

REGULAR CALLED MEETING BOARD OF DIRECTORS

Boardroom

November 17, 2020

5:30 p.m.

AGENDA

1. Call to Order Mayor Scott Byrd
2. Invocation
3. Approval of Board Minutes from November 2, 2020 – Mayor Byrd
4. Third Reading and Consideration of Ordinance to Extend Business Hours – Gary Brinkley
5. Consider Ordinance for Lodging Tax – Gary Brinkley
6. City Manager's Report – Gary Brinkley
7. Routine Business – Mayor Byrd
8. Adjournment – Mayor Byrd

Following the meeting there will be a 45 minute workshop to discuss the 2021 Budget elements.

Regular Meeting: Citizens speaking to the Board of Directors shall have a speaking time limit of **10 minutes**. The Board of Directors may ask follow up questions which may extend the time limit.

Open Session Forum: Speaking time limit is **5 minutes** a speaker may not yield his or her time to another speaker

**REGULAR CALLED MEETING
BOARD OF DIRECTORS**

Board Room

November 2, 2020

5:30 P.M.

MEMBERS:

Taylor Chaney, *Ward 1 Director*
Chris Porter, *Ward 2 Director*
David Goodman, *Ward 3 Director*
Reo Cummings, *Ward 4 Director*
Jason Jones, *Ward 5 Director*
Roland Gosey, *Assistant Mayor*
Scott Byrd, *Mayor*

OTHERS:

Gary Brinkley, *City Manager*
Jessica Davis, *City Clerk*

CALL TO ORDER

The Mayor called the meeting to order at 5:30 p.m.

INVOCATION

Director Jones

APPROVAL OF BOARD MINUTES FROM OCTOBER 20, 2020

A motion was made by Assistant Mayor Gosey, seconded by Director Chaney to approve the minutes from the October 20, 2020 Board Meeting.

The motion passed on a roll call vote and the vote was as follows:

Taylor Chaney	"Aye"	Roland Gosey	"Aye"
Chris Porter	"Aye"	Jason Jones	"Aye"
Reo Cummings	"Aye"	Mayor Byrd	"Aye"
David Goodman	"Aye"		

SECOND READING OF ORDINANCE TO EXTEND BUSINESS HOURS

The Mayor called for the Clerk to read the Ordinance, title only.

The Clerk read the Ordinance.

AN ORDINANCE EXTENDING HOURS OF OPERATION FOR HOTELS AND RESTUARANTS WITHIN THE CITY OF ARKADELPHIA, ARKANSAS WHO HOLD AN ARKANSAS BEVERAGE COMMISSION LICENSE

A motion was made by Director Chaney, seconded by Director Porter to place the Ordinance on its third reading, title only, at the next scheduled Board meeting.

The motion passed on a roll call vote and the vote was as follows:

Taylor Chaney	"Aye"	Roland Gosey	"Aye"
Chris Porter	"Aye"	Jason Jones	"Aye"
Reo Cummings	"Aye"	Mayor Byrd	"Aye"
David Goodman	"Aye"		

RESOLUTION TO AMEND THE STREET BUDGET

Mr. Brinkley requested the Board approve a resolution to amend 2019 incorrectly receipted Street Fund money in the amount of \$22,638. The resolution also includes additional funds to address the immediate repair of the road and collapsed drainage pipes at Hickory & 7th Streets. The budget line items are to be amended as follows:

General Govt. Department:

Line Item 4103 State Turnback: From \$150,000 to \$127,362– Funds \$22,638 receipted to General Fund in error in April 2019, corrected this month by remitting funds to Street Fund

Street Department:

Line Item 4103 State Turnback: From \$770,000 to \$792,638 – Funds \$22,638 receipted wrongly in April 2019, corrected this month

Line Item 5311 Street/Drive/Parking: From \$386,615 to \$427,515 – Unanticipated repair of \$40,900 to correct collapsed street.

A motion was made by Director Jones, seconded by Director Goodman to approve the resolution.

The motion passed on a roll call vote and the vote was as follows:

Taylor Chaney	“Aye”	Roland Gosey	“Aye”
Chris Porter	“Aye”	Jason Jones	“Aye”
Reo Cummings	“Aye”	Mayor Byrd	“Aye”
David Goodman	“Aye”		

The Mayor called for the Clerk to read the resolution in its entirety.

The Clerk read the resolution.

