

MINUTES

BOARD OF DIRECTORS MEETING

SEPTEMBER 1, 2009, AT 7:00 P.M.

The regular meeting of the Board of Directors was held on Tuesday, September 1, 2009, at 7:00 p.m., Board Chambers, City Hall, with Assistant Mayor Rick Ramick presiding.

The invocation was given by Ms. Paula Childs, and Pledge of Allegiance to the Flag was led by Assistant Mayor Ramick.

Assistant Mayor Ramick 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, Rick Ramick, and Tom Daniel, total 5. Absent: Mayor Mike Bush.

2 Approval of Agenda

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

3 Approval of Minutes of August 18, 2009 Board Meeting

A motion was made by Director Keheley, duly seconded by Director Daniel, that the minutes of the August 18, 2009 Board Meeting be approved; and upon voice vote, the motion unanimously carried.

4 Recognition of Guests

Police Chief Bobby Southard introduced recently employed Police Officer Benjamin Mitchell, who moved to Hot Springs ten years ago from Memphis, Tennessee.

Officer Mitchell expressed appreciation to the Civil Service Commission, the Board of Directors, and Police Chief Bobby Southard and said he looked forward to many years of service with the City.

5 Board of Directors Announcements

Director Keheley announced that the funeral for former Fire Chief Arval Sanders was held this week and asked that Fire Chief Ed Davis make a few comments. Fire Chief Ed Davis stated that Arval Sanders was his mentor and dedicated 43 years of his life to the service of the citizens of Hot Springs. He said he acted in the capacity as Firefighter, Driver, Captain, Fire Marshal and Fire Chief during his tenure with the Hot Springs Fire Department. During that time period, he revamped the Fire Marshal's Office, making it a vital part of the City, as well as bringing about the ISO Class 2 rating, which reduced insurance rates for the citizens. He then asked for a moment of silence in remembrance of Chief Sanders.

Director Jones announced there is a new soul food restaurant in downtown Hot Springs (Appetite of Fine Southern Cuisine) at 610 Central; and they are from Memphis, Tennessee.

Director Maruthur mentioned that Fire Chief Ed Davis gave an eloquent presentation at the funeral service for former Fire Chief Arval Sanders. She mentioned the citizens had passed a Public Safety Tax; and two fire stations were scheduled to be built, with Chief Sanders leading the way. She pointed out that he touched many lives in ways that are going to continue for years to come.

CONSENT AGENDA

The Consent Agenda consisted of the following:

6 **Public Safety Report** (August 18, 2009).

7 **Proposed Resolution No. R-09-202** Approving Certain Bid Awards (a) Aggregates - Public Works [annual supply contract awarded to Ouachita Sand and Gravel, Fox Pass, Gravel Mountain Quarry, and John Jenkins]; and (b) GPS Mobile Mappers - Utility Administration (annual supply contract) **[reject and rebid]**.

8 **Proposed Resolution No. R-09-203** Authorizing the Mayor to Execute a Lease Agreement Between the City of Hot Springs, Arkansas, and SeaPort Air Operations, LLC for Office and Counter Space at the Airport.

- 9 Proposed Resolution No. R-09-204** Approving Change Order No. 1 to the Contract with Tri-Lakes Ornamental Iron Works, LLC for Sanitation Dumpster Conversion Project.
- 10 Proposed Resolution No. R-09-205** Accepting a Grant from the U. S. Department of Justice Pursuant to the Community Oriented Policing Services (COPS) Grant Program for Hiring Professional Law Enforcement Personnel.
- 11 Proposed Resolution No. R-09-206** Approving a Grant Application for the American Recovery and Reinvestment Act's (ARRA) Transportation Investment Generating Economic Recovery (TIGER) Grant Offered Through the United States Department of Transportation.
- 12 Proposed Resolution No. R-09-207** Approving the City of Hot Springs Participation in the National League of Cities Prescription Discount Card Program.
- 13 Proposed Resolution No. R-09-208** Accepting a Community Development Block Grant from the U. S. Department of Housing and Urban Development (HUD) on Behalf of the American Recovery and Reinvestment Act (ARRA).

A motion was made by Director Jones, duly seconded by Director Maruthur, that the Consent Agenda be approved; and upon roll call, the following voted "aye": Directors Maruthur, Jones, Keheley, Ramick, and Daniel, total 5. Absent and not voting: Mayor Bush; motion unanimously carried.

OLD BUSINESS

14 Proposed Ordinance No. O-09-33

An ordinance entitled, "AN ORDINANCE ESTABLISHING RATES AND CHARGES FOR HOT SPRINGS MUNICIPAL WATER SYSTEM; AND FOR OTHER PURPOSES," was taken from the agenda for consideration.

A motion was made by Director Daniel, duly seconded by Director Jones, that the rules be suspended and the ordinance be read for the second time by title only; and upon voice vote, the motion unanimously carried. The ordinance was then read for the second time by title only.

City Attorney Brian Albright advised that the Board will not have discussion on this item at this time because it is set for a public hearing under Agenda Item No. 16.

15 Proposed Ordinance No. O-09-34

An ordinance entitled, "AN ORDINANCE FIXING THE RATES FOR THE SERVICES RENDERED BY THE WASTEWATER SYSTEM OF THE CITY OF HOT SPRINGS; PRESCRIBING OTHER MATTERS RELATED THERETO," was taken from the agenda for consideration.

A motion was made by Director Daniel, duly seconded by Director Jones, that the rules be suspended and the ordinance be read for the second time by title only; and upon voice vote, the motion unanimously carried. The ordinance was then read for the second time by title only.

City Attorney Brian Albright advised that this was for the second reading only, and there will be no discussion because it is set for a public hearing under Agenda Item No. 16.

PUBLIC HEARING

16 Public Hearing on Water/Wastewater Rates for the City of Hot Springs

Assistant Mayor Ramick opened the public hearing on the water and wastewater rates.

Mr. Steve Mallett, Deputy City Manager for Public Works and Utilities, stated that Director Keheley had requested that the Board consider a separate tiered plan for the water rates. He noted there was an Alternate 2 for water rates, and now there is an Alternate 3. He commented that all of the alternatives for the wastewater rate remain the same.

He stated there are over 35,000 water accounts, about 50-50 between city and county and about 25,000 wastewater accounts with about 60-40 split city versus county.

He said it has been identified in the ten-year capital plan that there is \$48.5 million in the water capital plan. That includes a little over \$7.5 million in treatment improvements which would involve improvements to the existing treatment facilities, distribution improvements that would involve improvements to the water lines and replacement of water lines. A lot of that gets into the efforts in the unaccountable water replacement of lines and customer improvements that entire \$13 million is related to the replacement of the entire system of meters. The total without any proposed water facilities, new facilities is \$48.5 million. The current estimate for the new treatment plant, which is still being visited is around \$100 million, and that is not included in either proposed rate plan 2 or 3. He said it is his understanding that the City is not considering Alternative 1, which actually included that. He noted the point of his presentation will be with 2 and 3.

Regarding wastewater, Mr. Mallett advised there are some imposed deadlines on the City from the Arkansas Department of Environmental Quality (ADEQ), as well as the Environmental Protection Agency (EPA). By January 1, 2011, the City shall seek compliance with the proper operation and maintenance of the wastewater collection system as it applies to dry weather overflows. Basically, that includes mechanical failures of pumps or power outages. He noted the City does not have wet weather events but could have a power outage or pump failure. He stated the City needs to be able to be notified so that it can respond properly, and the way to handle that is through telemetry equipment that lets the City know there is a problem at the pump station and also with backup generation. The second part of the Consent Administrative Order issued upon the City of Hot Springs was to seek compliance with the operation and maintenance of the wastewater collection system as it applies to capacity-related overflows by January 1, 2018. That is an effort the City was continually working on, but it did not have the deadlines; therefore, the City was doing it as it had money available. Now, the City has an imposed deadline of 2018 for all wet weather overflows.

