No. 5753 and Amending Ordinance No. 5715 to Include an Exemption for Certain Land Division Plats) and 16 (Proposed Ordinance No. O-10-34 Repealing Ordinance No. 5853 and Amending Ordinance No. 5715 to Include an Exemption for Certain Land Division Plats) are related. He stated there are people interested in the underlying language of this ordinance and have asked that it be removed from the agenda for further input. He asked that the Board approve removing Item No. 15 and Item No. 16. There were no objections from the Board to removing those items from the agenda.

Mayor Bush then called for a vote on the motion to approve the agenda with the removal of Item No. 15 and Item No. 16; and upon voice vote, the motion unanimously carried.

3 Approval of Minutes of the July 6, 2010 Board Meeting

A motion was made by Director Maruthur, duly seconded by Director Ramick, that the minutes of the July 6, 2010 Board Meeting be approved.

At this time, Director Maruthur stated at the July 6 Board Meeting, a claim for Mr. McKinley "Kenny" Thomas was considered. She questioned the total amount collected for Mr. Thomas, who was denied compensation for a toolbox.

Mr. Steve Mallett, Deputy City Manager for Public Works and Utilities, advised that \$675 has been collected; and the claim was for \$1,187. He stated that he will give him what has been collected thus far; and if any further donations are made, he will forward those to Mr. Thomas.

Director Maruthur pointed out since this was on the front page of The Sentinel-Record, she would like for the public to help this individual who was denied reimbursement for the toolbox that he personally purchased. If anyone wants to donate, they may contact Mr. Steve Mallett at 321-6860.

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

4 Recognition of Guests

There were no guests present for recognition.

5 Board of Directors Announcements

Mayor Bush announced that July is National Parks and Recreation Month and to celebrate this occasion, the Hot Springs Parks and Recreation Department wants to hear from the citizens. He said this year's theme is "How Do You Recreate, " and they are asking people to send in snapshots of family outings and descriptions of memorable experiences at Hot Springs City Parks. The photos will be posted on the City's web page and featured in the Parks and Recreation monthly newsletter.

Director Keheley welcomed and invited all of the citizens of Hot Springs to visit the area in the old historic Transportation Depot location on Orange Street. She said

there is a total of 5.34 acres dedicated to public space, including the new Farmers Market pavilion on Orange Street, which covers 3.63 acres. She mentioned the Arts Advisory Committee has coordinated the purchase and display of the public art with a value of over \$3 million for the City since they were created in 1998. In July 2007, a sculpture garden was added at Transportation Plaza and was officially dedicated. The most recent addition is a sculpture of a rooster at the Farmers Market. She stated that this Saturday at the Farmers Market, they will have the third annual health and wellness fair. There will be medical personnel present, health screening from the local hospitals, and blood pressure check.

Director Jones announced that on August 21, at 11 a.m. until 10 p.m., there will be a Back-to-School Bash at Wade Street Park. This is a free community event sponsored by local, nonprofits of the City. Activities include sack races, talent show, basketball games, music, etc. Also, there will be free hamburgers. She said people may reach Parks and Recreation Director Jean Wallace at 321-6870 if they want to donate to the bash.

Director Maruthur announced that the Park Avenue Community Association (P.A.C.A.) will be meeting at the Tower of Strength Ministries on Park Avenue, July 26, at 6 p.m. Anyone interested in the Park Avenue area is welcome to attend.

Director McCabe announced that the "Super Soaker Saturday" will be held on Saturday, July 24, from 1 p.m. to 3 p.m., at the Family Park. He said this is in association with the Parks Department and the Fire Department. He stated there will be water balloon tosses for the children, water balloon dodge ball, and other activities.

Director Ramick stated that the City's trails are about connectivity, both literally and figuratively; and the section of Hot Springs Creek Greenway Trail in District 5 has connections to Junior Auxiliary, who developed Hollywood Park, Hot Springs National Park Rotary, and Oaklawn Rotary who helped develop the Rotary Trailhead and parking lot and LeadAR and Audubon Society who developed bird viewing and feeding stations. He said Boy Scouts with an Eagle Scout project developed the Cairn water fountain feature, and Master Gardeners developed and maintained the trailside Xeriscape Garden. He noted the most recently completed Greenway Trail section in District 5 is soon to be dedicated and extends to Chelsea Street and physically connects neighborhoods to the Boys and Girls Club in downtown Hot Springs. He pointed out these parks have proven to increase physical activity and healthy lifestyles, and studies show that the closer citizens live to a park or trail, the more active they are and that

proximity of a trail stimulates the most activity. He said the more active the citizens are, the more likely they are to embrace a healthy lifestyle.

Director Daniel announced that the grand opening of Entergy Park was in December 2008; but before that, there was a total of 1,317.5 volunteer hours donated by the community for Entergy Park projects. He said these groups include the Garland County Master Gardeners, the Ouachita Job Corps, The Boy Scouts of America, Crossgate Church, and the Garland County Sheriff's Department Community Services Program. He noted these donated hours have a value of \$26,680. He mentioned that the Super Soaker is going to be a great event. He announced that the Spa Rib Cook-Off will be this Saturday and will start tasting at 11:30, with the food being served from 2 p.m. to 4 p.m., at the Exchange Street Parking Plaza, sponsored by the Downtown Association of Hot Springs. All the funds are designated for the Christmas lights and the Arlington Lawn.

