

MINUTES

BOARD OF DIRECTORS MEETING

JULY 6, 2010, AT 7:00 P.M.

The regular meeting of the Board of Directors was held on Tuesday, July 6, 2010, at 7:00 p.m., Board Chambers, City Hall, with Mayor Mike Bush presiding.

The invocation was given by Ms. Sue Hall, 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, Cynthia Keheley, Pat McCabe, Rick Ramick, Tom Daniel, and Mike Bush, total 6. Absent: Director Elaine Jones.

2 Approval of Agenda

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

Upon discussion, a motion was made by Director Keheley, duly seconded by Director Maruthur, that Item No. 34 (Discussion of Water Line Relocations Related to Highway 270 West Passing Lanes Project) be removed from the agenda. Director Keheley said that she believes it would be more appropriate to hold a work session to hear from the community of Royal and U. S. Forest Service on this water project. Mayor Bush called for a vote on the motion to remove Item No. 34 from the agenda; and upon voice vote, the motion unanimously carried.

City Manager Lance Hudnell advised that Proposed Ordinance No. O-10-33 (An Ordinance Waiving the Requirements of Competitive Bidding for Air Conditioning Replacement; Certifying Emergency Actions by the City Manager; Amending the 2010 General Fund Budget; and Declaring an Emergency) needs to be added to the agenda.

Director Maruthur questioned the addition of this item, and City Attorney Brian Albright advised that this involves the chiller unit at the Arkansas School for Mathematics, Sciences, and The Arts. City Manager Lance Hudnell added the City was notified of this item at 3 p.m. today and is an emergency.

A motion was made by Director Ramick, duly seconded by Director McCabe, that the ordinance be added to the agenda; and upon voice vote, the motion unanimously carried.

Mayor Bush then called for a vote on the motion to approve the agenda, as amended; and upon roll call, the following voted "aye": Directors Maruthur, Keheley, McCabe, Ramick, Daniel, and Bush, total 6. Absent and not voting: Director Jones; motion unanimously carried.

3 Approval of Minutes of June 15, 2010 Board Meeting

A motion was made by Director Maruthur, duly seconded by Director Ramick, that the minutes of the June 15, 2010 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 Maruthur stated that Parks and Recreation Director Jean Wallace requested that she announce the Carousel Readers Theater performs at the Gallery Walk, April through September, in Adair Park downtown. The theater troupe performs short comedic skits at 6:30, 7:00 and 7:30 p.m.; and many of the skits are original, some featuring Hot Springs. The group has been performing at the park for more than five years, and performances are free; however, donations are appreciated but not necessary. These appearances are sponsored by the Hot Springs Parks and Recreation Department, and the Carousel Theater is an activity of the Association of Senior Arts Programs, an Arkansas nonprofit. People have to be 55 and older to join; and if anyone would like to join, the contact person is Jackie Stuelke, director of the program (525-0330, e-mail is SrArts@aol.com.)

6 Acknowledgment of Financial Statement Notices for May 2010

Mayor Bush announced that the Financial Statement Notices for May 2010 are on file in the Finance Department for review by the Board and the public.

CONSENT AGENDA

The Consent Agenda consisted of the following:

7 Public Safety Committee Report (June 15, 2010).

8 Proposed Resolution No. R-10-128 Approving Certain Bid Awards Pursuant to ordinance No. 5387 (a) Asbestos Services - Code Compliance [annual supply contract awarded to Aces, Inc.]; (b) Transmission Repair - Fleet Service [annual supply contract - Contract Cancellation]; (c) Transmission Repair - Fleet Service [annual supply contract awarded to Tim's Transmission]; (d) Tractor with front loader - Utility Administration [awarded to Timberline International in the amount of \$21,965]; (e) Repair Parts for Compost Screener - Utility Administration [awarded to McCourt and Sons in the amount of \$23,914.64]; and (f) Petroleum Products - Fleet Service [annual supply contract awarded to Quality Petroleum, Wacaster Oil, Mid South Sales, and River City Oil].

9 Proposed Resolution No. R-10-129 Awarding a Contract and Bid Award to Martin Marietta Materials, Inc. for Various Repairs and Improvements at the Airport.

10 Proposed Resolution No. R-10-130 Accepting a Grant from the Arkansas Department of Aeronautics for Various Airport Improvements and Repairs.

11 Proposed Resolution No. R-10-131 Amending Resolution No. 5770 (Approving Certain Revisions to Municipal Airport Property Management Policy) by Adopting a New Appendix "E" (Hangar Aircraft Storage Use Agreement).

12 Proposed Resolution No. R-10-132 Authorizing Revisions to the 2009 Budget.

- 13** **Proposed Resolution No. R-10-133** Appointing Helen Oliver, Gary Westerman, and Larry Raney to the Hot Springs Planning Commission.
- 14** **Proposed Resolution No. R-10-134** Appointing Dr. Nathaniel “Nate” Newman to the Civil Service Commission.
- 15** **Proposed Resolution No. R-10-135** Appointing Suzanne Tucker to the Historic District Commission.
- 16** **Proposed Resolution No. R-10-136** Appointing Jay Campbell to the Board of Zoning Adjustment.
- 17** **Proposed Resolution No. R-10-137** Expressing the Willingness of the City of Hot Springs, Arkansas, to Utilize Federal-Aid Monies for the Installation of a Traffic Signal on Highway 270B at Highway 270 Eastbound Off-Ramp.
- 18** **Proposed Resolution No. R-10-138** Adopting a Limited English Proficiency (LEP) Plan for Hot Springs Intracity Transit.
- 19** **Proposed Resolution No. R-10-139** Authorizing the Filing of a Grant Application with the State of Arkansas Pursuant to the DWI and Other Drug Countermeasures and Occupant Protection Program. **(Removed from Consent Agenda for Separate Consideration).**
- 20** **Proposed Resolution No. R-10-140** Authorizing the Filing of a Grant Application with the State of Arkansas (National Highway Traffic Safety Administration) for Two Full-Time Probation Officers; One Part-Time File Clerk; and Travel for District Court Staff (D.W.I. Court Operation).
- 21** **Proposed Resolution No. R-10-141** Accepting a Certified Local Government Grant from the Arkansas Historic Preservation Program to Provide Funding for Historic District Commissioners and Staff Training; and to Fund an Architectural

Survey and National Register Nomination of the Proposed Whittington Avenue Historic District.

- 22 Proposed Resolution No. R-10-142** Awarding a Contract to Brown Engineers for Integration of Controls and Monitoring Related to the Ouachita Water Treatment Plant Improvements.
- 23 Proposed Resolution No. R-10-143** Awarding a Contract to Utility Services Associates for a System-Wide Water Leak Detection Survey.
- 24 Proposed Resolution No. R-10-144** Awarding a Contract to Powers of Arkansas for HVAC Comprehensive Services.
- 25 Proposed Resolution No. R-10-145** Approving Additional Funding for Lead Paint Abatement and Certain Housing Rehabilitation Under the Community Development Block Grant (CDBG) for 202 Wren Street.
- 26 Proposed Resolution No. R-10-146** Authorizing the Filing of a Grant Application with the United States Department of Interior 2010 Rural Fire Assistance Grant.

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

Upon discussion, Mayor Bush recognized Ms. Barbara Anable, 120 Sanson Place, who spoke on Item No. 18 (Proposed Resolution No. R-10-138 Adopting a Limited English Proficiency [LEP] Plan for Hot Springs Intracity Transit). Ms. Anable said according to the demographics for the City, it indicates there are 17 foreign language groups within the City, but Hot Springs also has a very broad Sister City Program with Hanamaki, Japan. Also, there is a large Lithuanian and German community; and there are people from six or more Hispanic/Latino groups. She added there are seven, separate Asian language groups. If the City is providing language assistance, as it is broken down in demographics of African-American, this will be speaking of Africa as having over 1500 languages or dialects. By passing a law in 1986, Arkansas made English the official language of the state and the official language for instruction at the schools. She asked which population the program is designated to serve.