Mr. Mallett stated that about \$50 million has been identified as what the City feels will address the Administrative Order requirements through the dry weather and wet weather overflows. Those are projected numbers based on similar instances in other cities and based on the consultants and work they have done to this point. The City has identified \$8½ million of treatment improvements that will have to be made to the existing plants to meet current proposed regulation changes that will begin in about three years and an additional \$10 million of collection improvements that are already on the City's capital plan.

Mr. Mallett advised that regarding impact on monthly charges, which are water and wastewater combined costs, under Alternative 2, there are no treatment plant facilities involved assuming 5/8" meter which is a normal residential meter and 5,000 gallons of usage (average usage). Residential, commercial and sprinkler rates are all the same in Alternative 2. Currently, there is \$33.59 for a 5,000 gallon water and wastewater bill in the City; and in the County, it is \$48.24.

Mr. Mallett stated that Alternative 3 is a tiered conservation proposal, assuming a 5/8" meter, inside the city limits (residential rates). He noted that commercial rates and sprinkler rates will be handled separately and will not be using the tiered format in this current proposal. Currently, the base rate is for water only and does not include wastewater because wastewater rates are the same as in Alternative 2. Currently the base rate is \$4.22. In the 1,000 to 5,000-gallon usage, the rate basically does not change for the base rate, or the volume rate does not change until 2013. Therefore, the City preserves the current rates for anyone using less than 5,000 gallons of water a month until 2013, and that will be the first rate increase that those people will see. Up to 5,000 to 10,000, there is a modest increase over the 2009 to 2012 time frame. Another small increase is in 2013; and for anything above 20,000, there is a little more substantial increase.

Mr. Mallett said that he included the commercial and sprinkler rates, which will be flat rates and are not tiered. The commercial rates will be comparable to what they are in Alternate 2. The sprinkler rate steps up a little more aggressively because it rewards people who conserve water and keeps a better tab on their sprinkler rates. He explained that is how the City will deal with residential, commercial and sprinklers in the current proposal for tiered conservation plan.

Mr. Mallett noted there is a 17¢ difference in savings on Alternative 3 versus 2; therefore, it is a very modest savings during the first few years. If residents are using 1,000 gallons and that is water and wastewater bill, the City user will receive about a 17¢ savings in 2009, 34¢, 53¢ so it works up to about \$1 difference in January 2013. It does benefit the low-water users and the County much the same and works up to about \$1.22 difference in savings. He noted 5,000 gallons is a little more substantial and a little more savings for the Alternate 3 versus Alternate 2. He said it is not until users get into the higher gallons that they start to notice a major difference. Under Alternative 3, residents start seeing a negative, so it is starting to pay more for the more people use. When they get up to about 30,000 gallons, that is when they start seeing across-the-board that there is a \$11 difference in 2009. It does wane off because the rates are implemented in November 2009. They are held steady until the end of 2012;

and then in January 2013, they step up again. The higher gallon usage, there is more of a difference, which is the way the tier grade is intended to be implemented for the City's rates.

City Manager Lance Hudnell advised that the Board will be asked to consider the ordinances at the next meeting in accordance with the way the law works in considering ordinances. Therefore, the Board will not be taking any vote tonight with regard to the ordinance, which will be at the next meeting on September 15. At that time, another public hearing will be held; and the City's rate consultant will also be present to go through the differences between Alternative 2 and Alternative 3. He explained that Alternative 3 came about because Director Keheley, at the agenda meeting, requested that staff ask the rate consultant to consider another alternative commonly known as the Conservation Plan or tiered rates. He said the remainder of the Board concurred with that suggestion. He noted the basic difference between the two alternatives is low-end users receive no increase for the next few years, but higher-volume users will receive more of an increase on the residential side only. He said the commercial and industrial are the same under either alternative.

Mr. Wayne Roberts, 515 Jerome, was recognized and asked if the rates were raised if a study has been done on how it will affect the sales tax or how it will affect the people who come here. He pointed out Hot Springs is a moderately-priced community; but if prices, fees, and taxes are continually raised, he believes people will not come to Hot Springs. Also, he feels that people who retire are not going to come here, and people that are retired here today are going to have a big problem. He mentioned the City has a \$93 million budget and suggested taking 5 percent of that budget every year, which would be \$4.5 million (using \$90 million as a figure). He said the City could pay for just about everything it is trying to do from fire stations, water pipes, streets, etc. He stated the City has one of the best financial departments in the whole state and asked that they look at what \$4.5 million would do for the City over 20 years.

Director Maruthur requested that Mr. Roberts submit that in writing for the Board to review.

Mr. Dave Byerly, 413 Pauline Street, stated that he is present serving in his official capacity as President of the Greater Hot Springs Chamber of Commerce. He said there is never a good time that it is going to feel good to make a \$100 million repair, but the important thing to remember is that these repairs must be made. Whether it is on the wastewater side, where the City runs the risk of EPA shutting growth down completely or whether it is on the water side where it is critically important

that the City puts the measures in place that finds its water loss so that there is a better understanding of what the City can afford to do in this next phase when the water capacity issue is readdressed. He noted both of those issues are critical that they are fixed for this community. He said he is not sure which one of these particular plans the Board is leaning more toward in terms of the rate structure, but he would like to throw their support behind the decision to make these improvements. He pointed out if the City does not make these improvements, then there will be a repeat of history where EPA is dictating to the City where it shall and shall not grow.

Director Maruthur said he stated he was representing the business community and asked where the business community was when all of this was happening and how did the city get here. Mr. Byerly replied that it was from a number of years of ignoring the infrastructure that needed to be put in place.

Mr. Chris Reimers, 111 Squaw Valley Trail, said he talked to a local business owner today, who is also a resident of the County and receives city water. Mr. Reimers asked him if he realized that he had no representation on this issue, which he did not. He said there needs to be a way to have him represented when the City is going to make changes in water rates. He mentioned the average household income has not been discussed. He noted at the August 11 meeting, it was said that the City spends less for water than other cities. Also, mentioned in the report was that people who live in Hot Springs make \$11,000 less per household income than people in the 13 cities that were studied. He said that people in Hot Springs are paying \$15 less on average than people in those other 13 cities, and those people who live in those 13 cities make \$11,000 per household more. He noted that the program that was aired on Channel 15 was very deceptive, and he believes the City should stop these rate increases; but the City needs to fix its problems. He questioned why the City cannot do so with what the people are paying now. He urged the Board to vote against both ordinances.

Mr. Dan Messersmith, 304 Quail Creek, asked the date of the last water and sewer increase and was advised that it was 2004. He said that he was incoming chair of the Garland County Economic Development Corporation and past chairman of the Greater Hot Springs Chamber of Commerce, and the sanctions that will be imposed that were on the PowerPoint presentation could cripple the City. He pointed out it is not a choice of "if" but is when something has to be done. He said he believes it is a very prudent measure, and he knows it was imposed by other reasons that the City fix the infrastructure first, which is what is being proposed here. He said he believes it is imperative that the City figure out what its water needs are; and hopefully, some loss

can be recovered that had been identified and bring that forth that there is an idea of what it will take to grow in the future.

Director Maruthur questioned since he is a CPA, if he looked at the numbers that Mr. Dan Jackson put together. Mr. Messersmith replied that he has not studied the rate increases and deemed that there are those more knowledgeable in the subject than he is. He said he looks at it from his business standpoint what the rate increase are, and nobody wants to pay more and no one wants to spend \$100 million. However, he believes it is a necessary thing to continue to grow in the community.

