

## **MINUTES**

### **BOARD OF DIRECTORS MEETING**

**NOVEMBER 3, 2009, AT 7:00 P.M.**

The regular meeting of the Board of Directors was held on Tuesday, November 3, 2009, at 7:00 p.m., Board Chambers, City Hall, with Mayor Mike Bush presiding.

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

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

#### **1 Roll Call**

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

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

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

#### **3 Approval of Minutes of October 20, 2009 Board Meeting**

A motion was made by Director Maruthur, duly seconded by Director Ramick, that the minutes of the October 20, 2009 Board Meeting be approved; and upon voice vote, the motion unanimously carried.

#### **4 Recognition of Guests**

Mayor Bush recognized Mr. Doug Arnold, chairman of the Historic District Commission, who expressed appreciation to Ms. Kathy Sellman, Planning and Development Director; and Mr. Rick Stauder, Planning Assistant, for their assistance. He mentioned the first Commission was established in 1987; and the objectives of the Commission are to effect and accomplish the protection, enhancement, and

perpetuation of the City's cultural, social, economic, political and architectural history; to safeguard the City's historic, esthetic and cultural heritage; and to stabilize and improve property values. Some other objectives are to foster the civic pride, beauty and accomplishments of the past; protect and enhance the City's attractions to tourists and visitors; to strengthen the economy of the City; and promote the use of the Historic Districts for the education, pleasure and welfare of the people of the City. He stated there are currently five members of the Commission, and the objective is to have two representatives from each of the two Historic Districts. Representing the Central Avenue District is Ms. Suzanne Tucker and Mr. Long Hua Xu, and representing the Pleasant Street District is Mr. Early Craven and Ms. Debbie Ugbade. The fifth member has to be a registered architect and live within the City, and he serves in that capacity. He said the Commission meets the third Thursday of each month at 8:30 a.m. in the Board Chambers and encouraged the public to attend. He noted there is some confusion sometimes over whether or not it is a historic district national register or a local ordinance district, and there are some fundamental differences in those. He advised that the National Register District designates historic areas based on uniform national criteria and does not restrict the use or obligate private property owners in any way. He added it does not prevent the demolition of historic structures, and it does not require conformance to the design review guidelines unless someone is applying for federal or state tax credits. However, it is a local ordinance district; and they can protect their properties with a little more ease than the National Register District. He advised the local ordinance district protects the community's historic properties and areas through a design review process and does not restrict the use of the property, which will come under the local zoning ordinances. He mentioned it provides for review of proposed exterior changes to new construction and demolition within the designated areas and requires a local commission approval based on performance local design guidelines. He explained that the Central Avenue Historic District is Central Avenue and is from the Majestic Hotel to Prospect Avenue. The Pleasant Street Historic District is generally along Pleasant Street and sometimes touching Malvern Avenue and sometimes east for a couple of blocks south of the Convention Center. He stated the Central Avenue District was the first one designated, and it is primarily a commercial district. However, since the time this district was formed, there has been more residential use in the upper floors of the buildings in the area even though the buildings were designed and built as commercial structures. The Pleasant Street District is more residential in nature with a few commercial buildings in the district. He said the steps to obtain a Certificate of Appropriateness are fairly simple, but it can be a little difficult. He noted for any proposed exterior alterations, new construction, and demolitions, they must be reviewed and approved by the Commission prior to commencement of the activity. He said the Commission staff, which is under Ms.

Sellman's purview, will work with applicants to go through the process. He stated that he would encourage any property owners or business owners who are thinking about doing anything to their buildings in these two districts to contact City Hall and the Planning Department and specifically Rick Stauder, who will help them with that process. He commented if they decide to proceed with their application, they will make an application to the Commission and appear before the Commission to make a presentation and explanation of their application. He noted that repairs qualifying under ordinary maintenance and repair can be reviewed and approved by staff without coming to the Commission. He said once approval is obtained from the Commission, the procedure goes through normal process of zoning and building permit review. During the last five years, 119 applications were submitted to the Commission; and the Commission turned down only three applications in that time period. He pointed out the Commission is here to help and not hinder and to preserve and protect the historic resources. He mentioned that earlier this year, the City was designated as a "Preserve America City." This program recognizes communities that protect and celebrate their heritage, use historic assets for economic development and revitalization, encourage people to experience and appreciate local historic resources through education and heritage tourism. He pointed out this designation will also allow the City to be eligible for additional grants and other preservation efforts in the future. He advised that the Commission is in the process of updating the City's Comprehensive Plan and would like to see some emphasis placed on historic preservation as part of that plan, including continued participation in state preservation programs, continue in the "Preserve America" Program, and adopt a citywide preservation plan with the hopes of adding additional historic district commissions in the future. Mr. Arnold expressed appreciation to city staff, City Manager Lance Hudnell, and the Board for supporting historic preservation in the City.