A RESOLUTION AMENDING THE 2020 BUDGET FOR THE CITY OF ARKADELPHIA, ARKANSAS

APPROVAL OF DRAINAGE/ROAD REPAIRS AT HICKORY & 7TH STREET

Mr. Brinkley requested the Board accept the bid from Shields & Associates in the amount of \$67,000 for storm drain/street repairs at Hickory & 7th Street and that he may execute all necessary documents. Bids were opened at City Hall October 27, 2020 at 2:00 pm per the published legal advertisement. The bid tabulation was as follows:

Shields & Associates	\$67,000
Square One Enterprises	\$74,900
Redstone Construction	\$76,500

A motion was made by Director Chaney, seconded by Assistant Mayor Gosey to accept the bid from Shields & Associates in the amount of \$67,000 and for the City Manager to execute all necessary documents.

The motion passed on a roll call vote and the vote was as follows:

Taylor Chaney	“Aye”	Roland Gosey	“Aye”
Chris Porter	“Aye”	Jason Jones	“Aye”
Reo Cummings	“Aye”	Mayor Byrd	“Aye”
David Goodman	“Aye”		

**CONSIDERATION OF RESOLUTION FOR NORTH RIDGE ESTATES
ANNEXATION**

Mr. Brinkley requested the Board approve a resolution to annex a parcel of land at the following location:

A PARCEL OF LAND BEING LOCATED IN THE NW/4 NE/4 OF SECTION 13, T7S, R20W, CLARK COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEAST CORNER OF SAID NW/4 NE/4, THE POINT OF BEGINNING; THENCE NORTH 02°01'06" EAST ALONG THE EAST LINE OF SAID NW/4 NE/4, A DISTANCE OF 755.82 FEET; THENCE SOUTH 08°22'23" WEST, A DISTANCE OF 760.88 FEET; THENCE SOUTH 88°14'27" EAST, A DISTANCE OF 84.22 FEET TO THE POINT OF BEGINNING. CONTAINING 0.73 ACRES, MORE OR LESS.

The above described territory would be annexed and made part of Ward 5 and corrects the enclave unknowingly created. A motion was made by Director Goodman, seconded by Director Porter to approve the resolution.

The motion passed on a roll call vote and the vote was as follows:

Taylor Chaney	“Aye”	Roland Gosey	“Aye”
Chris Porter	“Aye”	Jason Jones	“Aye”
Reo Cummings	“Aye”	Mayor Byrd	“Aye”
David Goodman	“Aye”		

CITY MANAGER’S REPORT

November 2, 2020

- First things first, we wish the best to the Arkadelphia HS Marching Band who is competing tomorrow tonight for their 5th straight State Championship at War Memorial Stadium. The Police Dept. will be escorting the AHS Badger Pride Marching Band to the interstate tomorrow headed for Little Rock. We hope everyone can line the street from the high school to I-30 at 2:00 pm to cheer them on. We will also have a unit accompany them for the duration of the trip.
- Vance completed the slurry sealing of more than 2 miles of city streets on October 23rd. City Street crews installed 15 new Stop signs and realigned several of the other traffic signs that were needing attention in the area that was slurry sealed. Please note that it took the 5 man Street

Dept 2.5 months of work so the slurry seal contractor could seal so much in our town at one time. Staff is already planning for 2021.

- Final remember \$100,000 is the annual budget for street sealing. This year an additional \$116,000 was added from our General Sales Tax rate increase.
- The basketball court rehabilitation at Feaster Park is complete. It looks awesome. Staff is working hard to ensure the proposed lighting package is included in the 2021 budget for your review and approval.
- The Household Hazardous Waste event hosted on October 17th was a real success. Over 40 vehicles rolled through the event and the coordinators had to call out for additional containers to facilitate the event. Thank you to our Sanitation guys and the County folks for their assistance.
- The streetscape project on Sixth Street is underway so be careful while on 6th Street or the cross streets downtown.
- We received notification on October 29th from the Secretary of State that the 115 acres west of WP Malone has been accepted.
- The 2019 Legislative Audit was officially completed on October 15th. Once we receive the final document, it will be presented to you for acceptance.
- The dirt & concrete work for Corporate Hanger #3 is completed. They anticipate pouring concrete beginning tomorrow. Upon receipt of the metal building in December, work will resume.
- The annual testing of the fire hoses by the FD is substantially completed. Only the smaller hoses on the ladder truck and rescue truck remain and will be done by staff.
- Half & Associates has our information and is reviewing our Subdivision Ordinances. They should have an assessment and recommendation by February.

Dates to Remember:

- Arkadelphia Bypass virtual meeting will be on Thursday, Nov. 19th from 5:30 pm to 6:30 pm. Visit: Arkadelphiabypass.transportationplanroom.com to log on and view the meeting.
- General Election is tomorrow night, Tuesday, November 3rd.