City Manager Lance Hudnell advised this is a requirement of the transit system in order for it to receive federal dollars.

Mr. Bob Reddish, Intracity Transit Resident Advisor, explained the Federal Transit Association (FTA) has made a requirement that the City have a translating ability for 38 separate languages (37 languages, plus English) to be in conformance with this requirement. He said the City is proposing a Limited English Proficiency Plan that is approved by the FTA and by the State of Arkansas.

Director Maruthur questioned if there is any other benefit to Intracity Transit for this grant, and Mr. Reddish advised this is not a grant but a requirement placed upon Intracity Transit by the FTA. He stressed that IT receives no funding for it.

Director Maruthur requested that Item No. 19 (Proposed Resolution No. R-10-139 Authorizing the Filing of a Grant Application with the State of Arkansas Pursuant to the DWI and Other Drug Countermeasures and Occupant Protection Program) be removed from the Consent Agenda for separate consideration. She mentioned she has received phone calls on this item, and "Occupant Protection" was the key that generated the phone calls.

Mayor Bush then called for a vote on the motion to approve the Consent Agenda, as amended; and upon roll call, the following voted "aye": Directors Maruthur, Keheley, McCabe, Ramick, Daniel, and Bush, total 6. Absent and not voting: Director Jones; motion unanimously carried.

UNFINISHED BUSINESS

27 Proposed Resolution No. R-10-147

A resolution entitled, "A RESOLUTION APPROVING THE CLAIM OF KENNY THOMAS," was taken from the agenda and read by title only.

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

Upon discussion, Mr. Steve Mallett, Deputy City Manager for Public Works and Utilities, explained at the last Board Meeting, staff was asked to return to the Board with a resolution; and this resolution would approve the modified amount of \$1,187.98, which is to cover an alternative toolbox that Mr. Thomas could purchase.

Mayor Bush questioned the monthly tool allowance for Mr. Thomas, and Mr. Mallett advised that it is currently \$100 a month, which allows him to purchase the tools he is required to have to be able to work in his position with the City. However, they do remain in his property and his responsibility to insure his personal property.

Director Ramick asked if there are any other city departments that have similar requirements where the City would have a monthly allowance, such as uniforms, phones. Mr. Mallett replied that the Fleet Department has this same scenario with regard to their mechanics. He stated there are other departments that have phone allowances, vehicle allowances, clothing allowances, and are very similar in how they are administered. He said that remains as personal property of the person who purchases those items.

Director Ramick questioned if the City is required to reimburse an employee if an employee has a phone allowance and loses a phone or it is damaged or stolen; and Mr. Mallett replied that it is not. He said the employee can make a claim as Mr. Thomas has done, but the City is not required to replace it.

Director Maruthur commented that Mr. Thomas has been working for the City for 20 years; and when he started his employment with the City, his allowance was not what was just discussed. In 1990, he received \$500 a year. She noted that Mr. Thomas lives in Caddo Gap and drives 97 miles a day to work. She stated the City had a chain link fence and an alarm system to protect the employees' and the City's property; and Mr. Thomas had a 2,000 pound toolbox with tools in it. She then distributed several photos provided by Mr. Thomas. She stressed this is a human issue. She stated the original cost for the toolbox was \$4,000, which he paid in 1990, and has since purchased a toolbox for \$1,187 because his tools were strewn over the floor, making it difficult for the other employees who also use the tools. She commented that Mr. Thomas is asking for \$1,187. She noted that he cannot haul 2,000 pounds home everyday, and he deserves more than this for all that he has given to the City. She then asked that Mr. Thomas be recognized.

Mr. McKinley "Kenny" Thomas said that he drives 97 miles round trip to work and started out with \$500 a year allowance; and every two or three years, the allowance was increased. However, when an impact wrench costs \$500 or \$600, it takes several months to pay for one tool. He stated his toolbox cost \$4,000, but he worked his way up every year or two to update it to where he is today. He added he has a socket set that costs \$127 and wrenches that cost \$149 each. Also, he has welding equipment and many other tools that cost several hundred dollars each.

Director Maruthur said the city employees are the City's most valuable resource and commended Mr. Thomas for driving 97 miles a day to work. She stated that she hopes the Board will show its appreciation and reimburse Mr. Thomas. She asked when he purchased this new toolbox, and Mr. Thomas replied that it was two weeks ago. He added he could not get to his tools because they were on the floor and could not find them. Director Maruthur pointed out this is not a laptop computer and is not something he can take home.

Mayor Bush asked if the City mandates that he live a certain distance from his workplace; and Mr. Thomas said when he was hired, the City did not. Mayor Bush asked if the City requires a certain distance now, and Mr. Thomas said that it did not.

Director Keheley said she understands that the City, as well as other cities, has this requirement where employees bring their own toolbox and own tools; and there are a number of city employees other than Mr. Thomas who fall into the same category. She noted that she counted 15 City employees who receive tool allowances. She stated it has not always been \$100 a month but started out at \$25, which was 20 years ago. She added the City does not furnish tools and pays a flat fee per month for replacement, repairs, and aged tools. Also, they are not carried on the City's inventory. She mentioned at the last Board Meeting, Mr. Mallett had stated the City had turned in a claim for the loss of this toolbox, which was used as part of the total loss during the theft. She asked if there were any other personal items of other employees or if it was only Mr. Thomas' toolbox that was personal. Mr. Mallett replied said that he knows there were some radios and phones and assumes those were city equipment; however, he does not know that for a fact. Director Keheley commented that the Street Department loss was over \$6,000; and he had mentioned there was a \$5,000 deductible. She said a claim was filed and used this non-inventoried item as a part of the claim. She noted that the Arkansas Municipal League Property Program paid on that amount after the deductible, but they counted Mr. Thomas' toolbox in the loss. She said they paid the City and included the toolbox in the accounting, but the City is not going to compensate him although the City used that in its claim. Mr. Mallett responded that the amount refunded to the City was \$147.04. He said the claim would not have amounted to anything had the toolbox not been included. Director Keheley stated that she feels justice would be served since the City counted it as an inventoried item and put it in the insurance claim. She pointed out it was a part of that total package, but the City has ignored a portion of that for him. She recommended that from this day forward the City have a clear, written policy so this never happens to another employee, and they understand they are not going to get a reimbursement on

an allowance over and above. She also suggested that the City should recommend a renters-type insurance. She stated that it has not been a requirement to have insurance on their personal property. Mr. Mallett responded that it is encouraged, but the City does not require it because it is their personal property. Director Keheley pointed out that department heads have come and gone over the last 20 years, and the policy was a little vague in passing down through the departments. Therefore, Mr. Thomas may not have known he had to have insurance or what the qualifications were for this. She stressed that it is management's responsibility to ensure the City has a clear policy, and this does not happen to the City employees. She recommended that the City compensate Mr. Thomas since he was included on the claim.

Director Maruthur stated that Mr. Thomas does have insurance; however, it is for only on-premises; and as he stated, he was not aware of the policy change. She noted he works on Shady Grove Road and does not come to City Hall. She pointed out there is a chain link fence and high security around this area. Therefore, he was under the impression that his \$4,000 toolbox was safe. She said it is the City's responsibility to reimburse the \$1,187 to an individual who has served and was not informed and has been done wrong. She stressed it is a matter of conscience and showing the value of an employee. She urged the Board to reimburse Mr. Thomas.