Mayor Bush stated that everyone appreciates the time and expertise that Mr. Arnold and the Commission members put in this Historic District Commission.

Director Maruthur questioned if he had an update on the Farmers' Market because of the weather. Mr. Arnold advised that the weather has caused extensive delays, but today they were actually paving and finished the water feature. He said they have done a punch list with the contractor, who is working through the list and is close to finishing that. He estimated that within two weeks, weather permitting, they should be close.

Mayor Bush recognized Ms. Jessie Jester, Coalition Director for Garland County C.A.R.E.S., which is a drug and alcohol prevention coalition in Garland County. She

explained they are working to reduce substance abuse overall, specifically drinking and driving, which is a particular grant they have at the present time. She stated she wanted to educate the Board about the organization and what they are doing in the community. She added they are associated with Quapaw House Treatment Center, and they are completing the spectrum of services from them. She noted they are on the other end in an effort to stop some of the people from getting to the position of having to go into treatment. They involve all sectors of the community to come together and work on community-based strategies and comprehensive programs that will represent the entire community, as well as get everyone's opinion and make sure any programs or strategies they have on that will be effective. She advised that the average age of first alcohol use in Garland County is 12.5; and the average age of regular use is 14, which is lower than the state age and the national age. She mentioned as far as drinking and driving, Garland County is the third in the state for the highest rates of drinking and driving resulting in injuries or fatalities. She advised they are working with Judge Switzer and his D.W.I. Court to get some programs going and have recently put up some billboards. She pointed out the drinking and driving issue in Garland County is severe enough that they were given this grant. She stated they had to decide between underage drinking and drinking and driving and based on statistics and community needs. She noted they assessed the community and decided what is the most significant problem, and it was determined that drinking and driving was significantly more of a problem than underage drinking. She stated they continuously assess the community and involve the entire populace as to what is needed, what they see as a problem, and have come up with a few programs that will help in addressing those. One of those is called "Community Trials," which is to reduce risky drinking behaviors. "Community Trials" is mostly awareness and advocacy about the coalition and the problems in the community and is created to generate community mobilization to create change. They also have screening and brief intervention and referral for treatment. She mentioned the screening and brief intervention can be implemented in the emergency department at the hospitals. They can screen people who come into the hospitals, but there may not be an issue with some people. Therefore, they can get those people who would typically "fall through the cracks" that they do not see until they get into a treatment situation. She explained they have "Parents that Host Lose the Most," which is a media awareness campaign about social hosting and is of-age adults providing to minors at parties and social events. She mentioned they have B.A.S.I.C.S., which is a partnership between Quapaw House, Garland County C.A.R.E.S., and the National Park Community College. She said everyone gets the general prevention information, and then there are those who go into treatment. However, the middle group who is exhibiting risky drinking behaviors really does not get any help until they get into a problem. She explained they are identifying those

students and referring them to a brief screening to make them aware of how their drinking behaviors might compare to what is “normal” for their age and showing them how intoxicated they were at certain times. She noted it has been very effective, and they have a great relationship with the college because of that. She advised they have “Fatal Vision,” which is their most user friendly program that can be checked out for free by schools, youth groups, or any group. She mentioned she wanted to make the Board aware that they are in the community and are active and working on reducing drinking and driving and substance abuse overall.

Mayor Bush asked if she had a phone number for the public, and Ms. Jester replied that her cell phone no. is 501.655.6619; and her e-mail is [jessie@garlandcountycare.org](mailto:jessie@garlandcountycare.org).

Mr. Elmer Beard expressed appreciation to City Manager Lance Hudnell, City Attorney Brian Albright, and Director Elaine Jones for their program planned for Saturday morning, November 7, at 8 a.m., Webb Community Center. He said this will last until about noon at which time their meeting will start. He stated the Pleasant Street Neighborhood Association is raising funds; and in doing so, they are having a variety sale. Also, there will be food and other items found at a yard sale. He expressed appreciation for support from the City and hope to make this annual. He said they will use the funds to purchase stationery.

## **5 Acknowledgment of Financial Statement Notices for September 2009**

Mayor Bush announced that the Financial Statements for September 2009 are on file in the Finance Department for review by the Board and the public.