ROUTINE BUSINESS

Taylor Chaney, Ward 1 – He inquired on the ArDOT virtual meeting and how it was different from the meeting held at the Garrison Center. The City Manager informed him they will be providing more definite options for public input. He said he liked the Building Department staff reports. He thinks it shows progress. He wished the Board members running for office good luck in the election.

Chris Porter, Ward 2 – Go vote.

David Goodman, Ward 3 – Nothing

Reo Cummings, Ward 4 – Nothing

Jason Jones, Ward 5 – Vote for Jason Jones and Chris Porter.

Roland Gosey, Assistant Mayor – Nothing

Scott Byrd, Mayor – He said there was a lot going on behind the scenes right now. He's not at liberty to discuss it just yet but there is some really cool stuff coming up. He got a question about streetlights today. He stated the electric companies are responsible for taking care of them. If anyone notices a streetlight out that needs to be replaced, call and report it to DeAnna Graves at the Building Department. He jokingly said he was not going to discuss football from either state. Election night is coming up tomorrow. There is a lot of division in our country right now. He encouraged everyone to accept our new President whomever that may be and make amends with whichever political party you're not a part of. Let's get our country back where it needs to be.

ADJOURNMENT

There being no further business to discuss, Director Goodman made the motion, seconded by Director Jones to adjourn. **The motion passed unanimously, and the meeting adjourned at 6:00 p.m.**

Scott Byrd, Mayor

Jessica Davis, City Clerk

ADDITIONAL ATTENDEES

Jason Jackson

Julie Lacy


Chuck Fitzsimmons

DRAFT



MEMORANDUM

To: Arkadelphia Board of Directors
CC: Ed McCorkle, City Attorney
From: Gary Brinkley, City Manager
Date: November 10, 2020
Re: Third Reading of Ordinance to Extend Hours of Operation



Following the third reading, staff requests you adopt the Ordinance.

Thank you.

ORDINANCE NO O-20-

AN ORDINANCE EXTENDING HOURS OF OPERATION FOR HOTELS AND RESTAURANTS WITHIN THE CITY OF ARKADELPHIA, ARKANSAS WHO HOLD AN ARKANSAS BEVERAGE COMMISSION LICENSE

WHEREAS, the current closing hours for hotels and restaurants licensed premises is midnight as prescribed by state law; and

WHEREAS, pursuant to the State of Arkansas Statute § 3-9-233 (a) (1) the City Board of Directors may amend the closing hours by ordinances and regulations by a majority vote of the City Board; and

WHEREAS, there is an opportunity for the City of Arkadelphia to extend the hours of operations for hotels and restaurants of licensed premises to align with market expectations.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE CITY OF ARKADELPHIA, ARKANSAS THAT:

Section 1. Hours of Operations – Arkansas Beverage Commissioned licensees in hotels and restaurants may operate until 2:00 am within the City of Arkadelphia.

Section 2. Repealer

Any ordinance or parts of ordinances in conflict herewith are hereby repealed and this ordinance shall be in full force and effect from and after its passage and publication.

PASSED AND APPROVED this ___ day of _____, 2020.

APPROVED: _____

Scott Byrd, Mayor

ATTEST: _____

Jessica Davis, City Clerk



Memorandum

To: Arkadelphia Board of Directors
CC: Ed McCorkle, City Attorney
From: Gary Brinkley, City Manager
Date: November 12, 2020
Re: Lodging Tax {Advertising & Promotional Law}

As we continue to prepare for the future, it is time to pass an ordinance to create a funding source for our parks and to promote the citywide events we are trying to accomplish. Arkansas Code §26-75-600 allows the Board of Directors to create an Advertising and Promotional Committee and levy a tax on gross receipts to fund the committee.

The attached ordinance proposes the creation of a committee and levying a 3% tax on the gross receipts of hotels, motels and other lodging establishments. WE DO NOT ADVOCATED A TAX ON FOOD OR BEVERAGE OR BANQUET ROOM RENTAL. This tax is not intended to be levied on any Arkadelphia resident, unless they rent a hotel/motel/bed & breakfast room.

The 1% we received in the recent sales & use tax passed by the citizens is acknowledged by foregoing the opportunity to apply this tax to the food and beverage. There is no reason to forego the maximum tax of 3% on lodging. It is an expected expense when you travel.

We propose the creation of a Hotel Tax as prescribed within A.C.A. §26-75-605. Upon approval, staff will make a recommendation on the 7-person panel who will have the authority over the expenditures of the funds collected. Four of these individuals must be associated with the tourism industry, two must be from the City Board and one must be at large.

The funds at first will be used to promote the city and host sporting events to encourage out of town visitors to come to Arkadelphia. These monies will also aid in paying for future parks and park upgrades, which are sorely needed.