Director Maruthur announced that the Arkansas School for Mathematics, Sciences and The Arts will have groundbreaking ceremony on August 3, at 10 a.m; and Governor Mike Beebe will be present.

Mayor Bush read a Proclamation declaring July as Parks and Recreation Month and presented it to Dr. Jane Ayers, chairperson of the Parks and Recreation Advisory Committee. Other members of the Committee were also in attendance and were acknowledged.

CONSENT AGENDA

The Consent Agenda consisted of the following:

- 6 Public Safety Committee Report** (July 13, 2010).
- 7 Proposed Resolution No. R-10-150** Authorizing the Filing of a Grant Application with the State Department of Aeronautics to Construct an Addition to Fire Department Building No. 4 (Housing Air Rescue Firefighting [ARFF] Vehicle).
- 8 Proposed Resolution No. R-10-151** Accepting a Community Development Block Grant from the U. S. Department of Housing and Urban Development (HUD) for Projects Listed in the FY2010 Annual Action Plan.

9 Proposed Resolution No. R-10-152 Accepting a Grant from the Department of Interior Rural Fire Assistance Grant Program for Personal Protective Equipment Suitable for Wild Land Fire Suppression.

10 Proposed Resolution No. R-10-153 Awarding a Contract to Heller Company for the Tom Ellsworth Drive Wastewater Pipe Bursting Project.

A motion was made by Director Daniel, duly seconded by Director Maruthur, that the Consent Agenda be approved; and upon roll call, the following voted "aye": Directors Maruthur, Jones, Keheley, McCabe, Ramick, Daniel, and Bush, total 7; motion unanimously carried.

NEW BUSINESS

11 Proposed Resolution No. R-10-154

A resolution entitled, "A RESOLUTION APPROVING AN APPLICATION FROM CHARLES MLLER, D.B.A. CENTRAL PARK MINING, FOR A CHARTER AND SIGHTSEEING SERVICE OPERATING PERMIT," was taken from the agenda and read by title only.

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

Upon discussion, Mr. Bob Reddish, Intracity Transit Resident Advisor, stated that the Transportation Advisory Committee held a public hearing on June 30, 2010, to determine the permit from Mr. Charles Miller, d.b.a. Central Park Mining; and the committee recommended unanimously to approve the application. He advised questions posed to Mr. Miller at the meeting were his plans for parking the vehicles and fees for his tours, and both of those are included in the packet.

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 resolution was declared adopted.

12 Proposed Resolution No. R-10-155

A resolution entitled, "A RESOLUTION APPROVING AN APPLICATION FROM KIM TAYLOR, D.B.A. RESORT SHUTTLE SERVICE, FOR A CHARTER AND SIGHTSEEING SERVICE OPERATING PERMIT," was taken from the agenda and read by title only.

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

Upon discussion, Mr. Bob Reddish, Intracity Transit Resident Advisor, stated that the Transportation Advisory Committee held a public hearing on June 30, 2010, regarding the request for a sightseeing permit for Kim Taylor, d.b.a. Resort Shuttle Service; and the Transportation Advisory Committee voted unanimously to approve the permit. He advised a question was raised regarding location of parking the vehicles, and a letter is included in the packet from the Willoughby House on Central Avenue to park and do business out of that location off the street.

Director Maruthur pointed out that the Willoughby House is across from Habitat for Humanity Restore.

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 resolution was declared adopted.

13 Proposed Resolution No. R-10-156

A resolution entitled, "A RESOLUTION WAIVING THE FIELD USE FEES FOR THE 2010 SENIOR SOFTBALL QUALIFYING TOURNAMENT FOR THE NATIONAL SENIOR OLYMPICS TO BE HELD AT KIMERY PARK JULY 29 THROUGH AUGUST 1, 2010," 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, Ms. Jean Wallace, Parks and Recreation Director, reported that the Arkansas State Senior Olympics has requested a fee waiver for the exclusive use of

Kimery Park softball fields July 29 through August 1, 2010. She said the fee waiver is for the 2010 Senior Qualifying Tournament for the National Senior Olympic Games, and the Senior Olympics had requested this annually for over ten years. She mentioned at one time, they were on the pre-approved Special Events list that did not have to come to the Board for approval each year; but in 2007 when the new Special Events Policy was adopted, it became necessary to request Board approval for the fee waiver since staff could not give it.

Director Keheley said she is pleased that the Senior Olympics has again chosen Hot Springs. She questioned if there was anything on the fee schedule that the City could possibly reduce to help offset expenses, such as the waiver of the \$800. She asked when they submitted their application to the Parks Department; and Ms. Wallace advised that this year, the application was late. She said she did not receive it until this morning, but she does have it in-hand. She advised they have been requested to staff the event during the four-day tournament to get the fields in shape between games.

