FINAL AGENDA
FAYETTEVILLE CITY COUNCIL
AUGUST 3, 1999

A meeting of the Fayetteville City Council will be held on August 3, 1999 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

The following items will be discussed:

A. CONSENT AGENDA

1. **APPROVAL OF MINUTES:** Approval of the minutes from the July 20, 1999 City Council meeting.

2. **TREATMENT PLANT STUDY:** A resolution authorizing the Mayor and City Clerk to execute a contract with Burns and McDonnell for a Plant Capacity Study to be done at the Noland Wastewater Treatment Plant for a not to exceed figure of $32,472.00.

3. **DICKSON STREET SURVEYS:** A resolution approving a contract amendment with the Benham Group for property surveys along either side of Dickson Street from College Avenue to Arkansas Avenue, for the purpose of establishing the right of way, in the amount of $31,950; and abstract work for $10,000; for a total contract amendment of $41,950.

4. **HARDIN PROPERTY SETTLEMENT:** A resolution approving settlement of City v. Hardin, CIV. 99-561, and payment of just compensation for the taking of real property in the amount of $52,396.50.

B. OLD BUSINESS

1. **RZ 98-22:** An ordinance approving rezoning request RZ 98-22 submitted by Richard Osborne on behalf of Littlefield Investment Company for property located at 1798 East Huntsville Road. The property is zoned C-1, Neighborhood Commercial, and contains approximately 0.788 acres. The request is to rezone the property to C-2, Thoroughfare Commercial for the purpose of installing a used car lot. Item was left on second reading at July 20, 1999 City Council meeting.

2. **TOWN CENTER:** A resolution approving a construction contract for the Fayetteville Town Center with Nabholz Construction Co. for a negotiated bid amount of $7,346,408; contingency amount of $150,000; and approval of Change Order #1 in the amount of $970,162; plus approval of a budget adjustment.

C. NEW BUSINESS

1. **VA 99-8.00:** An ordinance approving vacation request VA 99-8.00 submitted by Laura Kelly of Rob Sharp Architect on behalf of East Avenue Investment Group, LLC for property located between blocks 4 and 5 of Harrison's Addition. The property is zoned R-2, Medium Density residential. The request is to vacate an unconstructed section of Fletcher Avenue between Center Street and the point where Fletcher Avenue's asphalt surface curves east from the platted right of way.

2. **RZA 99-1:** An ordinance approving annexation request RZA 99-1 submitted by John Burrow on behalf of Karen Hanna for property located at 3686 Wilson Hollow Road. The property is in the planning growth area and contains approximately 4.54 acres. The request is to annex the subject property into the City of Fayetteville.

3. **AHTD REIMBURSEMENT:** A resolution approving the repayment of the Arkansas State Highway and Transportation Department federal aid enhancement funds reimbursed for the design of the St. Paul Rail Trail and Errol Street Trail since the St. Paul Trail will not be constructed and the Errol Street Trail has been changed. Also approval of a budget adjustment to fund this request.

City Council
August 3, 1999

Charlie Theresa
Tim
Kevin
Jerry

Roll call					
DAVIS	✓				
TRUMBO	✓				
DANIEL	✓				
SANTOS	✓				
YOUNG	✓				
RUSSELL	✓				
REYNOLDS	✓				
AUSTIN	✓				
MAYOR HANNA	✓				
Consent Agenda	CY, BD				
DAVIS	Y				
TRUMBO	Y				
DANIEL	Y				
SANTOS	Y				
YOUNG	Y				
RUSSELL	Y				
REYNOLDS	Y				
AUSTIN	Y				
MAYOR HANNA					
RZ 98-22	5-4				
DAVIS	N				
TRUMBO	Y				
DANIEL	N				
SANTOS	N				
YOUNG	Y				
RUSSELL	N				
REYNOLDS	Y				
AUSTIN	Y				
MAYOR HANNA	Y	tie-breaker			

HD, TT,

BD, Tim [illegible], Richard Osborne (petitioner), TT, BD, FH, BD, TC
RA, TT, [illegible], TT, Osborne, KR, KS, RA, TT, TC
FH

City Council
August 3, 1999 p2

Contract + Section 2 additions
Additional changes
of exhibit B
take transfer of offstreet

Town Center	② TT, RA ① KS, BD-withdrawn	③ KS, BD 6-2	④ CY dies for no second		
DAVIS		Y			
TRUMBO		Y			
DANIEL		N			
SANTOS		Y			
YOUNG		N			
RUSSELL		Y			
REYNOLDS		Y			
AUSTIN		Y			
MAYOR HANNA					