I welcome any thoughts or questions you may have regarding the ordinance or process.

Your approval of the first reading of the attached ordinance is requested.

ORDINANCE NO. O-20-__

AN ORDINANCE ESTABLISHING A THREE PERCENT (3%) TAX UPON THE GROSS RECEIPTS OF HOTELS AND MOTELS AND OTHER LODGING ESTABLISHMENTS IN THE CITY OF ARKADELPHIA, ARKANSAS FOR THE CITY'S ADVERTISING AND PROMOTIONAL NEEDS, AND FOR OTHER PURPOSES.

WHEREAS, the City Board has determined that there is a need to advertise and promote the City of Arkadelphia, Arkansas; and

WHEREAS, the levy of a hotel and motel tax is essential to the development of advertising and promotion of the City of Arkadelphia, Arkansas; and

WHEREAS, the City is authorized under ACA §26-75-600 et. seq., to levy a gross receipts tax of three percent (3%) upon the gross receipts of hotels, motels and lodging establishments within the city limits; and

WHEREAS, under ACA, §26-75-605, the City is authorized to create an Advertising and Promotion Commission to collect and determine use of the tax funds collected.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY BOARD OF DIRECTORS OF THE CITY OF ARKADELPHIA, ARKANSAS:

SECTION 1: (a) A tax of three percent (3%) is hereby levied on the portion of the gross receipts or gross proceeds received from the renting, leasing or otherwise furnishing of hotel, motel, house, cabin, bed and breakfast, campground, condominium or other such lodging rental accommodations for sleeping, for profit in the City of Arkadelphia, Arkansas, but such accommodations shall not include the rental or lease of such accommodations for periods of thirty (30) days or more; and

SECTION 2: (a) The three percent (3%) tax described in this ordinance hereof shall be paid by the persons, firms, and corporations liable therefor and shall be collected by the Advertising and Promotions Commission of the City of Arkadelphia (herein after called the "Commission"), or by a designated agent of the Commission, in the same manner and at the same time as the tax is levied by the Arkansas Gross Receipts Act of 1941, ACA §26-52-101, et. seq. (ACA §26-75-603 (a)(1)).

(b) The person paying the tax shall report and remit said tax on forms provided by the twentieth (20th) day of each month all collections of the tax for the preceding month as directed by the Commission. The rules, regulations, forms of notice, assessment procedures, and the enforcement and collection of the tax under the Arkansas Gross Receipts Act of 1941 §26-52-101 et seq., and the Arkansas Tax Procedure Act, §26-18-101 et seq., so far as practicable, will be applicable with respect to the enforcement and collection of the tax levied pursuant to the authority of ACA §26-75-603. The administration and enforcement, and all actions shall be by and through the Commission officials or designated agents.

SECTION 3: (a) There is hereby created the City of Arkadelphia Advertising and Promotions Commission, which shall be composed of seven (7) members, each of whom shall reside within the city, as follows:

1. Four (4) members shall be owners or managers of a business in the tourism industry of which two must reside in the city and two may reside outside the city but within the county, at least three (3) of whom shall be owners or managers of hotels, motels or restaurants, and who shall serve for staggered terms of four (4) years; and

2. Two (2) members of the Commission shall be members of the governing body, selected by the governing body and shall serve at the will of the governing body; and

3. One (1) member shall be from the public at large who reside in the City and shall be nominated by the City Manager and approved by the City Board of Directors for a term of four (4) years, in accordance with the applicable Arkansas law.

(b) The four (4) tourism industry positions provided for in subdivision (a)(1) of ACA §26-75-605(a)(1) shall be nominated by the City Manager and approved by the City Board of Directors to staggered terms as follows:

- (A) one (1) member will serve for a term of one (1) year;
- (B) one (1) for a term of two (2) years;
- (C) one (1) for a term of three (3) years; and
- (D) one (1) for a term of four (4) years.

All successors to these members shall be appointed for a term of four (4) years. Vacancies on the commission, whether resulting from expiration of a regular term or otherwise, in any of the four tourism industry positions or in the at-large position shall be filled by recommendation of the remaining members of the Commission, with the approval of the City Board of Directors.

SECTION 4: (a) All local taxes collected pursuant to this ordinance shall be used for the following purposes:

1. The use or pledge of all, or any part of, the revenues derived from the tax, for the purposes prescribed in this ordinance shall be for the advertising and promotion of the City of Arkadelphia, Arkansas. This revenue shall be used or pledged for the purposes authorized in this ordinance and in accordance with ACA §26-75-606 only upon the recommendation of the Commission.