Director Daniel said the price of tools has increased over the last 20 years, and his tool allowance increased from \$25 to \$100; and he has been compensated to get that price. He mentioned he has seen Mr. Thomas' work, and he is a master welder. In looking at the toolbox in the photos that were taken, he said it appears that the toolbox is a serviceable toolbox with the exception of locking up; and as good as he is, he would close the lid and drawers. Also, it appears where the vandals put the heat to it, a padlock and hasp could be used; and the toolbox would be useable. He commented if other employees are using out of the toolbox, he does not understand how that works if they share the tools. He commented that he appreciated his 20 years of service to the City; but regarding the statements about his driving 97 miles per day, that is his choice to live in Caddo Gap. He asked if he lived in Caddo Gap when he started working for the City, and Mr. Thomas said that he did. Director Daniel pointed out he knew he was going to have to drive that distance everyday, and Mr. Thomas replied that it was either that or work at the sawmill; and he preferred working for the City. Director Daniel pointed out that due to the benefits Mr. Thomas has with City, he would rather work for the City and is willing to drive 97 miles. However, he cannot let that enter into his decision. As far as the tools being in the floor in the photo that was distributed, he noted they could have picked them up and put them somewhere until something was done to the toolbox. He used the example if a fireman tears his clothes while fighting a

fire, he has to pay the full amount of his allowance and the policemen, the same way. He pointed out this will be opening up "Pandora's box," if the City pays this claim. He added that he respects Mr. Thomas and feels for his loss but will have to vote against the resolution.

Director Maruthur said this will not be opening "Pandora's box," and the Directors need to open up their hearts. She stated that she has spoken to Mr. Thomas and does not believe he has many options. She asked if Director Daniel had spoken to him, and Director Daniel said that he had not. He added that if it is coming from the heart, he still would have to vote against it. However, he will be the first person to put in \$100 out of his pocket and start a fund to see if \$1,187 can be raised. Director Maruthur replied that would be great, but that is not the point. She noted that he is a City employee and does not think he has the resources to relocate. She added this is his family home, and he has to live there. Director Daniel commented that Mr. Thomas likes working for the City, and he is getting paid well for it. Director Maruthur stressed that it is the City's responsibility to take care of its employees. She pointed out that he was not in attendance at an agenda meeting because he was taking care of his business, which he had to do. Director Daniel responded that she has done the same thing and has missed agenda meetings. Director Maruthur asked that he have a heart.

Mr. George Pritchett, 125 Carl Drive, stated this is different than clothing for a fireman or policeman; and it is normal to require a mechanic to bring his own tools. Also, it is normal in a dealership or in a city to pay a tool allowance. He said that a tool allowance is not to be confused with the toolbox he brought in and took a forklift to unload. He stated it is perishable tools and is updating and replacing tools. He pointed out that today, \$100 is not much for Snap-On or Mack tools. He said that probably when Mr. Thomas was hired by the City, he was required to have his own tools. He pointed out that the City is absent a policy that is clear. He stated that Mr. Thomas might have to buy a part to go on a welder that fits a new welder that his tools do not. He said that he had two questions: (1) was the employee at the time he was hired told that he was at risk wherever he left his tools, such as to vandalism, fire, theft, etc.?; and (2) if so, did he sign off on that? He stressed that the City needs a comprehensive policy. He noted it is not easy to buy insurance to store his tools at the City or any other place, and that is not how insurance works. He pointed out when that building is locked up at night, Mr. Thomas has the reasonable right to expect that he will be compensated if the building is insecure because someone left it unlocked or it is violated. He said he believes it is reasonable to pay Mr. Thomas \$1,187.

Director Maruthur commented there was no contract signed 20 years ago, and Mr. Thomas was not informed. She added that she agreed it is the City's responsibility. She said he assumed his product was safe, and he does share his tools and expressed quite freely and articulately how much they cost. She stressed he has been a good employee and not to approve this is heartless.

Mr. Pritchett stated if he had been working for the City for two weeks and the same thing had happened, he believes the City owes him his loss because it occurred on the City's watch absent a policy that he had signed off on and been advised to buy personal insurance and how he could even do that. Director Maruthur replied there should be a signed contract, and they should be aware of it; but Mr. Thomas was not. She noted it was 20 years ago. She said he told her he has been to City Hall twice, and it was on this issue.

Mr. Pritchett urged the Board to pay Mr. Thomas and the Human Resources Department to draft a policy and get it signed off. Also, since the City has some specialists, employees should be made aware of the kind of insurance they can buy to protect themselves against this loss.

Director Keheley asked if the City assumed liability when it used this toolbox in the insurance claim to the Arkansas Municipal League Program. City Attorney Brian Albright advised that he did not know that this action caused the City to assume the liability and did not think it was proper to include it in the insurance claim. He said he believes there was probably a good intention of trying to get some money back for Mr. Thomas; but the deductible amount is \$5,000. Therefore, there is only \$147.04 that came out of it. He stressed it was not the City's property and should not have been listed on the insurance claim.

There being no further discussion, Mayor Bush called for a vote on the motion to adopt the resolution; and upon roll call, the following voted "aye": Directors Maruthur and Keheley, total 2. Voting "no": Directors McCabe, Ramick, Daniel, and Bush, total 4. Absent and not voting: Director Jones; motion failed. Whereupon the resolution was declared failed.

NEW BUSINESS

28 Proposed Resolution No. R-10-148

A resolution entitled, "A RESOLUTION ACKNOWLEDGING THE REVIEW OF THE 2009 COMPREHENSIVE ANNUAL FINANCIAL (AUDIT) REPORT," was taken from the agenda and read by title only.

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

Upon discussion, Ms. Dorethea Yates, Finance Director, recognized Ms. Joy Black, accounting and purchasing manager, who was instrumental in getting this report completed. She stated the Comprehensive Annual Financial Report (CAFR) contains useful information, which was previously submitted to the Board. She pointed out there is Letter of Transmittal in the document, which is an overview of the City and the fiscal and economic environment, as well as an organizational chart, a section known as management's discussion and analysis, a concise schedule of the City's bonded debt, financial information related to each one of the City's funds, and a statistical information section. She encouraged the Board to look at the statistical information section because it has useful data. She then introduced Mr. Gary Welch, auditor, with Jordan, Woosley, Crone and Keaton.

Mr. Gary Welch recognized Ms. Phyllis Trent and Ms. Christina Ellis, CPA's with the certified public accounting firm of Jordan, Woosley, Crone and Keaton. He highlighted some of the financial aspects of the Comprehensive Annual Financial Report (CAFR) for the year ending December 31, 2009.

Mr. Welch gave a presentation on the financial position of the City and an overview of the audit. He said his office is available to answer questions tonight or at the Board's convenience. He pointed out they have submitted an independent auditor's report; and in the opinion paragraph, there are two items of note: (1) the financial statements of the component unit are the Hot Springs Advertising and Promotion Commission and is included in this report as a component unit, which were audited by another Hot Springs firm; and (2) the opinion on the financial statements of the City offered an unqualified or clean opinion. This means that all of the financial statements are presented fairly within the financial statement of the CAFR, and this is for all of the governmental and business-type activity of the City. There are excess net assets of the City of \$220,988,160, which can be called the net worth of the City. The City's fund balance totaled \$5,769,514; and of this, \$3,601,425 is in the unreserved, undesignated category. One of the biggest transactions occurred in the latter part of December 2009, when there was an issue of the Wastewater Bonds for \$28,815,000.