FH, TT, KR, (Davis Austin nal), HD, TT, Charlie Venable, FH, BD, J Rose, FH, HD, RA, CY, KR, Kevin Crosson, TT, RA, FH, KS, FH, RA, RR, Richard Alderman, RR

RZA 99-1	BD, RA, HD, KS, KR, BD BR	BD, Alderman, TT, RA, BD, CY?	Rose, BD	KS, BD	RA, CY, KR *
DAVIS	Y	Y	Y		
TRUMBO	Y	Y	Y		
DANIEL	Y	Y	Y		
SANTOS	Y	Y	Y		
YOUNG	Y	Y	Y		
RUSSELL	Y	Y	Y		
REYNOLDS	Y	Y	Y		
AUSTIN	Y	Y	Y		
MAYOR HANNA					

Rose, John Burrow?, BR, Burrow, BR, Burrow, BR, TC, FH, BD, TC, RA, BD, 1st vote FH

AHTD Reimbursement 8-0	RA, KR				
DAVIS	Y				
TRUMBO	Y				
DANIEL	Y				
SANTOS	Y				
YOUNG	Y				
RUSSELL	Y				
REYNOLDS	Y				
AUSTIN	Y				
MAYOR HANNA					

FH, BR, KS, Venable, KS, Venable, KS, Venable, RA, Venable, KR, KS, BR, ~~Venable~~ FH, RA
KS, RA, Venable, RA, Venable, HD, Venable, KR, Venable, KR, Venable, HD, Venable, BD,
CV, BD, HD, KR, BR (Hearsay), FH, CY, FH, CV, KS, CV, RA, KS, FH

* Joe Fennel of A[illegible] Fennel, Jeff Erf, TT, KR, Erf, TT, HD, Erf, FH, Crosson, E
Alderman, FH, Erf, FH, KS, FH, Rose, KR, Alderman, Erf, Jim Bemis, RA, Fred Vorsanger,
~~Dan~~ Kent Hirsch-Spadale atty, TT, HD, [illegible] CY, Rose, Hirsch, Lamar Pettus (?), RA, Bruce Gunn
FH, HD, CY, KR, Alderman, [illegible] T, BD, CY, BD, CY, FH, BD, Rose, CY, Alderman
Crosson, BD, RR, KR, FH [illegible] KS

MINUTES OF A MEETING
OF THE
FAYETTEVILLE CITY COUNCIL
JULY 20, 1999

A meeting of the Fayetteville City Council will be held on July 20, 1999 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

PRESENT: Mayor Hanna; Aldermen Reynolds, Austin, Davis, Trumbo, Daniel, Santos, Young, and Russell; City Attorney Jerry Rose; City Clerk Heather Woodruff; Staff; Press; Audience.

ITEMS	ACTION TAKEN	
Approval of the Minutes	Approved	
Bid 99-8 Wilson Park Tot Playground	Approved	Res. 95-99
Bid 99-9 Root School Playground	Approved	Res. 96-99
Airport Terminal Apron Rehabilitation	Approved	Res. 97-99
Airport Bid for Eight-bay T-Hangar	Approved	Res. 98-99
Town Center Report	No Action Taken	
RZ 98-22 1798 East Huntsville Road	Left on Second Reading	
Fire Department External Defibrillators	Passed	Ord. 4173
Cable Transfer	Passed	Ord. 4174
Internet Site Endorsement	Approved	Res. 99-99

MINUTES OF A MEETING
OF THE
FAYETTEVILLE CITY COUNCIL
JULY 20, 1999

A meeting of the Fayetteville City Council was held on July 20, 1999 at 6:30 p.m in the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

PRESENT: Mayor Hanna; Aldermen Reynolds, Austin, Davis, Trumbo, Daniel, Santos, Young, and Russell; City Attorney Jerry Rose; City Clerk Heather Woodruff; Staff; Audience, and Press.

CONSENT AGENDA

APPROVAL OF THE MINUTES

Approval of the minutes from the July 6, 1999 City Council meeting.

RFP 99-8

A resolution selecting TNT under RFP 99-8 for the Wilson Park Tot Playground in the amount of $46,179, plus a project contingency of $3,000 for a total of $49,179.

RESOLUTION 95-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RFP 99-9

A resolution selecting Midland Construction Company, Inc. under RFP 99-9 for the Root School Playground Project in the amount of $43,909.

RESOLUTION 96-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

TERMINAL APRON REHABILITATION

A resolution awarding Bid #99-57 for the Terminal Apron Rehabilitation Project to Pavement Specialists, Inc. in the amount of $281,547.83 and a project contingency of $31,552.00; and $6,000 for materials testing. And approval of a budget adjustment to cover the project contingency and increased cost over the original project estimate.