SECTION 5: Penalties: Persons or entities liable for payment of the taxes levied by this ordinance shall be subject to the assessment of penalties and interest as follows:

- (a) A penalty equal to five percent (5%) of the unpaid amount per month, not to exceed a total assessment of thirty-five percent (35%) of the unpaid tax. Simple interest on unpaid taxes shall be assessed at the rate of twelve (12%) per annum.
- (b) In addition to any civil penalties provided for imposed by statute or ordinance, any person or entity liable for payment of said tax which fails to file the said report or which fails to pay the said tax for a period of sixty (60) days or more after the end of any month for which a report or payment of tax is due, shall be guilty of a violation and shall be fined a sum not to exceed one hundred dollars (\$100) for each additional thirty (30) day period the said violation continues.

SECTION 5: If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provision of this ordinance are declared severable.

SECTION 6: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 7: This ordinance shall be effective upon and after its passage and publication.

PASSED ON THIS ___ DAY OF _____, 2020

Scott Byrd, Mayor

Jessica Davis, City Clerk

NOT PART OF ORDINANCE

For Board Reference Only

As Section 4 references the ACA under which the funds can be used, I thought it would be advantageous for you to have a copy of that section of the code for your perusal.

**2012 Arkansas Code
Title 26 - Taxation
Subtitle 6 - Local Taxes
Chapter 75 - Municipal Sales and Use Taxes
Subchapter 6 - -- Advertising and Promotion Commission Act
§ 26-75-606 - Use of funds collected.**

Universal Citation: [AR Code § 26-75-606 \(2012\)](#)

(a) (1) (A) In the manner as shall be determined by the municipal advertising and promotion commission, all funds credited to the city advertising and promotion fund pursuant to this subchapter shall be used for the:

(i) Advertising and promoting of the city and its environs;

(ii) Construction, reconstruction, extension, equipment, improvement, maintenance, repair, and operation of a convention center;

(iii) Operation of tourist promotion facilities in the city or the county where the city is located if the city owns an interest in the convention center or facility, and facilities necessary for, supporting, or otherwise pertaining to, a convention center; or

(iv) Payment of the principal of, interest on, and fees and expenses in connection with bonds as provided in this subchapter.

(B) The commission may engage such personnel and agencies and incur such administrative costs as it deems necessary to conduct its business.

(2) (A) The commission is the body that determines the use of the city advertising and promotion fund.

(B) Pursuant to this section, if the commission determines that funding of the arts is necessary for or supporting of its city's advertising and promotion endeavors, the commission may use its funds derived from the hotel and restaurant tax.

(3) (A) The commission may purchase, own, operate, sell, lease, contract, or otherwise deal in or dispose of real property, buildings, improvements, or facilities of any nature in accordance with this subchapter.

(B) If the commission is dissolved, the city shall assume the authority under subdivision (a)(3)(A) of this section.

(b) (1) (A) Any city of the first class that may levy and does levy a tax pursuant to this subchapter may use or pledge all or any part of the revenues derived from the tax for the purposes prescribed in this subchapter or for the operation of tourist-oriented facilities,

including, but not limited to, theme parks and other family entertainment facilities or for the retirement of bonds issued for the establishment and operation of other tourist-oriented facilities, including, but not limited to, theme parks and other family entertainment facilities.

(B) These revenues shall be used or pledged for the purposes authorized in this subsection only upon approval of the commission created pursuant to this subchapter.

(2) Funds credited to the city advertising and promotion fund pursuant to this subchapter may be used, spent, or pledged by the commission, in addition to all other purposes prescribed in this subchapter, on and for the construction, reconstruction, repair, maintenance, improvement, equipping, and operation of public recreation facilities in the city or the county where the city is located if the city owns an interest in the center or facility, including, but not limited to, facilities constituting city parks and also for the payment of the principal of, interest on, and fees and expenses in connection with bonds as provided in this subchapter in the manner as shall be determined by the commission for the purpose of such payment.

(c) (1) All local taxes levied as authorized in § 26-75-602(a) shall be credited to the city advertising and promotion fund and shall be used for the purposes described in subsections (a) and (b) of this section.

(2) The taxes shall not be used:

(A) For general capital improvements within the city or county;

(B) For the costs associated with the general operation of the city or county; or

(C) For general subsidy of any civic group or the chamber of commerce.

(3) However, the commission may contract with such groups to provide to the commission actual services that are connected with tourism events or conventions.

(4) The authorization and limitations contained in this subsection shall be reasonably construed so as to provide funds for promoting and encouraging tourism and conventions while not allowing such special revenues to be utilized for expenditures that are normally paid from general revenues of the city.