This increased the assets which were the funds received from the bond issue but also offset with the bond liability itself. The component unit (the Hot Springs Advertising and Promotion Commission) had a net asset balance of \$2,325,770 increase during 2009. He showed a comparison of governmental activities, business-type activities, and totals. He explained in the governmental activities, this is always referring to the General Fund, Police, Fire, Street, and 28 other non-major funds. The General, Police, Fire and Street are considered major funds, and they make up the bulk of the governmental activities. In the business-type activity, this is where there are the user fee, revenue-driven funds, which are water, wastewater, sanitation, airport, stormwater and parking. There is an increase from 2008 of total assets of \$267,811,209 to \$288,306,962. This is the late part of the year addition of those bond funds; and there is a liability increase from \$41,201,167 to \$67,318,802. Regarding the overall activity, the total expenses are \$67,403,148; overall the City has excess expenses of \$5,621,883, with \$6,658,210 coming from governmental activities. That excess expense includes almost \$5 million in depreciation on general governmental assets in excess of capital outlay in 2009. Regarding the budget history of 2009, the General Fund, Police, and Fire had a positive budget result of \$1,368,769. The City expected to have excess expenses of \$1,977,546. They experienced only \$608,777 in excess expenses, which is considered a positive budget result of \$1,368,769. This is considered a favorable result primarily because in the General Fund and these other funds, the majority of their revenue runs on the local sales tax. The budget comparison for the business-type activities and all funds had a positive result except Airport because the federal and state construction and grant funds are budgeted to be received each year; and projects are generally rolled over, which tends to distort the completion of the project because it does not match the revenue budgeted. Without the Airport, the other funds realize \$698,000 positive. The overall expenditures of federal and state grants are primarily Intracity Transit, Community Development Block Grants, and the Airport Funds for construction. The total assets increased 7.7 percent. The liabilities increased 63.4 percent; and overall, the net assets decreased 2.5 percent. The General Fund is analyzed each year (unreserved fund balance), and it decreased 11.4 percent in the coverage of expenses and the coverage of expenses plus transfers. Transfers are important to the General Fund because they transfer significant funds to the Police and Fire operations. Overall, the expenditures, plus transfers, have a coverage of 1.9 months compared to 2.1 months in 2008. Regarding cash and investments at year-end compared to the outstanding bond debt, in 2003, there was a net debt over cash and investments of \$29,422,175. This is the timeframe when there was still a significant bond debt on the Summit Arena. At the end of 2009, there is little less than half of that net bond debt outstanding of \$14,110,448. In 2010, this ratio will change quite dramatically as the wastewater bond funds are paid down for construction.

Director Keheley questioned the amount of the General Fund balance in the report (\$3,430,612) compared to a different amount on another page. Mr. Welch explained that the General Fund in the combined sense is not the General Fund in the unconsolidated sense. He added on one page, there are some reconciling items to get to the combined basis net assets. In that regard, it is a very complex report to understand. On two other pages, it is an all-encompassing consolidated basis. He commented that the governmental funds must be reconciled to get to that consolidated basis. He added that in some parts of the report, it will be unconsolidated as it presents the General Fund by itself.

Director Keheley said she feels because of the ending balance in the General Fund revenues, the staff has done a remarkable and very responsible job and are to be commended. She expressed appreciation for their efforts to keep this above the 15 percent.

Mr. Welch stated it is important to look at the budget results; and as they have discussed with the City Manager and Finance Director, the City is not budgeting out of reserves.

Director Maruthur commended him on his report.

Mr. Welch expressed appreciation to Ms. Dorethea Yates and Ms. Joy Black, who assisted his office and were very cooperative.

City Manager Lance Hudnell asked that he explain this report has to be done in accordance with some national standards and does not necessarily reflect things in a way that he might desire it to do because of having to comply with the national standards.

Mr. Welch explained that governmental accounting keeps the records in one method but to get to the required consolidated basis, they must reconcile. As an example, they must add depreciation to governmental funds to make it comparable and consolidate it with the business-type assets. He advised that nationally, this was changed five years ago so there would be uniformity and comparability with all cities; and all cities do it this way.

Director McCabe said in the report, there is a paragraph entitled, "Custodial Credit Risks," which deals in part with the possibility of a bank failure; and the City has

no custodial credit risks. He noted there is a category just under \$500,000, which is covered by FDIC. When the City gets its money on the one-cent sales tax, it receives from \$850,000 to \$1 million. He questioned if the City has credit risks with that. Mr. Welch replied that it is possible; but when measuring credit risks, this is measuring that at the end of a particular timeframe, which this does. He said that he cannot answer whether the City ever exceeds that on an interim during-the-month basis, which is possible during the receipt of those large funds. However, the City has pledged securities by the banks which collateralize its money in excess of these low FDIC limits. He stressed that the City must look at it constantly, and it is generally measured by the auditors in the audit report sense at the end of the year.

Ms. Dorethea Yates, Finance Director, stated that part of the City's agreement with Summit Bank is they are to keep the City's balances fully collateralized at all times; and the State has a Collateralization Policy for state funds. She noted that a statement was made there were no custodial risks. She explained those collateralized funds are held by a third party (Arkansas Bankers Bank), and they are required to hold them at 105 percent of market.

Mayor Bush then called for a vote on the motion to adopt the resolution; and upon roll call, the following voted "aye": Directors Maruthur, Keheley, McCabe, Ramick, Daniel, and Bush, total 6. Absent and not voting: Director Jones; motion unanimously carried. Whereupon the resolution was declared adopted.

29 Proposed Resolution No. R-10-149

A resolution entitled, "A RESOLUTION AWARDING A CONTRACT TO COAKLEY COMPANY FOR THE FAIRWOOD WASTEWATER FORCE MAIN PROJECT," was taken from the agenda and read by title only.

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

Upon discussion, Mr. Steve Mallett, Deputy City Manager for Public Works and Utilities, advised that Coakley Company was the low bidder for the Fairwood Force Main Project in the amount of \$1,864,880.22. He stated the project was originally bid in November 2008, as an improvement the City needed to address the overflow issue. However, the City did not have sufficient funding to complete the project; and it came it at \$2.1 million. He pointed out the City actually saved \$209,000 off the bid price in 2008 when it was originally bid; and there was a savings by waiting this long because pipe prices, etc. have decreased. Also, this is a local company and the greater majority

of that money will stay in the local economy. He explained this is a project that will directly address the wastewater overflow, which is mandated by EPA to mitigate by 2018. He noted it is a separate pipeline. Currently, the City “piggybacks” several stations which means each pump station pumps to the next in series, thereby continually re-pumping the same wastewater. He said this will be a bypass line and will save energy costs and take some of the capacity and pressure off these pump stations; and they will be dealing only with the area they serve. He advised this is funded by the 2009 Wastewater Bond issue and is the first phase. He said the City will come in behind this and actually revamp the Fairwood Pump Station, which would be dedicated to this main as well. He advised there will be some other plant work that will finish that out, and that will take another four or five years before completion.

Director Maruthur said he indicated at the agenda meeting that this had not been done before or was not a common practice. Mr. Mallett replied that in some areas of town, the City has done a good job in providing dedicated pipelines at all of the pump stations connected to and perform a “spine” that they share. He stated many times it is easier and cheaper to pump all of the sewage from one pump station to the next and continue on until getting to the plant. However, over time if the expansion is continued, it will tax each individual pump station along the way.

Director Maruthur asked if it was cost-effective, and Mr. Mallett replied that it will be in the long and short-term. He said it addresses the overflow issue and health hazard of the sanitary overflows that come out of the stations when they cannot keep up.

Mayor Bush then called for a vote on the motion to adopt the resolution; and upon roll call, the following voted “aye”: Directors Maruthur, Keheley, McCabe, Ramick, Daniel, and Bush, total 6. Absent and not voting: Director Jones; motion unanimously carried. Whereupon the resolution was declared adopted.