## **6 Board of Directors Announcements**

Director Maruthur announced that on Thursday, November 12, at 10 a.m., there will be a dedication of the Bill Edwards Financial Center on Airport Road.

### **CONSENT AGENDA**

The Consent Agenda consisted of the following:

## **7 Public Safety Report (October 20, 2009).**

- 8 Proposed Resolution No. R-09-240** Approving Certain Bid Awards (a) Ford Ranger XLT - Finance Department [awarded to Landers Ford in the amount of \$12,937]; (b) Rescind Bid Award - Finance Department [awarded to Landers Chevrolet for Colorado pickup in the amount of \$12,710]; and (c) Backhoe - Utility Administration [awarded to Scott Construction in the amount of \$74,504].
- 9 Proposed Resolution No. R-09-241** Adopting General Fuel Pricing Policies for the Sale of Aviation Fuels at the Hot Springs Memorial Airport; and Repealing Resolution No. 6577.
- 10 Proposed Resolution No. R-09-242** Authorizing the Mayor and City Manager to Execute the City's Energy Master Plan Pursuant to Resolution No. 6843 and Resolution No. 7096 to Participate in the Entergy CitySmart Program.

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

**PUBLIC HEARING**

**11 Public Hearing on Issuance of Wastewater Revenue Bonds, Series 2009**

This being the time and date set for a public hearing on the issuance of Wastewater Revenue Bonds, Series 2009, Mayor Bush declared the public hearing open.

Mr. Kevin Faught, representing Stephens, Inc., out of the Fayetteville office, and Mr. Carey Smith out of Little Rock office, said they have worked with Morgan Keegan to issue the wastewater bonds. They offered the bond issue last Thursday and opened the order period early that morning. By mid-afternoon, they were able to speak to Finance Director Dorethea Yates and committed to underwrite the bond issue. He said there was approximately \$27 million in orders for the \$28.815 million bond issue, and the average coupon rate of the bonds was 4.37 percent. He advised the all inclusive cost was 4.60 percent, which is probably the more accurate representation and that takes into account the cost of issuance of those sort of things associated with the bond issue. He stated the bonds did have some credit enhancement features associated with them,

and they were able to achieve an “A” rating from Standards and Poors with a stable outlook. He added they also explored bond insurance with Assured Guaranty. He said they received their bid, ran their break-even analysis, and determined that it was financially in the best interest of the City to insure the bonds. He added they plan on closing these bonds on December 10; and at that time, the construction funds will be wired to the City in order to complete the projects. He noted they plan on having the closing in the Little Rock office on December 10, at 11:30 a.m., followed by a luncheon, and extended an invitation to the Board to attend. He said Ms. Erin Cullum is also present tonight from the Friday, Eldredge & Clark Law Firm.

Director Keheley said she understood the bonds being voted on tonight total over \$28 million, but they are just the first step in adjusting all the deficiencies and the problems the City is having with the facilities. She questioned what and how much remains to be done to accomplish the total overall improvements the City is mandated to do and how they will be financed. She also asked if there will have to be another bond issue in a few years to take care of those issues.

Mr. Steve Mallett, Deputy City Manager for Public Works and Utilities, replied that it is very likely the City will have to have another bond issue. He pointed out if the City has greater than expected success with the first round of improvements and somehow brings its system into compliance within the next three-year timeframe, then that would either eliminate or slow down having to issue additional bonds. He stressed that the City would look at the rates at that point. He mentioned this is the first issue of about one-half of what the City projected it would need over the next ten years. He said the \$60 million is a round number if looking at a ten-year timeframe; therefore, this is the first half of that; and the rates are in place to fund that. He said if it is shown in four years from now another sizeable bond issuance of possibly \$6 million to \$12 million if it is needed. Then closer to 2018, there would be a third bond issue, if needed. He pointed out it is all phased based on the impact the City has with this first round and does include projects that are mainly on the first phase tied to dry-weather overflows. He noted that involved monitoring of pump stations, and there are numerous pump stations some of which are not monitored at all. Also, there are others which have monitoring systems that are not properly working. Therefore, the City wanted to standardize that so it can make sure at least the major stations which had a possibility of creating major problems were monitored; and then back-up power is also required on all of the large pump stations (25 hp and larger). He said the bulk of the funds on the front-end will be for SCADA, which is monitoring equipment and back-up power; and the latter part of the bond issue that is probably going to come over the next five to seven years, is going to deal more with pipelines and manholes. He pointed out it is a

two-phase approach and addresses both deadlines the City has been given by ADEQ (Arkansas Department of Environmental Quality) through the Administrative Order.