RESOLUTION 97-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK

T-HANGAR BID

A resolution awarding Bid #99-66 approving a construction contract for an eight-bay T-hangar to be awarded to Gray Construction, Inc. for a bid amount of $264,364.50; a project contingency (10%) of $26,436.00; materials testing amount of $1,000; plus approval of a budget adjustment.

RESOLUTION 98-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Alderman Daniel moved to approve the consent agenda. Alderman Davis seconded the motion. Upon roll call the motion carried unanimously.

OLD BUSINESS

TOWN CENTER REPORT

A discussion of suggested cost reduction items to reduce bid amount made by Nabholz Construction Co. for the building of the Fayetteville Town Center. Bids on this project are binding on the apparent low bidder for 90 days; therefore, August 4th is the last date to complete a contract with Nabholz. $792,541 in proposed cost reductions have been identified in the project to arrive at a current cost of $7,569,292 – leaving the bid $219,292 from the budget.

In response to questions from Alderman Young, Mr. Kevin Crosson, Administrative Services Director, explained they had prepared an outline of funding available with the staff suggestions for funding the additional cost for the Town Center. He explained the handout presented. Currently their estimated cash and investments available to spend on the Town Center was $7.629 million. The certified bid amount was $7.35 million, which had been the estimate. At this point, the projected additional investment earnings to the end of construction would be $7.629 million. They recommended that if they were going to spend additional funds that they spend approximately $386,600 from the Off-Street Parking fund, which was an appropriate use. The forty extra parking spaces and any additional expenses they recommended come out of the general fund balance.

Alderman Trumbo stated that it was his understanding that the Off-Street Parking Fund had been accumulated over time from the city's parking lots.

Mr. Crosson replied the fund had been set up from leased spaces and the off-street parking lots and meters around the square. The fund was set up to maintain parking lots and future acquisitions of lots. He thought it was an appropriate use of money. He added there was an unreserved fund balance of a little over $600,000.

Mr. Richard Alderman, Project Architect, explained the history of the project. The project had been bid on May 6, 1999. The overall bid was $8,786,650.00. At that time in the bid they took three deductive alternates as part of the bid process, which did not include the negotiated changes. Some of the items listed were: portable kitchen equipment, loading dock leveling equipment, and 40 parking spaces. The alternates reduced the bid amount to $8,361,833. Since that time they have been able to identify approximately $800,000 to $850,000 of cost reductions. He presented a summary sheet of recommended changes to the project.

Alderman Trumbo stated the bonds had been approved and sold to take advantage of the lower interest rates. He knew some people thought they were getting the cart before the horse by already issuing the bonds.

Mr. Alderman replied they had discussed the two different strategies to go forward with the project. They could have spent a lot of time on architect fees before the vote or do the best estimate that they could at the time, then bring it to a vote before they spent a half million dollars on architect fees. They had taken the initial drawings to develop the project from the original concept. Construction and inflation were more than they had thought they would be. All major construction projects had been higher than they should have been. He thought this was a normal part of the process.

Alderman Trumbo asked which items had increased so dramatically from the original estimates.

Mr. Alderman replied the original estimates had been between $6.9 million to $8.3 million. The city had chosen a budget based on the how much they wanted to put into the bonds of the $7.2 million. What had affected the construction industry in Northwest Arkansas was the fact that there was a large amount of projects and there was not enough laborers or subcontractors to fill the demand. He felt they had three very good bids for the project.

Alderman Daniel questioned what would happen to the bonds if the Council did not go along with the additional funding.

Mr. Crosson explained there was a redemption clause in their indenture that allowed to pay the bonds back plus interest to the day of the redemption call date. It would not be like a default. The cost to the city would be the accrued interest. He added the city was looking at another large project. He cautioned this kind of thing would be difficult to explain when they were trying to market $80 million in additional bonds, such as for the sewer treatment plant. It would not look good for the city.

In response to questions from aldermen, Mr. Crosson explained that, due to a recently passed state law, the city had to approve a contract which was no more than their certified amount that they put out for bid, which was $7.35 million. They had to negotiate with the low bidder down to the that amount, then award the contract, then they could add items back in by a change order.