30 Proposed Ordinance No. O-10-29

An ordinance entitled, “AN ORDINANCE AMENDING THE ZONING CODE OF THE CITY OF HOT SPRINGS, ARKANSAS, BY REZONING PROPERTY LOCATED IN THE 200 BLOCK OF STACY STREET DESCRIBED AS LOT 5 OF CARTNEY’S SUBDIVISION BY ADDING MANUFACTURED HOME OVERLAY TO THE EXISTING R-1, RURAL RESIDENTIAL DISTRICT; AND FOR OTHER PURPOSES,” was taken from the agenda for consideration. **(Appeal)**

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, Ms. Kathy Sellman, Planning and Development Director, explained this is an appeal by the property owner, Mr. Ricky Gillham, and others to add the Manufactured Home Overlay on Lot 5 of Cartney's Subdivision, which is in the 200 block of Stacy Street. Lot 5 is zoned R-1, Rural Residential; and previously it has been separated into individual lots of record by metes and bounds description. She said four of the five parcels are developed, and there is only one that is undeveloped at this time.

She advised that the request specifically hopes to enable placement of a manufactured home on that vacant one of the five lots. On May 13, the Planning Commission voted 3 to 3 to recommend that the Board adopt an ordinance amending the zoning map. Therefore, the motion failed. She advised that the appellant had said there are four homes on Lot 5 and another lot and are actually five lots. One of those homes is 100 years old; another is 75 years old; another is a neighbor's home; and the fourth is his home, which is a manufactured home and has been there for three years. She explained that his home was a replacement of a home which had been placed subject to a specific Conditional Use approval by the Planning Commission a number of years ago; therefore, his home is conforming. The recommendation from the Planning staff to the Planning Commission was that they recommend approval to the Board of this requested ordinance. However, they were unable to garner the necessary votes to do that. She said Mr. Gillham alleges and has documented in one case that the neighbors, who were not in favor of this, request that the Planning Commission now understands this would only enable placement of one manufactured home per lot. She stressed there are five lots; but four of those lots already are developed, which means the possibility in the immediate future of only one manufactured home. The recommendation is for the Board to adopt the ordinance adding the Manufactured Home Overlay to Lot 5 of Cartney's Subdivision.

Director Keheley questioned the district location, and Ms. Sellman advised that it is in District 1 and is on Stacy Street, which is east of Cones Road.

Mr. Marcus Constancio, 104 Stacy Street, stated this is next door to the proposed overlay. He asked if there was a requirement to have a lawful notice about this meeting tonight to the citizens who live within 200 feet. Ms. Sellman responded

that it is required for Planning Commission, but she does not believe additional notice is required for an appeal.

Director Maruthur stated that policy needs to be changed.

Mr. Constancio stated prior to his going on vacation, he checked on this item several times; and at the end of June, he was told it would be on the July 20 Board Meeting. On Thursday of last week, he was called and told it was on tonight's meeting, which gave him a short amount of time to organize the neighbors. He presented a petition with signatures of the neighbors who were not able to attend the meeting tonight.

Director Maruthur mentioned that Mr. Joe Fisher, who resides at 101 Stacy, signed the petition, and had called her today because he could not attend tonight due to surgery.

Mr. Constancio said that Mr. Paul Jackson, who resides at 1492 Cones Road, is blind and somewhat handicapped, signed the petition and did not attend the May 13 Planning Commission meeting. He stated Mr. Jackson wanted to make sure his voice was heard. He noted that Mr. Runyon's comments are included in the minutes from the May 13 Planning Commission meeting. Mr. Constancio said he wanted it recorded at this time that he does not want any mobile home overlays. He commented that a mobile overlay was allowed at the corner of Ridgeway and Stacy; and if he had been notified they were going to have that one, even though he is not within the 200 feet, he would have been against that one also. He said he believes this defaces the neighborhood and takes away from its continuity. He stated given the short amount of time, four signatures were all that he could get. He asked that the Board reconsider passing this.

Director McCabe asked if outside the planning tool of the Manufactured Overlay District, was he opposed to a single mobile home on that single lot; and Mr. Constancio said, at this time, he is opposed to it. Director McCabe pointed out there is another mobile home on an adjacent lot. Mr. Constancio commented the mobile home that is on the adjacent lot was there before he bought his property. He mentioned he did not know about the overlay until this came up in May. Director McCabe commented this is about one single lot that may have a mobile home on it adjacent to another lot that has a mobile home and in an area where there are other mobile homes. Mr. Constancio replied at this point, he believes he is opposed to it because he discussed

that at length with each one of the people who signed the petition; and if he reneges now, then he is reneging on that petition; and he will not do that.

Director Maruthur said she received some phone calls, and it needs to be disclosed that there are unusual smells coming from some residences that are not site-built. She mentioned a trailer burned down, and the people in this established neighborhood, something that the City needs to protect and serve, are the ones who elected the Directors to the Board. She said the residents in this neighborhood are looking to the future and want to keep this as their home and are concerned about this turning into rental. She pointed out the odors and some of the activities at the end of this street that were relayed to her by phone are not acceptable to this community. She noted there is a crime problem; and in case anyone wants to dispute that, they may call her at 624-1965. She asked if he wanted to remain in this neighborhood, and Mr. Constancio said that he did and bought the property with intentions of building a home on the property. He added there is a small home now that he lives in, but he has almost three acres there and intends to build another home at that location. He said he did not mean to offend anyone who lives in a mobile home but thinks the neighborhood at this time is improving; and people are moving into larger and nicer homes.

Director Maruthur commented this home was moved in already (the Gillham's actual residence). She said one of the phone calls she received was when things get bad, they are going to leave, which has happened many times. She noted that many times someone will say it is for a relative, and it is a hardship. Then a year later, it becomes rental; and they move somewhere else. The neighborhood is then left with whatever the action is of the Board. She stressed that she wanted to protect this community and hopes the Board will provide these people with a safe place to live. She pointed out it is not the structure but the increase in the risk of rental property and illegal activities. She added there are positive things happening on Ridgeway and Cones Road, and District 6 and 1; and the City needs to do whatever it can to protect the area. She said she hopes the Board will do the right thing.

Mayor Bush questioned the smell that was mentioned, and Director Maruthur said it was methamphetamine. Mr. Constancio added it smells like burnt plastic. Mayor Bush asked if the police were called, and Mr. Constancio said that he called.

Director McCabe asked Interim Police Chief Mike McCormick if there has been a problem in this neighborhood, and Interim Police Chief McCormick said he is not familiar with a problem in this particular area. However, there have been some problems in past years. He noted he is not familiar with the exact situation Mr.

Constancio is referring to but will look into it. Director McCabe asked if the problems were in general or at this parcel. Interim Police Chief McCormick said he is not aware of any problems in this parcel.

Director Ramick questioned if this appeal were granted and the three site-built homes were to burn or were gone, could they be replaced by a mobile home. Ms. Kathy Sellman replied that would be an option.