Director Maruthur asked if he had any personal thoughts on how the City got here since the rate study was done. She said she mentioned this because she received so many telephone calls regarding this. She noted the rate study that was done in 2004 was supposed to be good until 2024. However, this is projected on growth, etc. As a financial person, she said she wanted his input on how he thinks the City got there. Mr. Messersmith responded that as a CPA, if there is a projection more than two or three years, the numbers get very cloudy. If going out 5, 10 or 15 years, it is suspect of what reality is going to be when the City gets to that time. He said the City is at that time now, and he does not see a whole lot of other choices. He mentioned right now to continue the wastewater, the City needs to improve its infrastructure; and to continue the water system, the City needs to fix the leaks and get more efficient in that. Director Maruthur said that her question is more about the future, and the City apparently made mistakes in the past, or it overlooked things, or put them on the back burner. The City found itself with the government coming in saying the City is not going to do this anymore. As a business person and a person who understands numbers, Director Maruthur asked if he had any thoughts about not repeating the same behavior and coming back here and having the same result. She questioned how he felt as a business person and a person who is very involved in the community about what the City should not do.

Mr. Messersmith replied that the City hires people who know more than the Board, and he assumes that has been done. He noted the City has hired consultants; hired people who know more than the people who work for the City. Director Maruthur commented that the consultant assesses a pattern. Mr. Messersmith said she is speaking on the rate side, but he is speaking on the infrastructure side. Director Maruthur said that is what she has been talking about for years. She asked if had any thoughts about the City's growth and what it should not be doing or any moratoriums or any patterns that he has seen as a business person.

Mr. Messersmith responded that moratoriums are the end of the growth of a community because if the City is not growing, it is going backwards. Director Maruthur stated that the City has been growing. Mr. Messersmith pointed out that a lot of the growth is in the County.

Mr. John Grise, 1100 South Moore Road, said there may be some overspending that it not necessary, mentioning on the South Moore Road bridge project, County Judge Larry Williams told them that he is saving them \$50,000 because he did not have to move the water lines. If he put the bridge on the west side, moving it from the east side, they probably spent \$500,000 or more moving those water lines. He said if County Judge Williams was telling the truth that he could save them \$50,000 by moving the bridge from one side of the road to the other, he questioned why the money is spent moving those water lines. He stated if the Judge Williams is telling the truth, then they did not need to put those water lines in at the rate they are charging to do that. He questioned if this is a waste of funds.

Mr. Carroll Weatherford, 103 Ironwood, said he is speaking on behalf of the rate increase. Also, he was part of some of these rate studies, especially the one in 2004; and he knows the City did not wake up thinking it was going to have to spend \$100 million. However, it is a necessary evil; and the City is going to have to do it, or EPA is going to shut the City down again just like it did 20 years ago. He pointed out there will be another building ban, and the City does not want that because that will slow up any growth in the County or City. He noted the City will not be able to build any houses or any commercial; and it will not be able to extend water or sewer to any new developments, any new commercial developments, or any new residential developments.

Mr. Jimmie Harmon, 276 Pittman Road, Justice of the Peace for District 8, representing several thousand citizens of Garland County in the western area, said the only thing people in that area are upset about are the rates. He noted the county residents pay millions of dollars to put in water and sewer improvement districts, and the City then charges them 1½ times more than anyone else. He said they do not understand that.

Mr. Brian White, 512 Clark Street, said he lives in the City but operates a business in the County and is property manager for 33 rental units on one property. He stated 29 of those units are on one meter and four on another. He said that he is pro and con and has opinions on both sides. On the con side, being in the county, he stated his water bills run between \$1,200 and \$1,500 a month. He mentioned at the

last Board Meeting, there was discussion between Director Maruthur and Mayor Bush; and the Mayor made a comment if the City is supposed to check every toilet and faucet in the city. He said that he inspected all 33 units on his property and found several leaks, which would be like turning the tap on 2/3 of the way, 24 hours a day, seven days a week. He encouraged other business people to do the same. He noted if there can be some conservation, it will help with the overflow capacity. He said he also found on his inspection what he suspects to be a leaking city water line. He stated in his opinion if people mobilize the city and everybody works together, they could find all of these leaks. Also, if they had the newspaper and Channel 15 telling them what to look for in the grassy areas and on the city easements, they could find a lot of city leaks.

Regarding the con side, he said that his business is directly on Lake Hamilton; and his buildings are 50 to 60 years old. However, they are clean and are kept decent. He pointed out it is the "salt of the earth" that is in there (construction workers, waitresses, cooks, cab drivers, people who go paycheck-to-paycheck, and people on disability). He commented it would be onerous for them and for his business if these rates were increased. However, on the pro side, he believes with the Administrative Order the City is under, it has to fund some of these things. However, he would recommend funding only those matters first that get the City out from under the Department of Justice and back on track.

Director Maruthur commented that he said he sees a need to change some of the City's ways of doing things and room for improvement that will save the citizens and the City a lot of money. Mr. White stated how the City got here is not as important to him as how to get out of it.

Ms. Carol Scholp, 301 Stearns Point Road, stated the City water main has broken so many times in front of her house that finally she pleaded not to have it patched again and have it replaced and thanked the City for replacing it. She pointed out in the wettest month, which was July, her outside meter read 9800 gallons; and that is the same month in which she had a rice patty where the water main flowed into her yard. She said she knows they say it does not flow through the meter, but she would like someone to explain how she ended up with 9800 gallons of water in a month that was the wettest the City ever had, and she was not watering. She commented that she has no problem with going forward and improving as the City goes, but she believes the City needs to fix those situations that currently exist. She mentioned that someone told her that between 33 percent and 47 percent of the City's water is unaccounted for, which is unacceptable. She pointed out there was a bond issue in the 1980's, and it was paid early because she received a check. She commented there have been a lot of bond issues, but she does not know whether that money is accounted for and was

wondering whether they have seen that because she remembers a headline in the newspaper in 1988 or 1989. When they were tearing up Central Avenue in front of the Arlington, there had been a bond issue run for that; but when they pulled the pipes out, they were 100 years old. She pointed out there has not been a proper accounting, and she believes it is important to look up those things before any more money is spent. She pointed out that she is pleased with Director Keheley's proposing the tiered plan.

Mr. Bob Driggers, #3 Stonegate, stated setting water and sewer rates for a municipal water and sewer enterprise should be normal and should be a routine function for the Board, but what makes this particular rate adjustment before the Board daunting, as is described on the City's website, is the fact that the rate adjustments include paying for substantial capital expenditures including O&M to cure defects in the water and wastewater systems that have occurred over a number of years and been allowed to occur. He said this is very similar to what was found on some of the roofs in the City, and he kept hearing the City needs to replace the building because the roof is leaking. He pointed out the City is not doing a great job as far as operations and maintenance. He mentioned on the water side, the City admits that it cannot account for over 1/3 of the water that is produced for the treatment plants and is referred to as lost water. He said this proposal is to spend over \$13 million for meters that may or may not fix the problem. He questioned what evidence the Board has that convinces there is lost water due to defective meters. He commented on the sewer side, the City has paid for the threat of fines and other sanctions even by the federal government for polluting Lake Hamilton and leaks and overflows from the lake water collection system. He stated it may be time that the Board give serious consideration to putting these utilities back under an autonomous board. He said the City once had this system, and it appeared from what he learned to work very well. He stated taking city utilities out from under the Board would remove the politics and those embarrassing questions such as did a Director propose to hold off extending water to a particular subdivision so he can get more money or did a Director do that to help his developer buddies. He stated a separate board could also help half the water and wastewater customers who do not currently have a voice, a vote, or a representative in any utility issue because both city and county residents should comprise that board. He asked that the Board consider placing water and sewer under an autonomous board which will be accountable and have proper expertise to manage the utilities, remove the politics, and allow all ratepayers to have a voice and a representative.

Director Maruthur commented that he made a good point about who is responsible and that is what this is all about. She said she did not believe any individual did this to the City, and it now has a new City Manager; and she still has

questions that she needs answered. She noted that she was reading the Administrative Order and found it interesting that she and the government were asking the same questions. She said the City needs to do something different, not just patch up the problem and fix the infrastructure. She added that the City needs to change its ways, and the City has to do something before the government does something to it.