Director Keheley stated in the budget submitted to the Board, one of the most expensive prices was the field preparation but understands in earlier tournaments, they can hire one of the Parks personnel to do the chalking and save some money. Ms. Wallace stated that can be done and has been done in the past for this June tournament. She noted before it became pre-approved, the Senior Olympics staff did pay for the maintenance during the tournament on their own.

Director Maruthur said this resolution is to waive a fee of \$3,792.50. She commented in October 2008, the City had a downturn in its economy and has to consider what it can afford. She stressed it has nothing to do with supporting the Senior Olympics but is a matter if the City can afford it.

Ms. Wallace advised that staff does not have a recommendation on this item.

Director Maruthur pointed out that the application was late, and the economy is not good and consideration needs to be given to the people who are paying taxes and what this would mean. She noted that \$4,000 does add up and has nothing to do with the quality or importance of the program.

Director Daniel said he was under the impression at the agenda meeting last week, in 2009 they requested use of the facility and reserved it. Ms. Wallace pointed out they did not do any paperwork last year; and 2008 was the last time there was any paperwork. She stated they did not have their tournament last year, but the park was reserved for them in anticipation of their holding the event. She mentioned she brought

the fee waiver to the Board, and it was approved last year. However, she found out about two weeks prior to the tournament that it was not going to happen. She commented they did not use the facility even though they had the fee waiver last year.

Director Daniel stated the actual use of the field by the Senior Olympics was 2008, and Ms. Wallace said that was correct. She added they did turn in a fee waiver request for 2008.

Director Maruthur pointed out at the agenda meeting, this was discussed in detail and asked for revenue that was produced. She said the Senior Olympics bring in their own concessions, along with the concessions that the City runs. She noted that the agenda meeting is aired every Thursday after the Tuesday agenda meeting at 7 p.m. on Channel 15. She added this was discussed in detail, and the Board does not appear to have the numbers to see if the revenue produced by these games is cost-effective. Ms. Wallace replied that she submitted the revenue, which was included in the packet.

Director Maruthur stated that she was referring to the agenda meeting, and Ms. Wallace said she did not have those figures at that time. She pointed out she had to research them, and those included in the packet are the concession revenues for the past three years.

Director Jones asked if there are any overnight stays, and Ms. Wallace replied that they do. Director Jones stressed they spend money on hotels and food.

Director Keheley pointed out this is just eight days out and is short notice to change plans for this organization. She asked that the applicant be recognized.

Mr. Fred Leonard, 408 Cedarwood Street, explained that the softball tournament has been going on for about 14 years. However, it was not held last year because there was a conflict with so many other tournaments; and they could not get adequate representation here to conduct the tournament. He noted that the budget for this tournament is to breakeven and is not a tournament that they use to make money. He added it is part of their Senior Olympics and is the qualification this year for the national games, for both the Senior Olympics and the Softball Association. He said there were some politics they did not have any control of. Also, they did not know what the registration was going to be last year; and he is sure the dates are correct about two weeks before they made the decision to cut it off because they would not have broken even. He said this year the Senior Olympics game has 15 teams registered, a total of 240 individuals who are coming to town, and they have only have one team from Arkansas but are not from Hot Springs. He mentioned they have 240 families and

estimate their value would be \$70,000 based upon the figures given to them by the Advertising and Promotion Commission. He pointed out the tournament is the vital part of their senior games, and this is the way they qualify for national games. He explained if they do not participate and are not in this tournament, they are not able to go to the national games. Last year, they sent 80 people to the national games from Arkansas and also did very well in the National Senior Games with a number of Gold, Silver and Bronze Medals.

Director Maruthur stressed they submitted their application late, and that was generated because of all of the discussion at the agenda meeting. Mr. Leonard commented it was not generated by that but was the result of that. He said what happened was a lack of communication on both parts to a certain extent, and it was assumed just because the Parks staff had called them that the process was underway. Director Maruthur asked if he knows the individuals who are registered for the program, and Mr. Leonard said that they do as of Friday. Director Maruthur asked if he has a list of the hotels and where they are going to stay, and Mr. Leonard advised they do not maintain those records and do not make the reservations for them.

Director Keheley asked if the expenses charged in the tournament estimate could be reduced to help the City. She said that the City supports them and would like to know if there is anyway expenses can be cut. Mr. Leonard said he had not heard anything about the concession stand operation by his group. He added they furnish water because of safety concerns, but they do not operate concession stands that he is aware of. He said they have paid in the past the individual who works with them over the weekend, and his understanding is that person gets comp time off for what he does. However, they could take care of a portion of that without any difficulty.

Director Daniel said the Senior Olympics is a wonderful event, but his problem is the timing of the application and not being certain how many people are going to come early and not getting their teams together and how many people will be signed up. He stated he would have thought they go from year-to-year preparing six to eight months out, and Mr. Leonard replied that is their schedule. He added the problem is the people who are involved in this activity are facing the same economic crisis as Hot Springs, and they do not know for sure if they are going to come and wait to see what other tournaments are going to be held. He pointed out they just wait until the last minute to sign up. He mentioned they had someone call last Friday and asked to be a part of it, and they have extended the date for registering so they would have an adequate number of teams to conduct the event.