Ms. Renee Constancio, 104 Stacy Street, said she did not believe there was any misrepresentation or misunderstanding in regard to how the vote went at the May 13 meeting. She stated the way the overlay is written and being done right now, Mr. Gillham has 4.7 acres that would be included in this overlay. His Lot 5 is one small section of that; but because it is not a full acre, that means he had to include property that is owned jointly with his family and other members to get enough to put in for this overlay. She noted the codes are one acre for a stick-built house; and since Lot 5 is not an acre, Mr. Gillham had to put the extra acreage in there. However, by doing that, he changed the whole possibility of the outcome with his proceedings for this. She stated with the current writing of the proposed overlay, if approved, it would not only allow the mobile home for Lot 5 but would also allow a mobile home to be placed on the additional acres without further approval from the Planning Commission. She commented the problem with that is right now there are only nine houses on Stacy Street. His mobile home is one, rental property of his family is the other one; two or possibly three of those houses are vacant; two of those properties are on the 4.7 acres that are vacant right now. She pointed out that two of the signatures on the petition (she and her husband and one other one) make up the balance of the houses that are there. She stated by approving this, it would be doubling the amount of property that would be residential properties that would be lived in. She pointed out according to an article in the newspaper quoting Ms Sellman, the changes of the current code for Hot Springs should be appropriate to the area and the general public interest and must convincingly demonstrate that the character of the neighborhood will not be materially or adversely affected by the new permitted uses.

Director McCabe asked if she said there would be a doubling of the structures, and Ms. Constancio replied that currently there are only six residences on Stacy Street that are occupied. Director McCabe commented that Ms. Sellman indicated there are five parcels within this lot, and four of them have structures on them. Ms. Constancio replied that two of those are on his property (the 4.7 acres), but they are not occupied at this time; and they need to be bulldozed. She noted that Mr. Gillham's mobile home was "grandfathered in," and the one he is trying to get in right now is Lot 5. She said it

had a mobile home on it at one time; and the “grandfather clause” for the year to replace that expired, which is why he is having to do this at this time.

City Attorney Brian Albright advised that the overlay will not change the underlying zoning, and it cannot increase the density of the use there. He stated if one of the buildings were gone, then they could replace it with a mobile home; but they could not in effect double. Ms. Constancio stated the number of stick-built houses will be the same as mobile homes that would be allowed there now.

City Attorney Brian Albright commented it would have to be a replacement, not an addition.

Ms. Constancio said two of those that are on his property are uninhabited.

City Attorney Brian Albright asked if she or her husband received a notice at their home about this meeting tonight, and Ms. Constancio said that they received a phone call Thursday afternoon from Mr. Jeff Griffin in the Planning Department.

City Attorney Brian Albright advised that Hot Springs Code §16-2-12(b) states that the Department of Planning shall provide notice of the appeal in accordance with the applicable provisions of the Zoning Code in the same manner as to the same parties as the initial application.

A motion was made by Director Daniel, duly seconded by Director McCabe, to table the ordinance until the next meeting and give ample time for notice.

At this time, Director Maruthur stated this neighborhood wants to rebuild; and one of the individuals asking for the rezoning told her that he is getting out of the city before it is too late. She commented that according to any realtor, they will state that a manufactured, not a site-built home, will diminish the value of the property. She said to use that in any district to create another overlay for someone is irresponsible. She stated this community needs to be given the tools to rebuild, and the other people who called her were very passionate about this. She stressed this is an established neighborhood and is not dense, and the people can depend on her support.

Ms. Constancio said she would like the Board to go with the Planning Commission’s decision because it specifically states in the minutes that the commission received further clarification that the existing Lot 5 existed as five individual parcels and that a maximum of five homes could exist on the subject property without further subdivision approval from the commission. She commented that knowing two of those

properties are uninhabited and one is totally uninhabitable and with what he is wanting to do on one of them, then there would easily be the possibility of more mobile homes besides what is being requested. She commented the way it was presented and the way it was done was not for one home but was allowing five.

Director Daniel asked when she and her husband moved into the area and bought their property, they were looking at a mobile home in the area. Ms. Constantico said it was one, and they knew there was a restriction of one acre and one house on one acre. She stated there is no way he is on one acre, and they found out later that he was "grandfathered in." Director Daniel pointed out that he has good friends and employees who live in mobile homes, and he does not like to think that everyone who lives in a mobile home is not of an upstanding character.

Director Maruthur said this is a neighborhood that is wanting to rejuvenate and come back, but that is not done with mobile homes. She commented that most of the Board Members live in a protected area, and they have to look out for the other people. She pointed out it is kind of divisive to say people who live in a mobile home are lesser than those who do not. She added that some of them are beautiful homes. However, that is not the issue but is about a rezoning. She commented that Ms. Constantico is requesting that the Board deny the request for the overlay.

Director McCabe asked that Mr. Gillham, the applicant, be recognized.

Mr. Rick Gillham, 204 Stacy, said the newspaper had said he owned 4.7 acres; but he does not own 4.7 acres. He stated he owns all of it except the one lot that was mentioned where the smell was coming from. He explained the person does window installations and takes the glass out and burns the rubber out of the frames, which causes the smell. He mentioned he talked to the Fire Department about that and was asked to notify them the next time he started another burn. He said he put in his mobile home three years ago and had put in a double wide with brick half way up and siding. He mentioned it does not look like a mobile home and has 2,200 square feet with a double garage. He said his reason for being here tonight is the lot he bought behind him had a mobile home on it at one time. However, it was taken off the property due to a meth lab inside the home. He stated he purchased the property, but it was well after the 12 months that he has to replace one. He mentioned he went to City Hall and was told he has to apply for a Mobile Home Overlay. He said he thought to simplify the matter, instead of going in metes and bounding this Lot 5, he asked his neighbor who lives in the back corner about putting all of Lot 5 on it so they do not have to piece it out. When they do an overlay, it is all of Lot 5 because this lot is identical to

Lot 2 on the other corner where they already have the mobile home overlay. He said he has bought the property adjacent; therefore, he has the whole Lot 5 except for the corner. He added there is a 100-year old home on there and is checking it out to see if it is eligible to be remodeled or if it has to be torn down. He pointed out his application and staff findings said they recommended that the Board approve it, and he has met all of the housing codes. He advised that he is trying to put a home on Lot 5 for his in-laws who are 75, and he bought all of this property for his family because that is all he has. He commented he did not want a mobile home park there either. He said he has met all the requirements of the housing code, §16-229 and §16-211, and the recommendation is to approve it. He noted that he has property out there he wants to use but does not want it for homes. He stated the property has been mowed and kept and is an improvement. He pointed out there has to be a two-acre minimum for a mobile home overlay, but one lot does not make that criteria. He said since he owns all of the property, except for that one corner, he should be able to put his property on it but is not wanting a mobile home park.

Director Maruthur mentioned that he already has his home, and Mr. Gillham said that he did. He commented that his in-laws are living in a home that would be described as a mobile home, but the floors are falling in; and he is going to buy a new home.

Director Maruthur said she is not talking about his in-laws but is talking about the neighborhood and the future of his home also. She stressed that the Board is discussing a rezoning, a permanent change.

Mr. Gillham said he did not know about the meeting tonight and had to call and ask if he was on the agenda.

Director Maruthur stated she is concerned about the neighborhood and is glad that he is comfortable in his home and wants to see his neighborhood preserved.

Mr. Gillham stated that some of the neighbors who spoke against it do not want a mobile home, and people are not going to see a mobile home. He noted one person against it does not live here and comes in every two weeks from Pine Bluff to mow his grass.

Director McCabe mentioned that earlier Director Daniel had a motion to table to the next meeting to give proper notification.

At this time, Director Maruthur called for the question.

Director Daniel said that he had made the motion to table because he did not want it said that the City did not give them notification. He pointed out if Mr. Gillham did not receive notification, then why would the Board want to vote on something if all the parties did not know about it.

Ms. Sellman advised that the notice is 15 days, and the City will not have time to do 15 days' notice.

Director Daniel said that he wanted notification by certified letter.

Mayor Bush then called for a vote on the motion to table the ordinance to the first meeting in August.

Upon discussion, Director Maruthur said before Director Daniel made his motion, she had raised her hand to call for the question and vote on this ordinance.