Mr. George Pritchett, 125 Carl Drive, said that he signed up to speak in favor of the rate increase and pointed out the City has no choice but to have a rate increase. He mentioned the studies that have been done by Mr. Mallett and Mr. Hudnell will have to be done. He said that he liked the tiered proposal that was proposed by Director Keheley. Also, it was brought up in a public meeting what will be done about the elderly who are on fixed incomes. He stressed that the City is going to raise their rates like everyone else. However, the City has come up with a proposal that does minimize that. He said before the City starts spending this \$100 million, it needs to put it before the public and give the public some pick and choose things so that it may do this in steps as opposed to all at one time. He then posed a question to Mr. Mallett regarding why there is a difference in the rates for the county and the rates for the city.

Assistant Mayor Ramick advised Mr. Pritchard that questions will be answered at the end of the public's comments.

Mr. Ted Burhenn, 318 Trapp Mountain, said he lives in the County but has property in the City. He mentioned that it appears some of the City's senior staff members have decided that he is not an electrical engineer. He said that he checked with Arizona State University, and he graduated in 1969. He mentioned he is an engineer and submitted a copy of his record from the university. He commented when he read the article on what needs to be done, he felt it was very unprofessional. He added it was not in ascending or descending order; was not under capital improvements; and was not under O&M but was scattered. However, when he read it several more times, he realized that it was very professional and is confusing the fact. He said there are numerous items that have to be done, and everybody thinks this has to be done, which it does. He stated \$46 million of the \$100+ million has to be done, and it is uncertain if the amounts are correct. He said the idea of an autonomous commission is a great idea because one of the items is \$200,000 for a flocculator. He mentioned on the wastewater side, the City has just given up \$3.6 million to say that it wants to move the fresh water to Carpenter Dam, which is not a good idea; and he brought that to the attention of the Board several months ago. Also, the Health Department said it is not a good idea either. He questioned why the City is looking at another \$6 million and asking for another \$2.5 million to tie that plant into the existing

Carpenter Dam area over to Malvern Road and why the City is looking at water line improvements and new plant connections of \$2 million. He pointed out that ten years ago, there was a surplus. He said the City is spending \$600,000 for something that does not have to be done.

Director Maruthur commented that the City started out with a surplus and questioned what happened. She said no one, in her personal opinion, has been trying to keep a reserve; and they have not been conserving what they had. She stated her concern is how did the City get here and do not do it again. She pointed out it is not a matter of complying with what the City is mandated to do, but it has to do that. She pointed out the tiered recommendation, so far, is the best; but the City cannot repeat the same mistake.

Mr. Thomas Brown, 316 Bethel Street, said for the last 15 years, the sewer and water system have been very bad. He has lived behind Oaklawn Race Track for 12 years; and every year, anywhere from three to four times, the sewer runs over from Oaklawn when it rains. It rains into the streets and lakes and now it has moved over on Bethel Street. He said he has asked the City about getting it fixed and cleaned up. However, it is not cleaned up. As water comes up, there is still sewer; and where it is run over, it is still in the creek and in little branches. He mentioned there is one below the race track that comes off of there and does the same thing, and they do not clean out the ditches. Right across from his house, there is sewage that came down there the last big rain; and the water ran continuously for a year. After his appearance at the last meeting, he stated it slowed down, and the next day it was dried up; but the ditches have not been cleaned out. He said the federal government just told him, a retiree, that they would not get a rate increase for two years.

Director Maruthur asked if he is saying there is a leak and nobody is responding to it, and Mr. Brown replied that the only time it was ever responded to is when somebody makes a public statement to the City. Director Maruthur commented this is public, and she hopes after this meeting that he gets a quick response to that water problem. Mr. Brown asked who paid for the water line they put in just before Oaklawn bought all the property. He said there were two fire hydrants put in six months before they bought the property, and then they closed the streets off. He questioned who was paying for that.

There being no further comments, City Manager Lance Hudnell stated there was a question regarding city and county rates as far as the differential, and the rate consultant covered that at the last meeting and will cover that again at the next meeting. He will go into an explanation of the differential between the city and county rates. He

said there are several factors involved with regard to expenses for the city versus the county and then also the ownership issue of the customer versus ownership because it is the Board that is ultimately responsible for the system.

Mr. Mallett added the two main factors are the cost of responding to and reading meters, especially on the wastewater side, with the number of pump stations, it costs more to serve people that far away from the center of the service centers and from the plants. It is customary to charge disparaging rates between city and county and the large majority of other cities – and no other city that he is aware of do they charge less in the counties than they do in the cities. He pointed out City Manager Lance Hudnell also mentioned that the City is responsible and has a liability and risk for the system. If something were to happen and the City needed to replace a plant, that would have to come from General Fund or somewhere but would not come from county residents or county government.

Mr. Mallett said that one of the questions was how raising the rates will affect the City's sales tax. He responded that is the only way it would affect the sales tax is how it might affect the population since population determines the City's sales tax. He advised if rates are not raised and improvements are not made, it could have a drastic affect on the City's sales tax as far as its growth. He said it was also asked if the City could reduce five percent of its budget and then use that savings. City Manager Lance Hudnell explained that a lot of that \$90 million is also other enterprise funds, and the City cannot use those funds to supplement these funds. He advised that the General Fund is a \$22 million fund and about ½ of the General Fund (around \$13 million) already goes out to subsidize other funds. He pointed out this is not five percent of \$90 million but more like five percent of \$13 million. He explained that the City cannot use Sanitation funds or other public safety funds to augment this. He stated most of those funds are very limited or have statutory limitations to them. He mentioned that the Board could cut out some other departments or other funding and supplement rates with it, which is an option if the Board make other cuts in other places to do that.

Mr. Mallett said that the rate consultant mentioned that some of the other cities that may be on the list that were compared to have a supplement from the General Fund; and they are subsidized from the General Fund in other cities; but Hot Springs is not. He explained the City is 100 percent fully funded through its Enterprise Funds for water and wastewater. Regarding a comment about reducing five percent of the budget on the utilities, he stated that would amount to about \$3 million. He said the City has spent the last few years trying to cut its budget as it is, and every year the City is asked to at least freeze its expenses where they are at or try to cut. He commented

that is somewhat impossible to do in a system like water and wastewater system where that continues to grow. Therefore, the City continues to maintain more with the same or less amount of money. He advised that staff does everything it can do to minimize their expenses and try to control their budget as best they can. Regarding questions about water lines on South Moore Road, Mr. Mallett said he can attest that the lines that are being moved are for two reasons: (1) because the bridge is where it is. He added he did not tell the Judge where to put it – on which side. However, the City does have to accommodate the bridge where it is; and (2) that line was scheduled to be replaced so the City is going much farther than it had to around the bridge because it was already in the short-term capital plan to replace that line anyway. He noted the City did upsize that line quite a bit farther to each side of the bridge so that was a two-fold project in that the City already had that on the books to be done. Regarding what has happened to the City surplus, he advised the City has done its due diligence in the past seven years that he has been here in trying to get as much done with the amount of money it had. He commented the City has spent \$14 million in the wastewater side in the last five or six years trying to address the issues that it is working on now. Hopefully, the City could continue to do that at its pace and could do it as the money came in. However, EPA has a different deadline in mind. Mr. Mallett stated that the City has spent down the surplus on the wastewater fund from whatever it may have been some years ago, but it still has a surplus on the water side of \$4 million.

Mr. Mallett responded to Mr. Brown, who mentioned the overflow that he had. He explained it is not a leak but is an overflow, and that is a perfect illustration of what the City is trying to correct. He said those are all over town, and currently it may take \$2 million just to correct that one overflow because it is unknown exactly where it is coming from. He pointed out the City has to identify the source of that overflow and then make corrective measures to correct that. He said Mr. Brown is correct and made a good point in that the City has a lot of those, and he happens to have one in both areas that he lived in.

There being no further comments, Assistant Mayor Ramick declared the public hearing closed.

NEW BUSINESS

Assistant Mayor Ramick stated if there are no objections, he would like to move Item 19 to the first item of new business and then consider Items 17 and 18. There being no objections, Assistant Mayor Ramick then called for the reading of Proposed Ordinance No. O-09-35.