Director Daniel commented that it is too late to try to come up with something as far as not letting the people come in and bring their ice chests, etc. He mentioned there are a lot of events where people cannot bring anything in to ensure the concession stand have an opportunity to make some money. Also, he has concerns about how many of these people who play softball are entered into other events. Mr. Leonard replied he did not know the answer to that. He added the softball tournament is held earlier than the Olympics, which will be September 15 through 19. He stated they will have 700 additional people in the community at least that are registered; and this is a qualifying year so it is bigger than last year, which was a non-qualifying year for the nationals. He said this is held at a separate time and would be very difficult for them to conduct it during that weekend because it is very time-consuming and labor intensive.

Director Maruthur mentioned she is a senior and a few years away from Medicare and supports the Olympics. She said in her opinion, she did not believe the City can afford to waive \$4,000.

Director Keheley commented that the field is out there and is not going to be used unless the Senior Olympics use it. She said if the City just waives the field use (\$800) for the four fields for four days, that would be \$800 off the fee; and if they had someone who did the chalking, that is the biggest expense. She asked if there is anyway they can work out anything, and Mr. Leonard replied that he never heard the \$3,792 figure before tonight. He added they knew about the \$800.

Director Daniel asked if the \$3,792 is the actual figure that comes out of Ms. Wallace's budget, and Ms. Wallace replied that she did not budget any revenue for it. Director Daniel commented if this event were to go on, it is going to take out of the City funds \$3,792. Ms. Wallace pointed out it will take the labor cost out of it.

City Manager Lance Hudnell said that Director Daniel is asking if any of it is "soft cost" that the City would have anyway from the person already being on payroll. He stated the City will have to cover it by comp by having them off from something else. Ms. Wallace explained there is a special maintenance that goes into preparing the fields for the seniors, and that was her question to Mr. Nathan Neighbors, Recreation Supervisor, when she first reviewed this cost. She noted these are the same costs as last year. In 2007, it was actually \$5,000 because there was a request for Kimery Park and Family Park horseshoe courts for the games, which are not included on this one. She stated these costs are consistent with their regular costs. She asked that Mr. Neighbors explain what they do for the maintenance costs, and perhaps the Senior

Olympics could hire the person they hired last year to cover those costs, and City staff would not have to be involved.

Mr. Nathan Neighbors, Recreation Supervisor, explained as far as the cost for maintenance, that would be the one that actually impacts their budget because it comes out of personnel costs. As far as field rental, that is not money they are actually losing because as pointed out by Director Keheley, those fields are sitting there at that point during the day since this tournament is not played at night. He said his tournament generally runs from 8 a.m. to 5 p.m. Where they run into problems, they have programs running at this time so once the maintenance people arrive around 5:30 a.m., he wants to be ready when the players get there. Once they are finished, he has to clean up and then has his own programs that come afterwards. He said this will be around 16-hour days because there are two events going off in 24 hours and then do it again for four days. As supervisor, he stated he has to allocate staff time to where it is best needed and stagger some staff. He noted the field maintenance part comes out of his budget, and that is an accurate number.

Director Maruthur asked if Ms. Wallace did not communicate to the director of the Senior Olympics that this would be in-house (\$3,792.50). Ms. Wallace replied this is an internal form that her department fills out that they submit with the Board Action Request Form. Director Maruthur asked that City Manager Lance Hudnell explain to the public the City's furlough program that the Board approved due to lack of funds. She added that the City employees have been impacted by a furlough program in order to save money.

City Manager Lance Hudnell explained that the furlough program is a budget-saving item; and there are three furlough days, which were three specific holidays that employees took off with no pay. He stated some departments had to take it at other days, but that was a result of about a one percent (1%) salary decrease this year in the budget.

Director Maruthur said the fact that City employees will have to take care of some areas of this, she has a problem with that. She stated that the Directors should have been notified on how much this costs the City and when to make the application or have forfeited it.

Ms. Wallace said they were in communication with the executive director about turning in the paperwork and have been for several months. Regarding the concessions that they operate, they do not charge for concessions as such while they are out there.

She noted her department operates the concession stand, but the Senior Olympics do have food and beverage sponsors and provide food for free on occasion. She commented that is why the Parks concession figures are so low from that tournament in relation to other tournaments.

Director McCabe asked if the rent is \$800 to rent the field, and Ms. Wallace advised that it is \$50 per field (four fields), which would be \$200 per day; and for four days, it would be \$800. Director McCabe asked if she gives an application to fill out, it would be for \$800 and not \$3700. She advised that the Senior Olympics would not be asking Parks to provide the labor to groom the fields and do the fields, which is extra.

City Manager Lance Hudnell asked if the \$50 is the nonprofit rate, and Ms. Wallace advised that the \$50 is just the rate they have; and when the City amended the policy, that lowered their rate in order to get more tournaments. She said it was previously \$100 a day.