City Attorney Brian Albright advised that the motion to table takes precedence over all motions. He added a motion to call for the question can bring up debate if there is a motion to call for the question under the Board's rules (a limitation of debate). He said the motion to table takes precedence over all pending motions, and it has a second and that is what is on the floor for discussion. He pointed out that he did interrupt Director Maruthur earlier.

Mayor Bush then called for a vote on the motion to table the ordinance until the first meeting in August and to send certified letters to the property owners; and upon roll call, the following voted "aye": Directors McCabe, Daniel, and Bush, total 3. Voting "no": Directors Ramick, Keheley, and Maruthur, total 3. Absent and not voting: Director Jones; motion to table failed.

Director McCabe asked if there is any way for the applicant to be able to have a mobile home on that one vacant parcel without an overlay, and Ms. Sellman said that he could not. She noted the overlay years ago replaced individual requests to Planning Commission to authorize a manufactured home on an individual lot. She said in this case, because it is in effect a change of zoning to add that overlay set of rules, there is a two-acre minimum size for a rezone; and the subject lot is not of that size.

Mayor Bush then called for a vote on the motion to adopt the ordinance; and upon roll call, the following voted "aye": Directors McCabe, Daniel, and Bush, total 3. Voting "no": Directors Maruthur, Keheley, and Ramick, total 3. Absent and not voting: Director Jones; motion failed. Whereupon the ordinance was declared failed.

31 Proposed Ordinance No. O-10-30

An ordinance entitled, "AN ORDINANCE REPEALING ORDINANCE NO. 5753 AND AMENDING ORDINANCE NO. 5715 TO INCLUDE AN EXEMPTION FOR CERTAIN LAND DIVISION PLATS; 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 McCabe, 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. Mayor Bush called for a motion to adopt; and there being no motion to adopt, the ordinance died due to the lack of a motion to adopt.

32 Proposed Ordinance No. O-10-31

An ordinance entitled, "AN ORDINANCE AMENDING THE ZONING CODE OF THE CITY OF HOT SPRINGS, ARKANSAS, BY REZONING PROPERTY LOCATED AT 120 BAXTER STREET DESCRIBED AS LOT 5 AND THE EAST ½ OF LOT 6 OF J. R. GRIFFITH SUBDIVISION, FROM R-4, MEDIUM HIGH DENSITY RESIDENTIAL DISTRICT, TO C-TR, COMMERCIAL TRANSITIONAL; AND AMENDING THE FUTURE LAND USE MAP BY RECLASSIFYING THE PROPERTY COMMERCIAL ENCLAVE; AND FOR OTHER PURPOSES," 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 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 Keheley, that the ordinance be passed as read.

Upon discussion, Ms. Kathy Sellman, Planning and Development Director, explained that the owner and applicant is Ed Johnson, who is seeking C-TR,

Commercial Transitional, for land located at the northwest corner of Baxter and Anna Streets. The purpose of this request is for a small, quiet business or commercial rental.

If this land is rezoned to C-TR, Commercial Transitional, allowed uses would still be limited to single-family and two-family or duplex homes. She stated that all remaining, nonresidential use possibilities would require an additional Planning Commission approval of a Conditional Use application and site plan. The staff recommendation to the Planning Commission was to recommend that the Board approve this application. The Planning Commission, after duly advertising the application and considering public testimony at the June 10, 2010 meeting, voted 7 to 0 to recommend that the Board of Directors approve a zone change, along with an amendment to the Future Land Use Map designating the property as Commercial Enclave.

Director Daniel stated this is in the middle of a residential area, and Ms. Sellman said this is on the edge of a residential area where it begins to move toward commercial uses. Director Daniel questioned if there were any objections from the residents, and Ms. Sellman replied there was no testimony at the Planning Commission; and they were all notified.

Director McCabe pointed out there are some of these transitional areas in other parts of town, and Third Street and Grand Avenue are examples where some of the older homes are maintained and are changed into a real estate, law firm, or dress shop. He said many times these are good things on some properties where they abut a heavy commercial area.

Director Maruthur asked if the people in the residence are owner/occupied or rental, and Ms. Sellman said she does not have that information with her. Director Maruthur commented that sometimes a residence or a building is converted, such as on Hobson; and it is good for the neighborhood. Ms. Sellman said this person has indicated an interest in reinvesting and redeveloping in a metro area, and this would be the first step to enabling that redevelopment. Director Maruthur asked if there was anyway to get an idea of what they are planning on doing, noting that it is very vague; and Ms. Sellman replied that it is vague. She added he is the property owner and would intend to rent this to a commercial tenant. At this time, she doubted that more specific information would be available. Director Maruthur asked what could be the worst case scenario that could be let in for a commercial rental, and Ms. Sellman replied that any of the uses that are listed in the table of uses in the code are uses that could go there. She advised that residential uses, single-family or two-family homes can go there without further approval. She stated a site plan for a non-single family or a non-duplex use

would be specifically designed and would be made regulatory for that commercial use through review and approval by the Planning Commission.

Director Maruthur asked if there was anything in this zoning that could adversely affect the residences, and Ms. Sellman advised that the zone is intended for in-fill development and provides a great number of standards that are intended to minimize any negative impact in the area. She stated there is screening, parking, landscaping, etc. which is not typical in other zoned districts; and this is a zoned district that was intended specifically to enable this type of use in an existing, mature area.

Director McCabe asked if the property can continue to be used as a family dwelling, and Ms. Sellman said that it could. Director McCabe commented if it is going to be used for anything other than a family dwelling, that use has to come to the Planning Commission; and Ms. Sellman replied that it does. Director McCabe pointed out if there was a problem with the applicant or neighborhood accepting or denying, the affected party can appeal to the Board. Ms. Sellman said once established a Conditional Use is always subject to the requirements of that specific site plan; and if at anytime is not complying with that site plan or anything else in the Zoning Code, it is subject to returning to the Planning Commission. Director McCabe pointed out this is increasing the flexibility on the use of the property without really giving up the ability to control that use. Ms. Sellman stated that was the intention of this zone.

Director Keheley pointed out the staff and the Planning Commission voted unanimously in recommending this change.

Mayor Bush then called for a vote on the motion to adopt; and upon roll call, the following voted "aye": Directors Maruthur, Keheley, McCabe, Ramick, Daniel, and Bush, total 6. Absent and not voting: Director Jones; motion unanimously carried. Whereupon the ordinance was declared passed.

33 Proposed Ordinance No. O-10-32

An ordinance entitled, "AN ORDINANCE AMENDING THE ZONING CODE OF THE CITY OF HOT SPRINGS, ARKANSAS, BY REZONING PROPERTY LOCATED IN THE 300 BLOCK OF HAWTHORNE DESCRIBED AS PART OF LOT 2R, BLOCK 103 OF HOT SPRINGS RESERVATION, FROM R-4, MEDIUM HIGH DENSITY RESIDENTIAL DISTRICT, TO C-2, GENERAL BUSINESS DISTRICT; AND AMENDING THE FUTURE LAND USE MAP BY RECLASSIFYING THE PROPERTY

COMMUNITY COMMERCIAL CENTER; AND FOR OTHER PURPOSES,” 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 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, Ms. Kathy Sellman, Planning and Development Director, advised this is a request to rezone a portion of a split zoned lot of record; and these are pieces of other lots. She said it is approximately .2 acres and is currently being requested to change from R-4, Medium/High Density Residential, to C-2. She noted the remainder of the land on the lot is already zoned C-2, and this is a request to make the remainder consistent. The staff recommendation to the Planning Commission was to recommend to the Board approval of this zone change request. It is consistent with the Future Land Use Map designation of Community Commercial Center. The Planning Commission advertised the application and considered public testimony on June 10 at their regular meeting. The Commission accepted staff findings and voted unanimously to recommend that the Board of Directors approve this zone change.