19 Proposed Ordinance No. O-09-35

An ordinance entitled, "AN ORDINANCE NAMING AND ACCEPTING A CERTAIN PRESCRIPTIVE RIGHT-OF-WAY AS A PUBLIC ALLEY (MOONEY LANE); RENAMING SAID ALLEY; AND FOR OTHER PURPOSES," was taken from the agenda for consideration.

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

Upon discussion, Mr. Steve Mallett, Deputy City Manager for Public Works and Utilities, advised that a request was received from Ms. Ann Hutchins, who lives at 108 Mooney Lane, to accept Mooney Lane as a public alley into the care and custody of the City. He said Mooney Lane serves as the only viable access to three separate residences since the early 1930s; and sanitation service, postal service, and all utility services currently utilize this roadway. He advised if approved, the cost of these improvements and future maintenance would be rated and ranked within the Street Department's future annual paving program as alleys do have a lower priority for repairs than streets. He stated by approving this, the Board would be waiving the 20-foot requirement that is currently on the books for an alley and would also be waiving the request that before the City would accept it, that it would be brought up to current city specifications and standards. He recommended that the City keep the name the same as Mooney Alley versus a numbered alley, as there may be some addressing off this street.

Director Maruthur pointed out on the agenda it is Alley, and she believes it is going to be Aly for alley. Mr. Mallett explained that the current numbering system is based on what time it came during the year and the year that it came.

City Manager Lance Hudnell explained that Aly is the postal service designation, and the City has adopted that as its abbreviation; and the abbreviation is placed on the sign, which is in accordance with the standards that the Board has adopted. It is also in accordance with the postal standards.

Director Maruthur said she just wanted to make sure for the record and for the printing that it is going to be Aly. City Manager Lance Hudnell replied that when it is abbreviated, it will be Aly.

Assistant Mayor Ramick then called for a vote on the motion to adopt; and upon roll call, the following voted "aye": Directors Maruthur, Jones, Keheley, Ramick, and Daniel, total 5. Absent and not voting: Mayor Bush; motion unanimously carried. Whereupon the ordinance was declared passed.

17 Proposed Resolution No. R-09-209

A resolution entitled, "A RESOLUTION APPROVING COMMUNITY DEVELOPMENT ADVISORY COMMITTEE RECOMMENDATIONS FOR FUNDING OF FY 2010 SUB-RECIPIENT APPLICANTS," was taken from the agenda for consideration.

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

Upon discussion, Mr. Gerald Harman, CDBG Coordinator, advised that the request is to approve the applications that he received in his office for sub-recipient funding, which will be for the fiscal year 2010; and there are four applicants. He advised there are recommendations from the Community Development Advisory Committee on the amounts that they are to be funded and also the amount that was requested. He pointed out there is a short timeframe on this resolution due to the fact that these applicants had originally applied for the CDBG-R funds out of the Recovery Act; and during the course of that time, HUD decided to change the eligible activities that were being applied for. The application deadline was extended for this so that these applicants could apply for 2010 funding since they were not going to be able to apply for the CDBG-R funds. Therefore, there is a short timeframe to get this approved.

Director Maruthur questioned the extended timeframe, and Mr. Harman advised that it has already past; but normally he would not accept applications as late as he did in the year for sub-recipient funding. He added he has a deadline of November 15 to get these applications on HUD's desk.

Ms. Janell Roberts, 1121 Whittington Avenue, said she is opposed to the development, which she understands will be across the street from her. She added that she is not against Habitat for Humanity, but there are two in the Whittington Avenue

neighborhood; and they do not need any more in that area. She stated another neighborhood would be fine because she believes in what they stand for.

Director Maruthur questioned if she was talking about two homes or two communities, and Ms. Roberts said they already have two Habitat communities in Whittington Avenue area. She commented there can be too many, and it will decrease property values. She asked if there are other neighborhoods where they can go.

Ms. Dorian Flanders, 303 St. George, said that she represents her husband and her neighbors; and they oppose the 2010 sub-recipient funding formula, which includes three \$10,000 grants to three institutions (the one-stop home ownership, the Webb Center, and Pleasant Street Neighborhood Association). She stated the residents in the Whittington Valley have no problem with that, but they do have a problem with a \$45,000 grant to Garland County Habitat for Humanity, which has been receiving federal funds; and CDBG grants are federal funds administered through HUD. However, the Board decides where they will go. She mentioned Garland County Habitat for Humanity has received some \$230,000 since 2004; and now they are requesting another \$45,000. She pointed out the balance of those funds, all but \$28,000, has been spent in the Whittington Valley; and they have begun a petition drive. She said this is an issue, and they would like for them to stop building in the Whittington Valley. She pointed out this is not something the Board can effect but would be left to Habitat's Board and their own conscience. However, the City can not aid and abet the destruction of a historic neighborhood, which is exactly what is happening. She said she has a petition with 72 signatures that they started circulating this morning. She then read the petition, which states: "Save Whittington Valley's Identity. While supporting Habitat for Humanity's international mission of eradicating substandard housing, we the undersigned believe that the local chapter, Garland County Habitat for Humanity, has lost sight of that goal and is now poised to cause great harm to the small and historic neighborhood known as the Whittington Valley. Garland County comprises 735 square miles. Whittington Valley has .87 square miles, 1/10 of 1 percent of available county land; yet, we now shelter nearly 50 percent of the Garland County Habitat for Humanity homes built. These homes built since 2005, now account for nearly 15 percent of Whittington housing. These homes add a measure of diversity to a neighborhood already recognized as substantially diverse with its wide range of ages, incomes, races, and nationalities in its residents. However, further, Garland County Habitat for Humanity building will not bring diversity but homogeneity. It will not enhance the Valley's identity but consume it. It will not add to the Valley's vistas and charms but remove them with the wholesale clearcutting of mature trees on heavily wooded lots. The Whittington Valley has welcomed new homeowners and subsidized housing for four

years. It has done its share. We the undersigned believe no new Garland County Habitat for Humanity developments should be started in the Whittington Valley.” Ms. Flanders stated this information was passed to Garland County Habitat for Humanity’s executive director in June, and they seemed to think there would be no community opposition; but there is considerable opposition. She said whether they press forward with this is a matter for them, their board, and the neighborhood to discuss. She noted that she has been invited by Mr. Steve Trusty, president of Garland County Habitat for Humanity, to meet with him in his office, along with a number of other residents next week; and tonight, the Board can stop using federal tax dollars to support the destruction of a historic neighborhood.

Director Maruthur said she is saying it is not up to the Board of Directors but up to the conscience of those who are operating the Habitat for Humanity program. Ms. Flanders commented what they have asked the Board for is Whittington Avenue Habitat for Humanity programs. She commented they went out looking for land and purchased lots on Whittington directly across from the neighborhood park. She stressed that the Whittington Valley has done its share, and she knows the Board is interested in growing this town and interested in enticing new people to come into the community and relocate and retire. She questioned how that can be accomplished when people invest in an older neighborhood, want to revitalize it, fix up a home, and then Habitat programs come into the area.

Director Maruthur asked if she is concerned about preservation, not saturation, of a neighborhood; and Ms. Flanders replied they are concerned because that is exactly the issue. She said that any more homes in that small area makes them not the Whittington Valley but Habitat Valley; and the residents do not want to see that happen. She pointed out the Board of Directors has it in its power to do something to stop it, and they are asking the Board to be responsible and protect this neighborhood by not awarding the \$45,000 in infrastructure work. She said that she would urge the Board to approve the other worthy programs.

Director Maruthur questioned the money that was used to purchase the property in this neighborhood, and Ms. Flanders said she did not know. However, she pointed out this is not a serious problem for them to purchase a property because they can sell it and not be out any money. She said this project is not just on that location, but there is another location on the corners of Walter and Woodmere. She stated those are three acres of heavily wooded lots, which were donated by an elderly widow. She emphasized this is an asset that could be sold and used to further their programs elsewhere and that is what Whittington Valley residents desire.