There being no further comments, the public hearing was declared closed.

## **NEW BUSINESS**

### **12 Proposed Ordinance No. O-09-38**

An ordinance entitled, "AN ORDINANCE AUTHORIZING IMPROVEMENTS TO THE WASTEWATER SYSTEM OF THE CITY OF HOT SPRINGS, ARKANSAS; AUTHORIZING THE ISSUANCE OF WASTEWATER REVENUE BONDS; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL AND INTEREST ON THE BONDS; PRESCRIBING OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY," was taken from the agenda for consideration.

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

Upon discussion, Mr. George Pritchett, 125 Carl Drive, said he supported this project because he was convinced by the information given by City Manager Lance Hudnell and Mr. Steve Mallett, Deputy City Manager for Public Works and Utilities, and others. He pointed out that he was disappointed that past Boards did not identify and take action on this earlier. He mentioned that in a few weeks the City is going to be looking at the public safety improvement plan, which is needed. However, the City is going to have to budget this into its normal annual revenues and get some long-term planning and will have to do make some difficult cuts. He said there is 150 percent employee count versus what was done just ten years ago. He stressed that City residents cannot afford any new taxes and urged the Board to make some the needed cuts.

Director Maruthur asked that City Attorney Brian Albright explain to the public the Consent Order and wanted the public to understand why the Board is doing this. City Attorney Brian Albright advised that it is an Order that was imposed by ADEQ (Arkansas Department of Environmental Quality) in which the City is obligated to meet the

mandates set forth therein; and if the City does not within the timeline set forth within the agreement, then it can be fined and can be imposed with a moratorium on construction, particularly connections to wastewater treatment system. He pointed out the Consent Order does not affect the water side, but it does the sewer side. He added without the sewer connections, construction would come to a halt.

Mr. Steve Mallett added that the Order is actually issued by the Arkansas Department of Environmental Quality, and it has definitely been backed up by EPA. He said there is going to be a conference call with them tomorrow afternoon at 1:00 p.m. Therefore, it is not like they are really disconnected and are one in the same with EPA watching over the State branch to make sure the City follows through.

Mayor Bush then called for a vote on the motion to adopt; and upon roll call, the following voted "aye": Directors Maruthur, Jones, Keheley, McCabe, Ramick, Daniel, and Bush, total 7; motion unanimously carried. Whereupon the ordinance was declared passed. City Attorney Brian Albright then read the emergency clause. A motion was then made by Director Daniel, duly seconded by Director Maruthur, that the emergency clause be passed; and upon roll call, the following voted "aye": Directors Maruthur, Jones, Keheley, McCabe, Ramick, Daniel, and Bush, total 7; motion unanimously carried. Whereupon the emergency clause was declared passed.

## **13 Proposed Ordinance No. O-09-39**

An ordinance entitled, "AN ORDINANCE ACCEPTING LILY RUTH COURT AND JUNIPER PLACE AS PUBLIC STREETS; AND FOR OTHER PURPOSES," was taken from the agenda for consideration.

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

Upon discussion, Mr. Steve Mallett, Deputy City Manager for Public Works and Utilities, explained that the City has received a request from Habitat for Humanity to accept for maintenance Lily Ruth Court and an extension of Juniper Place in Shaw Village, which is the new Habitat for Humanity in the Whittington Avenue area. The subdivision is located on top of a hill overlooking Linden Park. He stated the

Engineering Department has inspected these street and find that they meet City specifications. Therefore, he is recommending that the City accept these streets for maintenance.

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

## **14 Proposed Ordinance No. O-09-40**

An ordinance entitled, "AN ORDINANCE AMENDING ORDINANCE NO. 5668 (ARKANSAS FIRE PREVENTION CODE, 2007 EDITION) REGARDING TYPE V (WOOD) CONSTRUCTION; AND FOR OTHER PURPOSES," was taken from the agenda for consideration.

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

Upon discussion, Mr. Mike Scott, Chief Building Official, advised this is an amendment to the Fire District Code and specifically is an exception. He said that currently Type V construction, just straight wood, is not allowed in the fire district. He commented this is an amendment to that saying it is allowed if the building is sprinkled according to the Fire Prevention Code.