Attorney Ray Owen, Jr., business address at 209 Hobson Avenue, said this piece of property is across the street from the parking lot that has been constructed behind the Culinary District Building (Hamp Williams Building) at the intersection of Ouachita and Hawthorne. He stated this would be under contract to be purchased by the property owner who owns the Culinary District and the Hamp Williams Building. He advised it is for additional parking, and a tenant will be moving in the first of the year and more parking is needed. He advised there have been no objections from anyone in the neighborhood. He stated that 80 percent of this lot is already C-2, and it is only 2/10 of an acre that is not yet C-2.

Mayor Bush then called for a vote on the motion to adopt; and upon roll call, the following voted “aye”: Directors Maruthur, Keheley, Ramick, Daniel, and Bush, total 5. Director McCabe said that he would abstain from voting due to a potential conflict since his wife works for the company that may acquire this. Absent and not voting: Director Jones; motion carried. Whereupon the ordinance was declared passed.

34 Discussion of Water Line Relocations Related to the Highway 270 West Passing Lanes Project (Removed from the Agenda and to be discussed at a work session)

19 Proposed Resolution No. R-10-139

A resolution entitled, "A RESOLUTION AUTHORIZING THE FILING OF A GRANT APPLICATION WITH THE STATE OF ARKANSAS PURSUANT TO THE D.W.I. AND OTHER DRUG COUNTERMEASURES AND OCCUPANT PROTECTION PROGRAM," was taken from the agenda and read by title only.

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

Upon discussion, Interim Police Chief Mike McCormick advised this is a matching grant from the State of Arkansas for \$51,500 that allows the City to pay officers overtime for D.W.I. enforcement, seatbelt enforcement, and other traffic-related enforcement. He pointed out it is a grant the City has applied for and received for the past 12 years.

Director Maruthur said a lady called her today and was concerned about the rights of people who rent but believes she has left the meeting tonight. She asked if this would in anyway adversely affect a neighborhood. Interim Police Chief McCormick said the only way it would affect a neighborhood is if the Police Department is doing speed enforcement or seatbelt enforcement. He added it is strictly traffic-related. Director Maruthur said she thought there was some confusion when the individual saw occupant protection, and they were concerned.

Mayor Bush then called for a vote on the motion to adopt; and upon roll call, the following voted "aye": Directors Maruthur, Keheley, McCabe, Ramick, Daniel, and Bush, total 6. Absent and not voting: Director Jones; motion unanimously carried. Whereupon the resolution was declared adopted.

35 Proposed Ordinance No. O-10-33

An ordinance entitled, "AN ORDINANCE WAIVING REQUIREMENTS OF COMPETITIVE BIDDING FOR AIR CONDITIONING REPLACEMENT; CERTIFYING

EMERGENCY ACTIONS BY THE CITY MANAGER; AMENDING THE 2010 GENERAL FUND BUDGET; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES," was taken from the agenda for consideration

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

Upon discussion, City Manager Lance Hudnell explained that today one of the chillers at the Arkansas School for Mathematics, Sciences and The Arts failed; and the internal mechanism of the chiller has to be replaced in the amount of \$58,000. He advised this is an emergency because there are 400 teachers coming in this weekend for a conference. He said that staff ran a cost of what it would cost to put them up in a hotel, and that was about \$80,000. Also, there are other groups that will be coming later in July; and then the students will be there the first week of August. He stated in talking this afternoon with Dr. Janet Hugo, director of the Arkansas School for Mathematics, Sciences and The Arts, there are many aspects of the current building that even when the new dorms are built will still be used that this chiller serves. He said there are two chillers on the building, and the other one can keep it reasonably cool up to a certain temperature. However, when it gets above that temperature, it takes both of them to do that; and it does include the cafeteria, library, administrative offices, some of the classrooms; and dormitory space at the current facility. He stated the cafeteria, library, administrative offices, and classrooms will continue to be used even after the new building is built. He reported that Mr. Mallett was able to confirm today that once demolition is done later, there would be some salvage value in this particular chiller and the other one as well. He mentioned that the Board set aside some emergency funds in the budget; and in the ordinance where the City is deriving the funds to make up the \$58,000, this will leave around \$6,000 in one emergency fund and about \$4,500 in the Board's Reserve; then there is \$5,000 in the City Manager's Reserve. He said that is all that will be remaining for the year for any future emergencies. He noted the City set aside about \$45,000 for emergencies, and part of that was used for the air conditioner at City Hall and will use another portion of it for the ASMSA building. He advised there was \$30,000 that was unappropriated out of the 412 account that will now be appropriated, and this will basically make the emergency funds minimal for the rest of the year.

Mayor Bush asked how long it will take to replace the chiller, and Mr. Mallett advised the parts will be ordered in the morning and will probably have it running by the time the teachers get here over the weekend. He advised that they replaced the older chiller with a new unit at \$140,000, which was about two years ago. Hopefully, they can get by with the new one and the other one on limited use because there is not much they can do with it now other than just replace the full internal mechanism, which will basically make it a new chiller on the inside.

Mayor Bush asked if he thinks the other chiller that was purchased several years ago will last for sometime, and Mr. Mallett advised that he believes it will and should be able to get good resale value out of it.

City Manager Lance Hudnell pointed out that Mr. Mallett and his staff and ASMSA staff looked at several alternatives today. He commented that the facility gets used all summer for these conferences for teachers.

Mayor Bush then called for a vote on the motion to adopt; and upon roll call, the following voted "aye": Directors Maruthur, Keheley, McCabe, Ramick, Daniel, and Bush, total 6. Absent and not voting: Director Jones; motion unanimously carried. Whereupon the ordinance was declared passed. At this time, City Attorney Brian Albright read the emergency clause; and a motion was then made by Director Keheley, duly seconded by Director Maruthur, that the emergency clause be passed; and upon roll call, the following voted "aye": Directors Maruthur, Keheley, McCabe, Ramick, Daniel, and Bush, total 6. Absent and not voting: Director Jones; motion unanimously carried. Whereupon the emergency clause was declared passed.

OTHER BUSINESS

36 Board of Directors Items for Discussion

Director Maruthur said that tonight the Board approved individuals to be appointed on commissions where there were openings, and their attendance records were excellent. She stated the City is looking for people to serve, and the Board has been provided with a list of vacancies. She pointed out that the Board needs to look at their attendance if they have served on a commission.

37 City Manager's Report

City Manager Lance Hudnell gave the following report:

1. The Board appointed Helen Oliver, Gary Westerman, and Larry Raney to the Planning Commission; Dr. Nate Newman to the Civil Service Commission; Suzanne Tucker to the Historic District Commission; and Jay Campbell to the Board of Zoning Adjustment. There are still positions available on the Forestry Advisory Committee and two positions on the Transportation Advisory Committee.

2. The City received a \$100 donation from the Military Order of Purple Heart for the Parks and Recreation Department.

3. He thanked the Color Guard from the Police Department consisting of Officers Kevin Hampton, Sergeant Jason Brasfield, Officer Allen Constant, and Corporal Mike Goss, who served as the Color Guard for the Arkansas Municipal League Convention, as well as Ms. Sonya Chittum from Hot Springs, who sang the National Anthem.

Director Maruthur thanked everyone who voted for her as Woman of the Year, in which she took third place.

38 ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 9:00 p.m., to meet again on Tuesday, July 20, 2010, at 7:00 p.m.

ATTEST: _____

APPROVED: _____

Lance Spicer, City Clerk

Mike Bush, Mayor