Director Daniel questioned when they pick up their application and want to rent four fields a day for four days, which will be \$800, if they are given a sheet that lets them know what they will be responsible for, such as maintenance on each field, etc. Ms. Wallace advised that when a tournament comes to her department, the organizer meets with Mr. Neighbors; and they go over cost-by-cost breakdown of how much it is going to cost them to reserve that facility. At that time, they are told that if they want Parks and Recreation staff to help with maintenance during the games, this is what it is going to cost; and they can either choose to pay it or not pay it. She said they can choose to do all of the maintenance themselves and want Parks to run concessions, but typically they meet with the staff ahead of time. She stated since it has been pre-approved for so many years, that part was basically skipped because there was an assumption it was going to happen. She mentioned no one ever sat down with staff to go over what the costs actually were and when the request came in, staff realized it did not have the paperwork. She said staff knew in order to get it on the Board agenda because the tournament was in two weeks, she brought it to the Board with the internal sheet. She noted this was a sheet that would have been discussed with the organizer had they met with city staff prior to this event.

Director Daniel asked if City staff did not try to get them to meet with them prior, and Ms. Wallace said that they did. Director Daniel asked why they did not want to do that, and Mr. Neighbors advised there were several conversations when Parks staff actually received the date from the Senior Olympics, and he started out with the internal document as far as fee estimate waiver. He said there was not a reason why they did or

did not come. Where this document differs from a lot of people, they tend to throw tournaments to make money for themselves, whether it be to sponsor a softball team, etc.; and when he goes over this with them, they want the bare minimum. He added 90 percent of the time, they want the fields for one day and will play from 7:30 a.m. to 12 midnight. He said he knows there was never a fee waiver form turned in, but staff did ask for one.

Director Ramick questioned the fee per team to enter the tournament, and Ms. Wallace advised that it is \$295 per team.

Director Maruthur asked if the City were to waive \$800, would the Senior Olympics be able to prep, maintain, and do all the rest; and Mr. Leonard said that he could not answer that. He stated they try to run as good a softball tournament as they can, and one of the reasons they continue to get people back is because it has been a well-run tournament in the past.

City Manager Lance Hudnell pointed out this one has created a little confusion because of over the years having the working relationship with the Senior Olympics. He said in the past, it has been co-sponsored by the department; and various arrangements have been made over the years. He noted that is different than other tournaments because assumptions were made that things might be the same as they were last year. As Mr. Leonard said earlier, that is miscommunication on both sides. He recommended that the Board approve the fee waiver this year because there will be 240 people coming to Hot Springs and wants them to return in the fall and next year for another tournament. However, the City requests the Senior Olympics provide as much support as they possibly can toward the field maintenance after they know what their costs are because their desire is not to make money. He suggested they voluntarily assist the City with as much of the field maintenance as possible and/or provide the City with as much financial support as they can after the tournament for this year, and then the City and Senior Olympics pledge that they are going to work together in January to not have this issue come up next year.

Mr. Leonard said they will make that pledge and will work as best they can to keep the City's cost at a minimum. He stated they worked cooperatively over the years, and it was just an oversight on their part and should have been followed up. He advised that he talked with Ms. Gail Ezelle, who is in Las Vegas attending the National Board and is a member of the National Board of Senior Games.

Mayor Bush said that the City appreciates the Senior Olympics and asked that Ms. Wallace make sure that the City hear from that group a little earlier next year before their event and also asked the same from Mr. Leonard, as chairman of the Board. Mr. Leonard said that he would.

A motion was made by Director Keheley, duly seconded by Director Daniel, that the resolution be amended by waiving the field use fees with the condition that the Senior Olympics of Hot Springs will work with the City to reduce every cost they can to the City for this tournament for 2010; and upon roll call, the following voted "aye": Director Jones, Keheley, McCabe, Ramick, Daniel, and Bush, total 6. Voting "no": Director Maruthur; motion carried.

Mayor Bush then called for a vote on the adoption of the resolution, as amended; and upon roll call, the following voted "aye": Directors Jones, Keheley, McCabe, Ramick, Daniel, and Bush, total 6. Voting "no": Director Maruthur; motion carried. Whereupon the resolution was declared adopted, as amended.

14 Consider Reconsideration Regarding Rezoning Property in the 200 Block of Stacy Street, Subject to Appeal Notification

A motion was made by Director Daniel, duly seconded by Director Jones, to approve the reconsideration regarding rezoning property in the 200 block of Stacy Street, subject to appeal notification.

Upon discussion, City Attorney Brian Albright explained that this matter came before the Board for consideration of an ordinance approving a Manufactured Home Overlay in Lot 5 of the Cartney's Subdivision. The action requested of the Board did not pass due to a 3-3 vote. He said there were extenuating circumstances concerning this matter that came to the Board being that it was an appeal of a decision by the Planning Commission. He advised that any appeal by the applicant of action from the Planning Commission requires 15 days' notice to all of the adjoining property owners that would have otherwise received the same notice of the original action before the Planning Commission. However, that did not happen in this situation. He noted there was a request to table, and the table motion did not pass; therefore, there was no action taken by the Board. He said the effect of no action was in effect a denial. He stated the applicant, as well as the adjoining property owners, was entitled to receive the notice of the 15 days; and this is being brought back for the Board's reconsideration to place it back on the agenda. He advised if the Board is inclined to place it back on an agenda, it would not be on tonight's agenda because the City still has not had the opportunity

to do the 15 days' notice. He suggested if there is action of the Board to grant the reconsideration, that the reconsideration be placed on the second meeting of August (August 17) or the first meeting in September.