Mr. Casey Jones, 100 Harrell Street, said about two or three years ago, Mr. John Goodman called Director Maruthur and said he would like to take her on a tour of Whittington and show her what they are going to do. He mentioned at that time, he was president of the Park Avenue Community Association, and they saw the planned projects during the tour; but he had a concern with high density concentration of low-income, first-time family homeowners of 20 or 30 places at one location. He questioned what is going to happen when the downtown area in ten years after these things get built up and those people start spilling over because the City is not doing a service to the people that it is putting in there and is not doing a service to the people that live there and not doing a service to the people who do business downtown. He said that he told Mr. Goodman that he had a concern, and his response was that he was concerned also; but Mr. John Selig said they are going to do a project, which will include building of certain houses; and they were falling behind the project of Mr. Selig and found these wonderful properties here that will allow them to keep up with his projection. He urged the Board to preserve the neighborhood.

Director Maruthur stated that Mr. Goodman is very concerned about the high concentration of putting first-time homeowners in an area. She said that she is a big supporter of Habitat for Humanity and had asked if Habitat could be used for infill in different parts of the community, including the Park Avenue, District 1 area. She said they had many discussions about that, but the concern was of grouping people together in such a way as to isolate them from becoming a part of a community or if they are creating an isolated community. She commented this has nothing to do with the concept or the intent of Habitat for Humanity but has to do with its application in neighborhoods and the community. She said it was her understanding that there were certain numbers that needed to be attained for some goals and that the easiest way to do it was to just get a piece of property and do it; and that is what has been done. She mentioned that she has been contacted by several people from the Whittington Valley neighborhood and that is their concern. She commented there was another attempt a few years ago near St. George, and it has now been dedicated for trails. She noted the owner who gifted this to the City was alive, the City contacted Mr. Trash; and he made sure his intent was realized. She mentioned the people in Whittington were grateful because it was going to be a large development. When that did not happen, then they found another place, which has been an established pattern. She said there was a lot of frustration and concern because as Ms. Flanders pointed out, 1/10 of one percent is a disproportionate amount of development in an area that is trying to sustain its identity. She recommended that the Board rethink the \$45,000. She said she did not think that Quapaw-Prospect, Eastgate, Jonestown or any area that had an abundance

of property would want to redefine their area as the Habitat area; and she did not believe that is the mission statement. She added that the purpose is to provide housing for people and bringing them into housing they deserve; and the City is doing what it can and is the reason the Board has waived so many issues for many years for Habitat for Humanity because the City appreciates and welcomes them in their efforts. However, sometimes common sense has to be used even if something is close to a done deal or in the works, it is never too late. She commented that when something is not done, it is not a negative; but sometimes it is re-thinking and looking at the consequences of what is being done. She said she would like to see Habitat for Humanity deserve and continue to gain the respect that it has had all of these years, and the only way to do that is by sitting back and rethinking. She added that she was not aware of the 1/10 of 1% until it was brought to her attention; and unless individuals live in an area or if it is isolated, they do not know. She commented that saying “no” or rethinking it is not negative, is not wrong, and is not going against a program. Director Maruthur said that she is going to recommend that the Board table this and allow these people to meet with Habitat for Humanity, Also, she wants to look at some numbers and wants to do the right thing, but sometimes people do not know what the right thing is unless they are really familiar with it.

Mr. John Goodman, 304 Meadowbrook, stated the houses that Habitat for Humanity has built so far in that area have been built in a couple of gravel pits, which have been donated to them, one by the Wheatley Family and Ken Wheatley. He said this Village of 15 families is adjacent to the Weyerhaeuser Company plant, and the second Village is on top of a hill up Walnut Street on past Linden Park, which is the Shaw Habitat Village (Shaw property donated by Chester Shaw). He advised that Habitat for Humanity is currently developing this property, and there will be 16 families living on top of the hill and three families at the foot of the hill. He mentioned the issue of contention before the Board tonight, which he can appreciate, is maintaining the identity of the Whittington Avenue community. He added that the funds they have requested for assistance are mostly for five lots just past the trailer park on Whittington. He said he was not aware there was anyone living across the street from those five wooded lots. He stated the figures provide to Habitat for Humanity, by B&F Engineering, was just for the infrastructure work; and they actually requested \$88,000 for eight lots (five lots that they purchased past the apartments and three other lots on Walter that Ms. Landers mentioned, which were donated by the Chitwood Family). He said that he was confused on how Habitat for Humanity is going to destroy the identity of the Whittington Avenue area since the Wheatley Village and Shaw Village are so isolated. He mentioned the houses in Shaw Village are not projects but are \$65,000 to \$75,000 quality houses.

City Attorney Brian questioned the name of this new development; and Mr. Goodman replied there is no name, noting they are five platted lots, which were platted many years ago. He said anyone could have bought one of the lots and built a home anytime. City Attorney Brian Albright asked if he took this to the Planning Commission as a new subdivision, and Mr. Goodman replied that he did not because they were previously platted lots that they were able to buy from the Thomas Family. Therefore, there is no name for this; and it is not a development. He added they have not applied for permits for these lots since they just acquired them.

Director Maruthur asked if he remembered the concerns he expressed about people who were first-time homeowners and the fact that they would not be a part of the neighborhood because they would be in an isolated area, and Mr. Goodman replied that he did. Director Maruthur said there are some “projects” in the area and asked if he could define what he thinks is a “project community.” Mr. Goodman stated that he is not sure he would have a definition, but what comes to his mind is a large number of housing units in one particular location built for low-income buyers or renters.

Director Jones asked if he thought he could sell this property, and Mr. Goodman said that he really could not answer that. He added it is a wooded area, and they had purchased these five lots.

Director Maruthur pointed out that the five houses could be placed somewhere else, which is all they are asking.

Director Daniel commented that he is a supporter of Habitat for Humanity and always has been and has previously said that he would not have a problem taking CDBG money, with the exception of the money needed for a director, and having this money go to Habitat for Humanity every year to build new homes for people who deserve an opportunity to live in a new home. He said that he and Director Jones have talked about areas off Wade Street and Chattanooga Street, and he took some staff over there. He commented it is beautiful land and has street, curb and gutter but is just grown up. He said there are areas over there that he would like to see, whenever the City condemns property, if Habitat for Humanity can build on them. He said his problem with denying this is the fact that these are five lots; and he knows there is a home on past the projects, which means high rise building in Chicago where there are many people living inside one structure. He stated he did not consider these “projects: but are single-family homes. He mentioned that he drives by these single-family homes everyday off Hollywood and has driven up through there many

times around the park and does not know of any problems anyone has had there. He said that these homes are well-kept, and the residents are making a statement that they want to live in a home and not in a "project." Regarding comments that there is nothing in Garland County, he pointed out that maybe the people who are going in these homes might not be able to commute from out in the county to where they work. He said he does not know why Habitat for Humanity has not built homes in the County, but transportation may be one of the reasons. He pointed that no one in the Historic Whittington Valley wanted to purchase these lots and develop them; and they just let them sit there and grow weeds; also, these might be the same people who did not want medical care facility in this area. He said that he knows what Habitat for Humanity does, and they are going to put five more families on five lots that have already been platted and have all of the utilities there. He questioned how the City could deny that.

Director Jones said when the discussion was going on about the Board travel and she was going to all of these workshops, she came back and asked if the City could apply for that money. City Manager Lance Hudnell told her that Hot Springs was not an urban city and could not get the money. She said every time she went to a workshop, she kept asking. Finally, Hot Springs was an urban city and received the money and started using it. She reported when Congressman Ross came to town, she took him on a tour to some of these homes; and he was impressed that people took such good care of them. She said now the City has submitted grants for this money; but when Whittington needed some sidewalk money, they came to the City for some of the HUD money, which it approved for sidewalks. She said that she is appalled that all of a sudden, it is "not in my neighborhood." She commented that she is concerned that they would even come before the Board. She stated that she went to workshops asking for money to make Hot Springs look better. She mentioned there are drug houses on Whittington and recommended cleaning up the neighborhood and allow Habitat for Humanity to construct some homes. She said as long as she is sitting on this Board, she will never vote for anything for the Whittington neighborhood; and it is because they are degrading people all of a sudden.