Director Keheley asked if this applied to any new commercial buildings and constructions regardless of their size and height, and Mr. Scott replied that it did. He added that as buildings get larger, the rules become stricter. Director Keheley asked how often will the sprinkler system be inspected. Mr. Nate Schanlaber, Fire Marshall, advised that sprinkler systems are inspected on an annual basis.

Director Maruthur commented at the agenda meeting, it was stated that other cities already do this. Mr. Scott replied that many cities do not have the fire district as Hot Springs does. He mentioned the City has an extremely large fire district, which makes construction in some parts of the city a little difficult. He pointed out this will be very popular among the contractors and developers because the City is not deleting

anything but just giving them an alternative option. He noted that Type 3 construction currently is allowed in the fire district without sprinkling the building if it is that type of occupancy.

Director Maruthur asked how this will affect the City's ISO rating, and Mr. Scott replied that it will not.

Mayor Bush questioned the meaning of a fire district and if it meant the entire city, and Mr. Scott advised that the City currently has a fire district. He added it takes all the main boulevard streets on each side (Malvern Avenue, Grand Avenue, Central Avenue, Highway 70 and Highway 270); and those corridors are fire districts. He explained for an example if someone is out on Malvern Avenue and builds a clinic, that is in the fire district; but that building could not be currently built out of Type V construction. He said what the City is proposing is if someone chooses to sprinkle the building, the City would allow Type V construction because there would then be an alternative to it, which is an acceptable alternative. He pointed out the sprinkler system has been proven to be very good.

Mayor Bush asked if most of the builders are in favor, and Mr. Scott replied that they are.

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

## **15 Proposed Resolution No. R-09-243**

A resolution entitled, "A RESOLUTION AUTHORIZING SUPPORT FOR THE ARKANSAS SCHOOL FOR MATHEMATICS, SCIENCES, AND THE ARTS," was taken from the agenda and read by title only.

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

### **OTHER BUSINESS**

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

Director Maruthur said she was excited that the City is supporting the Arkansas School for Mathematics, Sciences and The Arts, which is a step in the right direction. She commented that anyone who has not received their flu shots, they are available in several different locations; and the H1N1 vaccine will be available through the Health Department in December. Also, if citizens would like to sign up for CodeRed, they may call Paula Brown at 321-6861. She stated if anyone would like to contribute to the family of deceased firefighter Gene Yarbrough, an account is set up at Regions Bank downtown. Related to the Arkansas School for Mathematics, Sciences and The Arts, she announced that Senator Steve Farris will be hosting an event at the Arlington Hotel on November 9, at 5 p.m.

Mayor Bush said he believes everyone in the community supports the Arkansas School for Mathematics, Sciences, and The Arts; and he has never heard a negative comment from any of the citizens.

Director Jones announced that anyone wanting to donate to the variety sale may donate to the Pleasant Street Historic District Association. She stated it will start at 8 a.m. on Saturday and continue until 12 noon.

## **17** City Manager's Report

City Manager Lance Hudnell gave the following report:

1. Wednesday, November 11, is a city holiday in observance of Veterans' Day.
2. Thursday, November 12, will be the Bill Edwards Center Dedication, at 10 a.m.
3. Mr. Ichiro Fudai, of Hanamaki, Japan, will be in Hot Springs on November 19 through November 22; and there are several activities that the Board will be invited to with regard to his visit. He pointed out this is particularly special because Mr. Fudai was the first visitor as far as an official visitor from Hanamaki to Hot Springs and has been back on many occasions. He said this visit is on his own because he loves Hot Springs.

4. There will be a reception at the Arlington Hotel on November 9 with regard to the Arkansas School for Mathematics, Sciences and The Arts. He recognized that Dr. Janet Hugo, Director of the School, is also present tonight, as was Mr. Dave Byerly, president and CEO of GCEDC and Hot Springs Greater Chamber of Commerce. They have worked very hard over the summer to put the deal together and are still working on it for the new dormitories.

5. A Budget Work Session will be held on Monday, November 16, at 3 p.m. Due to the difficulty of the budget this year, it is likely additional sessions will be needed.

6. A thank you was received from Mr. Mike Calhoun, addressed to Craig Stevens' crew regarding the lift station. A call was received from a citizen who said during the flooding, things were less than pleasant at one of the pump stations; and the crew responded in a very timely manner and took care of the problem.

## **18 ADJOURNMENT**

There being no further business to come before the Board, the meeting adjourned at 7:45 p.m., to meet again on Tuesday, November 17, 2009, at 7:00 p.m.

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

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

Lance Hudnell, City Clerk

Mike Bush,

Mayor