Director Maruthur questioned if §16-2-10(3) [hearing] and §16-2-12(b) [Planning to provide notice of appeal] applied. City Attorney Brian Albright advised that a hearing of a zoning decision of the Planning Commission requires under §16-2-11, paragraph e-3, that there be 15 days' written notice given to all property owners within 200 feet of the property in question. He said if there is an appeal of that decision, then the Planning Department is also to provide Notice of the Appeal in accordance with the same applicable provisions as the Zoning Code. He noted it requires 15 days' notice to the property owners within 200 feet of the applicant's property, and that was not given on the appeal. Therefore, the applicant and property owners were not afforded their procedural due process rights and that is why it is being brought back to the Board for its reconsideration.

Director Maruthur said she was under the impression that it was the appellant who was not notified. City Attorney Brian Albright responded that no one was notified. Director Maruthur said that there are several people present from that community who have called and would like to speak in regard to this. City Attorney Brian Albright stated that the applicant is present and if the applicant is willing to waive his procedural due process right of receiving the written notice, that would be his prerogative. However, he is not prepared to suggest that the Board has the right to waive it for him.

City Manager Lance Hudnell pointed out that all the Board has before it tonight is the motion to reconsider and not the action. City Attorney Brian Albright added that the ordinance is not on the agenda.

Mr. Rick Gillham, 204 Stacy Lane, said that he was told without the notification, there is not a hearing until everyone is notified.

Director Maruthur questioned why he had called her, and Mr. Gillham responded that she misled the Board at the last meeting. Director Maruthur replied that was not true. He said she implied that he needed to talk to his dad; and the Board Members may think his dad is against it.

Mayor Bush then called for a vote on the motion to reconsider and place the ordinance on the Board Meeting for August 17; and upon roll call, the following voted

“aye”: Directors Maruthur, Jones, Keheley, McCabe, Ramick, Daniel, and Bush, total 7; motion unanimously carried.

City Manager Lance Hudnell stated that all of the people involved under the Code will be provided the hearing notice.

Director Maruthur commented since people did show up and one individual is disabled, she would like to have the opportunity for them to stand up.

Mayor Bush expressed appreciation for their attending the meeting tonight.

15 Consider Reconsideration of Repealing Ordinance No. 5753 and Amending Ordinance No. 5715 to Include an Exemption for Certain Land Division Plats. (Removed from the Agenda)

16 Proposed Ordinance No. O-10-34 Repealing Ordinance No. 5753 and Amending Ordinance No. 5715 to Include an Exemption for Certain Land Division Plats. (Removed from the Agenda)

17 Proposed Ordinance No. O-10-35

An ordinance entitled, “AN ORDINANCE WAIVING REQUIREMENTS OF COMPETITIVE BIDDING FOR CERTAIN ITEMS AND SERVICES RELATED TO INSTALLATION OF WATER PIPELINES TO SERVE SOUTHWEST WASTEWATER TREATMENT PLANT WITH KIMZEY REGIONAL WATER DISTRICT; AND FOR OTHER PURPOSES,” was taken from the agenda for consideration.’

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

Upon discussion, Mr. Steve Mallett, Deputy City Manager for Public Works and Utilities, advised that when the Southwest Water Treatment Plant was constructed several years ago, there was an issue with providing water to the property, which is city property built in the county to serve an area west of town in the county off Winkler Road.

At that time, the City discovered that the property the wastewater plant was built on was in the Kimzey Water District, which is a separate water system that consists of the treatment plant, piping, and is totally separate. He said they do not buy water from anyone and do not buy water from the City but are a freestanding agency. Since that area was defined in their boundary, the City could not serve it with its own water system even though the City was within a couple of miles of that property. The bond that they have is guaranteed by a territory that they serve so they have to be able to given a boundary to recover the cost to pay for the bond indebtedness, and the City fell within that. He explained that rather than utilize Kimzey water at that time, it was decided to drill a well on the property that would serve drinking water purposes, and the fire protection was handled through a fire pond and fire pump. He stated that has served the City marginally since that time, and there are several reasons the City is looking to extend water. The primary reason is to provide sufficient water flows to utilize the proposed sludge equipment to be installed at the treatment plant. Part of the 2009 Wastewater Bond issue is to install sludge equipment at the plant since it was not originally installed at the plant and that cannot be serviced by the flow, volume, and pressure. Other reasons are the onsite well provided during construction of the plant has proven to be incapable of providing the flows required to maintain effective operation of the plant; and it is also incapable of providing the required flows for fire protection. He commented the current water source is not recommended for use in a potable water application, and the water is very high in iron and manganese. Staff is asking to waive competitive bidding for the installation of the water lines, which include engineering and inspection. He advised they have proposed a cost of \$58,620, which is about \$11 a foot for that 6" pipeline with a fire hydrant and set a two-inch meter. He pointed out the City cannot contract just the construction of the project for \$11 a foot, which does not include engineering and inspection. He noted there are several reasons the City is asking to waive competitive bidding, and the main one is that it is cheaper. He said the City cannot do it nearly as cheap considering that it would also have to engineer this itself and provide inspection for it and the fact that it is their system. He noted they can install it, are liable for it, and maintain it; the City will just be their customer. He said the City will not tie this to its system, and they will not be interconnected any way.