Director Maruthur commented that Habitat for Humanity has introduced good housing into an area on Hollywood, and the concerns of the people living on Whittington Valley is that they are being saturated with housing. She stated that right now, there are trees and woods; and that is what they bought, not drug houses. She pointed out this is not about drug houses but is about people. She said there is an environmental element and is a saturation element. She stated the people on Whittington are asking for the government funds. She pointed out as Director Daniel said, there are some areas that have curb and gutter and utilities in Director Jones' neighborhood that could

benefit or another neighborhood that could benefit. She said it is the saturation of the housing in one small area, and she was not aware of it but became aware of it in the last couple of days. She commented that she will never allocate money to any area of the city or even if it involved the county just because somebody said something that she did not like.

Director Jones suggested finding an area on Park Avenue on Circle Drive.

Director Maruthur responded that she has talked to Mr. Goodman about some infill in the Park Avenue area, and her votes are for the betterment of the community. She said they are not tied to one individual or a group from a neighborhood. She stated she is not going against any neighborhood that is asking for a consideration because they feel a certain way, and she does not retaliate because of what some people say. She stressed her job is to represent the city and betterment of the community.

Mr. Zac Smith, 919 Whittington, said he bought his property out of foreclosure, which is the old Zimdar House, built in 1920; and they ran the concession when Whittington Avenue was a midway; and there was a fair in that area. He said that when he heard that the lot behind him across the street from Walter was going to get built up like the other neighborhoods, he walked around and asked the neighbors what they thought about it. He said as he walked around this morning with his petition, he received two pages of signatures. He also walked up and down Woodmere, Walter, and Whittington and asked the people who live around these pieces of property what they thought. He said they thought that Whittington Valley had enough development of the type proposed by Mr. Goodman's corporation. He expressed appreciation to Mr. Goodman and the developers for taking that marginal land and turning it into the Wheatley neighborhood and the Shaw neighborhood because he took marginal land that was gravel and pine and put in taxpaying citizens. He said they are now a welcome part of the community. As he talked to his neighbors, he recognized there was a lot of warm support for Habitat for Humanity and for the work they do; but then they looked at the big wooded lot and realized that is different than the other two neighborhoods that they have put in because this is a neighborhood lot and this is surrounded by people on all sides.

Mr. John Selig, 467 Peninsula Drive, said he has been involved with Habitat for Humanity since they started and did not think they have ever built a house that they have not had some people come up and say they do not need this in their neighborhood. However, when they finish these houses, they have had a lot of people say they have improved the neighborhood and have built some quality houses and

brought in some quality people. He said that he is not going to argue with the people in Whittington but would encourage them to drive by the new area in Shaw Village where they are building some beautiful, quality homes with quality families; yards are being put in with sod, which is not seen a lot in this area; the Master Gardeners are putting in beautiful landscaping around the houses; the families are bonding together; people are proud of what they have; and the children have self-esteem because they have a nice home. He commented they are trying to do some things with families that cannot qualify for a conventional home, but they are hard-working families.

Director Maruthur said she had the pleasure on voting when his wife Helen was the Mayor; and there was an issue that came up in his neighborhood where there was a development being proposed with smaller lots. She stated Mayor Helen Selig was not in favor of this, and Director Maruthur said she listened to the neighbors' concerns; and it was her pleasure to vote against making these lots smaller so as to protect the property values in this area. After the meeting, she said that Mayor Selig thanked her for helping the neighborhood and preserving their property values. She said that she responded that she was just preserving the integrity of the neighborhood. She pointed out that no one was questioning the background of the individuals who would have moved into the area. She pointed out nobody was opposed to who was going to move into the neighborhood, but it had to do with stabilizing and preserving the integrity of the neighborhood. She said the people who live on Whittington are looking at a wooded area in a very rich, old historic neighborhood. She noted even though they may not be high-dollar homes, they have a rich history; and they have pride in their neighborhood and feel like the neighborhood is saturated with this new housing, which happens to be Habitat housing. She said they are asking for the woods and trees to remain, and there are still concerts on Whittington. She stressed this is about the integrity, and she is asking Habitat for Humanity to reconsider these and place them in other neighborhoods, even Park Avenue. She said that she and Mr. Goodman have discussed this many times, and there is a need for in-fill in the City. She asked if he would do it.

Mr. Selig replied that she asked him a couple of years ago when they started the Shaw Village if they would do some in-fill work; and he told her they would. He advised that they bought a single lot on Juniper Street and are going to build there. He said they have three lots donated back off of Whittington and are going to build there; and they also bought five lots. He pointed out this is not a village, and these are platted lots of the City. He said someone is going to build a house there, and he stressed these are quality homes.

Director Maruthur stated it is not about the homes and he continues mentioning Whittington; and they are concerned about their neighborhood. Director Maruthur asked if he would consider another area; and Mr. Selig replied that he would but probably not very long.

City Attorney Brian Albright pointed out there are only five members present on the Board tonight, and the options are to vote the resolution up or down. He advised it takes four votes to approve; therefore, if three Directors voted to approve, that is not approving and would fail. However, it would also fail for the other three applicants that are being considered. He explained the other option would be to table it; and if the Board tables it, the timeline is a problem. Therefore, the other recipients may not receive their funding either. He said the Board could amend to remove Habitat for Humanity from the consideration; and that would leave \$45,000, which has to be reallocated to some other sub-recipient or the money is lost, or the Board could approve as written, with the funding, but ask CDAC to change the action plan.

Director Daniel asked if Mr. Goodman has filed for any type of permits saying he was going to bulldoze all of those lots and wipe all of the trees off and make it smooth. Mr. Goodman said that they have not initiated any plans and have not applied for building permits. Director Daniel questioned how they knew all of the trees were going to be taken down, and Mr. Goodman said that he did not know. He added they have a sketch that has been provided by Mr. John Rogers, of B&F Engineering, showing a possible alignment of those houses on those lots so it will fit into the neighborhood and will not look like a row of houses all equal frontage from Whittington. Director Daniel asked if any trees will be left, and Mr. Goodman replied that there would. He added the proposed plan by B&F Engineering is to place the houses so that the large trees on the lot are preserved.

Assistant Mayor Ramick asked if these are going to be five identical houses, and Mr. Goodman advised that they will not look identical from the front. He said they have several different floor plans and frontages, and landscaping is by the Master Gardners; and they will not look identical.

Director Maruthur asked if he could weigh it percentage-wise, how much the consideration for the concerns of the people weigh into this, and Mr. Goodman replied that they have turned down other developing opportunities because people felt they were not welcomed. He said it is always a little painful to have to endure this and to say they are not welcome in a neighborhood, but they have made changes in the past.

Director Maruthur said they are already in Whittington and have wonderful developments already there. Mr. Goodman pointed out none of these touch Whittington Avenue anywhere.

Ms. Kathy Sellman, Planning and Development Director, said the question was how could this be allocated in such a way that the expenditure would not occur for further Habitat development in the Whittington Valley. She stated that is an option the Board has. She explained the Action Plan would then be developed accordingly, and this is the first step – deciding what projects the Board wishes to fund. She stated there are a number of studies including one on impediments to housing affordability in the City of Hot Springs that was completed this year, and it tells her that affordable housing is needed. She said it does not have to be in Whittington Valley. She noted it is an option for the Board to consider funding Habitat's work but see it in some other location.

Assistant Mayor Ramick stressed that he did not want to see the City lose the money.

Director Keheley thanked the committee of CDAC for its work and Mr. Gerald Harman, CDBG Coordinator, for all of his work on this. At this time, a motion was made by Director Keheley, duly seconded by Director Maruthur, to approve the CDAC funds for all of the requests, but that Habitat receive the funds but not earmarked for Whittington.