Director Maruthur said she has received some phone calls regarding this issue and asked if he looked into the areas that the Kimzey Regional Water District affects. Mr. Mallett replied that it is south of that area, and it is nothing north. He added he was not able to get a map of the coverage of their entire system, but there is a dividing line very close to where their line is; and that is about as far north as they can go. Director Maruthur said that she and Mr. Mallett spoke about this on the phone, and she

was told 100 percent of the Kimzey Regional Water District was fluoridated. Mr. Mallett replied that is correct. Director Maruthur said if the City allows this, the usage will go into the City's wastewater treatment plant and then after it has been cleaned at the wastewater treatment plant, it will go into Lake Hamilton. Mr. Mallett said that it will go into a tributary that eventually goes into Lake Hamilton. Director Maruthur said that fluoride is cumulative, and he had said it would be trace amounts; but it is cumulative so it would be coming into the City's system, especially if the City were to do a water plant in Lake Hamilton. She stated the City would actually be getting some of this. Mr. Mallett replied he could not say for sure, but he thinks the level would be too low to detect based on how much he knows that the City will be using versus how much they are legally allowed to put in through the Health Department. He said by the time it is diluted several times, he cannot imagine that the City would be able to detect any of the fluoride from what small usage there is. Director Maruthur pointed out there are many things people cannot do, such as they cannot wash street signs or wash leaves with hoses into the wastewater. She said there are many regulations people are not aware of. Mr. Mallett explained that the City cannot allow soap or detergent to go into the drains. Director Maruthur noted that the ADEQ and EPA are watching. She commented if this were not fluoridated water, she would have no problem; however, she cannot do it. She advised that she heard of an individual who worked for the Kimzey Regional Water District who was sprayed with it, and the result was horrendous.

Mayor Bush asked what happens when a person gets sprayed with chlorinated water, and Director Maruthur said it was a spray of chlorine; and he became so nauseated and vomited so much that he lost all of his teeth; and this was just the beginning. She noted it was fluoride.

Mr. Mallett commented the City does not have fluoride in any of its plants and does not deal with fluoride in those concentrations that could cause those kind of problems. He added it is dealing with an approved level of fluoride in drinking water that is approved by the Health Department. He stressed there will not be fluoride containers at the plant that could cause danger such as that.

Director Ramick asked if they will honor the \$58,620 bid that expired July 15, and Mr. Mallett replied that he called them and received assurance they would honor that with the understanding it would be presented to the Board tonight. He pointed out there are also no rebates. He added he asked about the rebates on the line, and they did not offer any explanation. However, he assumed they probably are planning on serving other areas in that general area off that line so they feel as if they are spreading that cost to other customers.

Mr. Wayne Roberts, 515 Jerome Street, said he is not for or against this but wanted to address competitive bidding. He stated in today's economy, every dollar that is saved gives a dollar to go somewhere else. He questioned if the City does not put it out for competitive bidding, as stewards of the money, how is it saving. He noted that he is not saying that \$58,000 is not the best deal. He stated if it is not an imminent health, safety and welfare problem, the City should go out for competitive bidding; and he would ask that the City do this.

Mayor Bush then called for a vote on the motion to adopt; and upon roll call, the following voted "aye": Directors Jones, Keheley, McCabe, Ramick, Daniel, and Bush, total 6. Voting "no": Director Maruthur; motion carried. Whereupon the ordinance was declared passed.

18 Proposed Ordinance No. O-10-36

An ordinance entitled, "AN ORDINANCE WAIVING THE REQUIREMENTS OF COMPETITIVE BIDDING FOR CERTAIN ITEMS AND SERVICES RELATED TO WEST MOUNTAIN SCADA RADIO REPEATER INSTALLATION WITH BROWN ENGINEERS, LLC; AND FOR OTHER PURPOSES," was taken from the agenda and read by title only.

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 Maruthur, duly seconded by Director Ramick, that the ordinance be passed as read.

Upon discussion, Mr. Steve Mallet, Deputy City Manager for Public Works and Utilities, explained this is for improvements being made to the SCADA and outlined in the 2009 Wastewater Bond Issue. The timing is January 2011, and Brown Engineers has been working on the Master Plan and identifying the type of equipment that would be consistent and best suited to meet the City's long-term needs and to standardize on equipment that would prevent similar problems the City is now having with some of the different equipment it has through the system. The majority of this contract is engineering, design, support and programming; but the antennae itself, being installed, cannot be handled with the rating and ranking process. He said that is why it is being brought as waiving competitive bidding even though the vast majority of the project is engineering services. He explained if the City went out for bids for the small piece of

equipment, it would have to have a certain piece of equipment that is almost a sole-source. He added the City wants to make sure it is properly installed, and Brown Engineers is overseeing that and will make sure it goes in accordance with their plans and will program it accordingly. He said that he agreed with Mr. Roberts as far as waiving competitive bidding. He noted one of the reasons is the timing in order for the City to go out and build specifications around that piece of equipment. He expressed concern the City will not get that installed prior to the date and allow the City to meet some of the deadlines by January 2011. He said the other reason is that it is so specific to the project and to the continuity of the system, the City wants to ensure that this piece definitely meets the specifications and goes in because if it does not work, nothing else outside of it works. He advised the amount for engineering and the piece of equipment to be installed is \$134,540. He pointed out all of the equipment and the units that go out in the pump stations will be bid separately, and the project and engineering will be rated and ranked.

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-10-37

An ordinance entitled, "AN ORDINANCE AUTHORIZING EMINENT DOMAIN CONDEMNATION PROCEEDINGS AT FOREST HEIGHTS TRAIL FOR THE ACQUISITION OF CERTAIN REAL PROPERTY (WATER EASEMENT); DECLARING AN EMERGENCY; 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 Daniel, duly seconded by Director Ramick, that the ordinance be passed as read.

Upon discussion, Mr. Steve Mallet, Deputy City Manager for Public Works and Utilities, advised this condemnation is requested to enable replacement of the current water main along Forest Heights Trail. The water main is undersized, and this project will provide a more reliable source of water to the residents of this area, as well as fire

hydrants and fire protection. He stated the condemnation is necessary due to the complications associated with this particular parcel. He pointed out the parcel has no clear ownership established, and attempts by the City to locate the family have proven unsuccessful. There is a probate estate open in Circuit Court for the last known title holder. He stated the area to be condemned is only what is required to install and maintain the line, and there will be no destruction of any fixtures or landscaping to accommodate this project. He advised that other residents along the route have freely given permission and signed the easement documents. The cost of this request, based on the appraised value of the property, is \$3,000; and that is the amount staff recommends be paid and offered to the Court for this condemnation.

City Manager Lance Hudnell explained that staff is asking the Board to do this because there is no clear owner.

Director Maruthur said on the Board Action Request Form it does not indicate the district, and Mr. Mallett advised that it is in District 6.

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

OTHER BUSINESS

20 Board of Directors Items for Discussion

Director Jones thanked the Planning Department staff; Ms. Kathy Sellman, Planning and Development Director; and Mr. Rick Stauder, Planning and Development Coordinator, for their participation and hard work in getting the agenda prepared for the Pleasant Street Association meeting on Friday, July 16. She noted Mr. Bart Jones, Neighborhood Services Administrator, was absent but had his papers ready.

21 City Manager's Report

City Manager Lance Hudnell gave the following report:

1. Following the agenda meeting on July 27, the Board will have a work session. There will be three topics: (1) six-month report of the City's financials; (2) 2010 mid-year budget review, which will be on the first Board meeting in August; and (3) preview for 2011.

2. The Arkansas School for Mathematics, Sciences and The Arts will hold a ribbon cutting at 10 a.m., August 3.

3. On the City's website, there is a brochure with regard to recruiting for the Police Chief and will be used to give to prospective candidates. Also, there is a questionnaire used for the purpose of creating a profile, and the City is interested in all citizens completing and getting this questionnaire back to the City. September 3 has been set as the deadline to return the questionnaires. The purpose of this document is to get some input from citizens as to what points they want the City to emphasize over others with regard to what the ideal candidate might look like. There is a place to provide other expectations if there is something that is not covered by the questionnaire.

This is not to create interview questions but is to develop a profile of what the City would like the next Police Chief to look like. Applications for that position are due October 1.

4. City Attorney Brian Albright was elected as second vice president of the Arkansas City Attorney's Association at the most recent Arkansas Municipal League Convention.

5. There is a prospective hangar owner's meeting, and individuals interested in owning a hangar at the Airport are invited to attend a "meet and greet" with the new owner and developer of Hot Springs Aviation Co-op, which will be 10 a.m. to 12 noon, next Tuesday, in the Airport Conference Room.

6. Letters were received with regard to the recent Airways Air Race Classic that came through and commended the Airport staff because many compliments were received in the way they were handled and particularly in contrast to other points where they stopped along the way. He expressed appreciation to Ms. Ruthie Murphy, administrative secretary, and the other employees on the field at the Airport.

7. The Sister City Program for the City of Hot Springs was honored by the Japanese central government, and the City's 17 year relationship received a special award from what would be the equivalent of their international cities program in Japan. Some of the students had made a film, and they documented that and that was one of the things that received an honor. It was entitled, "Hot Springs and Hanamaki – A Perfect Match." It re-runs on Channel 15 from time-to-time.

8. There is a one vacancy on Planning Commission from District 6; one vacancy on Urban Forestry Advisory Committee from any district; and the Transportation Advisory Committee has two vacancies. He expressed appreciation to the various board and commission members who serve with no compensation. If someone is interested on serving, they may go on the City's website and get the application or call the City Manager's Office 321-6810.

22 ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 8:30 p.m., to meet again on Tuesday, August 3, 2010, at 7:00 p.m.

ATTEST: _____

APPROVED: _____

Lance Spicer, City Clerk

Mike Bush, Mayor