Upon discussion, City Attorney Brian Albright asked if that is permissible and asked if Ms. Sellman needed anything other than just the motion that was made in order for her to amend the Action Plan. Ms. Sellman replied that would be sufficient.

Director Jones asked if that would hurt any of the recipients and the money would still go to Habitat, and Ms. Sellman advised there is nothing wrong with doing that.

Director Daniel commented that several people have talked tonight about how quickly they got their petitions signed today; and in both instances, they have used the term that they are going to cut down all the trees. He said he was wondering if some of the people who signed these petitions thought they are going to go ahead and bulldoze these lots down, and they went ahead and signed the petition and did not think these were platted lots, and anybody could buy a lot and build a house there. He questioned if there was something put out there to make them want to sign the petitions.

Director Maruthur pointed out this is not about fear and doubt but is about saturation. Director Daniel mentioned wasting five lots on Whittington, and there are no other homes on Whittington. Director Maruthur pointed out there are two communities there, plus the lots; and Mr. Selig shared there are going to be some others that have been secured (Juniper). She said there is a motion and second on the floor; and if there is a motion and second, the Board has to take action on it. She then called for the question.

Mr. Goodman asked for clarification if this amendment passes and if this is a directive to Habitat for Humanity not to develop this property, and Director Keheley replied that is not correct.

City Attorney Brian Albright explained they cannot use the funds that are being appropriated through this particular resolution on that particular property. Mr. Goodman said they have \$45,000 which would have to be extended in 2010. He pointed out this was planned for 2010; so in effect, they will lose this \$45,000. He added it has to be spent in 2010. City Attorney Brian Albright asked Ms. Sellman if this has to be spent in 2010, and Ms. Sellman replied that a project needs to be identified and would be good to have something specific. She said that she recognizes that Habitat for Humanity is being placed in a difficult position asking them to identify tonight an alternative project.

City Attorney Brian Albright asked when they would have to identify that; and Mr. Gerald Harman, CDBG Coordinator, advised that November 15 is the deadline when he has to have this submitted. However, he has to have a 30-day comment period, CDAC approval, as well as the Board's approval of the Action Plan once he gets that completed. He added there is a three-year window for them to extend the funds, and there are restrictions that they cannot go backwards and submit a pay request for something that was done previously. However, it does not have to be done within that program year.

Director Maruthur asked when someone calls for the question, if that does not end discussion. City Attorney Brian Albright advised not necessarily. He added if the Mayor recognizes that the question has been called and then calls for the vote, then it does. He explained there is a procedure by which someone can raise an objection to the question. He pointed out the Board does not necessarily follows Roberts Rules of Order. He said there was still discussion, and a person cannot call for a question to

abrupt discussion. Director Maruthur stated that she called for the question, and then the discussion followed.

Assistant Mayor Ramick then called for a vote on the amendment to the resolution; and upon roll call, the following voted "aye": Directors Maruthur, Jones, Keheley, Daniel, and Ramick, total 5. Absent and not voting: Mayor Bush; motion unanimously carried.

Assistant Mayor Ramick then called for a vote on the motion to adopt the resolution, as amended; and upon roll call, the following voted "aye": Directors Maruthur, Jones, Keheley, Daniel, and Ramick, total 5. Absent and not voting: Mayor Bush; motion unanimously carried. Whereupon the resolution was declared adopted, as amended.

18 Request from Haven United Methodist Church Regarding Additional Water Leak Adjustment

Finance Director Dorethea Yates advised a request was submitted by Haven United Methodist Church for a billing adjustment. She said normally, Haven United Methodist Church has a bill in the range of \$37 to \$40 a month. In June 2009, they were billed \$2,070 for water used indicating a major leak. In accordance with the City's policy, they were given an adjustment of \$1,527, which consisted of 50 percent of the leaked water and 100 percent of the wastewater charges since it was determined that the wastewater did not go into the City's system and did not have to be treated. They received a bill in July for \$46; and then in August, they received a bill for \$375.76, which indicated a leak. She said the City provided them with that 50-100 percent adjustment for a total adjustment of \$247.23; and the latest meter reading indicated this has been fixed. She advised they have requested an additional adjustment of \$580.84, which is the entire amount of the leak, minus the minimum bill. This leak was over ½ million gallons of water that the City had treated at its wastewater plant. Staff recommendation was that it continue to uphold its policy, but the Board has the authority to make another recommendation.

Reverend Clyde Hughley, 104 Galahad Court, pastor of Haven United Methodist Church, was recognized; and said since the fire destroyed Haven Church, 1½ years ago, they have undergone a lot of financial hardship. He stated if it is the Board's decision to help Haven United Methodist Church in this area, they will accept that with great appreciation. However, if the Board feels it is an issue it cannot overstep

certain bounds and cannot do so, he said that the Church accepts that also respecting the position that the Directors, the Mayor, and City Manager have.

Director Maruthur stated that Haven United Methodist Church has been through a horrendous 1-1/2 years; and they have struggled. Even though their church burned to the ground because of a faulty wiring, she pointed out they have managed to survive and have provided services for the community. She stated they have given since the time their church burned down; they have been embraced by a lot of people; and the church she attends has helped. She said she does not feel there is enough the City really can do for people who have continued to serve the community under the circumstances that they had to survive under. She pointed out they cannot afford to pay this but continue to serve the community.

A motion was made by Director Maruthur, duly seconded by Director Jones, that the request from Haven United Methodist Church for water leak adjustment be approved in the amount of \$580.54; and upon roll call, the following voted "aye": Directors Maruthur, Jones, Keheley, Ramick, and Daniel, total 5. Absent and not voting: Mayor Bush; motion unanimously carried.

OTHER BUSINESS

20 Board of Directors Items for Discussion

Director Jones announced that Pleasant Street Association will have its monthly meeting on Saturday, at 1 p.m.; and food will be served.

Director Maruthur announced there is still an account set up for the family of deceased firefighter Gene Yarbrough at Regions Bank. Also, there is a program called CodeRED; and residents may call Paula Brown at 321-6860 or 321-6861 to sign up for this free service. The service will let residents know if there is inclement weather or if their garbage will be picked up a day early or late because of a holiday. They may give a cell phone number or land line number.

21 City Manager's Report

City Manager Lance Hudnell gave the following report:

1. Under Consent Agenda, the Board approved receiving a COPS Grant for two additional police officers. It approved a discount drug card program through the National League of Cities. This is not a benefit to the city organization itself but to the community as a whole. It is something that local businesses may be interested in participating in because it allows people to get a discount on their drugs. The Board approved receiving some additional Community Development Block Grant funds that will be going toward the housing rehabilitation.

2. Mr. John Selig was presented Volunteer of the Year award by the Arkansas Economic Development Commission. That is the first time a Hot Springs resident has been selected for that award, and it is a prestigious statewide award.

3. There are a number of openings on the advisory committees.

4. The City received the Shine Award this year from America the Beautiful Organization, with thanks to the Beautification Commission and Mr. Adam Roberts, executive director.

5. Compliments were received from Prosecuting Attorney regarding Detectives Russ Norris and Frank Abbott with a particular difficult case where they had to work many, long hours. A compliment was received from Mr. Anthony Taylor, at 210 Central, regarding a speedy response of the Fire Department to a fire they had. A compliment was also received from Mark and Debbie Adams in the Forest View area regarding city crews that worked on a project that Director Ramick had assisted with in getting some streets fixed in that area.

6. At the next meeting, the Board needs to be prepared to discuss when it would like to set the budget retreat. This will need to be held in October.

7. Times need to be set for the special meetings that will be coming up for the selection of a Director for District 4. One of them will be on Tuesday, September 29, following an agenda meeting, which would be the time for doing interviews. The other date is Tuesday, September 22, when the Board will be going through the applications. The time of 5 p.m. was set for that meeting.

22 ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 9:40 p.m., to meet again on Tuesday, September 15, 2009, at 7:00 p.m.

ATTEST: _____
APPROVED: _____
Lance Hudnell, City Clerk

Rick Ramick
Assistant Mayor