Mr. Alderman explained the time constraints with the change orders. He explained they were considering removing two elevators, which could be installed later to save money. He explained the necessity of having two freight elevators. He explained the general changes they had worked on with the contractor to lower costs, such as work conditions, time constraints, landscaping, testing allowances, waterproofing, painting, window tinting, substituting materials, elevators, exterior items, canopies, changing precast to concrete block, an alternate brick, brick pavers, and painting of the parking deck. Interior items included: freezers for long term storage, electrical window shades, movable dividers, storage areas, service desks, fiberglass columns rather than precast, glazing on windows, mechanical items, thermostat control rather than computer control in heating and air, and removal of the heating system in the tower.

Mr. Richard Alexander, an area resident, stated that the Downtown Dickson Street Enhancement Project viewed the development on the Square as a major piece of the overall rehabilitation of the downtown area. They supported the town center. He felt it was very important for the council to go forward with the project. He expressed his support for the town center and his concern that the project might get derailed because of the budget. Since the vote on the project, business decisions had been made on the basis that the project had been approved and the city was making a commitment to the downtown area. The parking was being addressed. This had been viewed by many people to invest in the rehabilitation of the square and the downtown area. It was important from a business sense that the city not be perceived as waffling on this issue. It was a project which had been approved by the voters. In his opinion the overage was very small. He personally would like to see the city approve the project as proposed. He felt the parking was the most important thing of the project. He thought the expanded parking would attract business to the downtown area, which would increase the rehabilitation.

Mr. Jeff Erf, an area resident, questioned where the money would come from.

Alderman Trumbo explained they were proposing some money out of the Off-Street Parking Fund, then some out of the General Fund.

Mayor Hanna added the additional money would be to add additional parking and leave in the partitions and the two elevators.

Mr. Erf asked if they were going to keep the blinds.

Mr. Crosson explained there was additional money at the A&P level where they could consider some of the smaller items. What the city had presented to the council was the big ticket items. They were open for discussion on what items to fund and not to fund.

Mayor Hanna explained the city needed to award a contract for $7.3 million, then they could add additional items in later. They could add all the items back in if they wanted to, float a secondary bond issue based on the income the town center would produce, and pay it out over a period of time. He did not think they needed to do it, but it was a possibility.

Mr. Erf questioned where the money would be coming from for the additional items which would be added later.

Alderman Trumbo replied the money would come from the HMR Tax, additional funds from the

City, or the cash flow from the facility.

Mr. John Lewis of the Bank of Fayetteville encouraged the Council to proceed with the project. He thought it was important for the community. He thought the community would risk more by not preceding than by not trying to make up the difference. He thought there would be more private investments coming downtown. He thought it was an investment and a commitment to the city.

Mr. Jim Bemis, an area resident, stated he did not see a town center in the proposed project. He read a summary of concerns from a public input session and stated he did not see the request in the proposed building. He did not believe it would fulfill what was asked. He did not believe it was a town center for the community, but an exhibit hall to be run and managed by unelected officials for tourists.

In response to concerns voiced by aldermen, Mayor Hanna explained they could not use A&P funds to construct a building for individual organizations. Any organization could use the facility.

Mr. Alderman explained the law did not want the city to construct administrative spaces for non-profit people with the money. They could meet or use the building. It just could not be dedicated specifically for their use.

In response to concerns voiced by Mr. Bemis, Alderman Trumbo stated the facility would be managed by a board that would have city, Chamber of Commerce, A&P and public representation.

Mr. Kit Williams, former alderman, stated he had always supported the concept of the Town Center. He explained quality construction had been one of their primary concerns. They had cut back on some of the parking spaces and some of the other amenities. If the city built a town center it needed to be built to a high quality that would withstand the test of time with plenty of parking. He stated he would like to see a room added for non-profit organizations, but to do that they needed city money. He thought the city needed to commit two to three million dollars to the project to make the facility a landmark.

Ms. Fran Alexander, an area resident, did not believe the facility was a town center for the citizen.

In response to questions from aldermen, Mr. Rose stated he had requested an opinion from the attorney general on whether or not the city could put money in and if so how much. He had not received a reply yet, but in his opinion he thought they could use special funds for what they were intended for – parking. The general funds could be spent for any proper public purpose.

He thought the City could spend money on the facility.

No action was taken.

NEW BUSINESS

RZ 98-22
An ordinance approving rezoning request RZ 98-22 submitted by Richard Osborne on behalf of Littlefield Investment Company for property located at 1798 East Huntsville Road. The property is zoned C-1, Neighborhood Commercial, and contains approximately 0.788 acres. The request is to rezone the property to C-2, Thoroughfare Commercial for the purpose of installing a used car lot.

Mr. Rose read the ordinance.

Alderman Austin moved to suspend the rules and move to the second reading. Alderman Daniels seconded the motion. Upon roll call the motion carried by a vote of 6-2-0, Santos and Russell voting nay.

Mr. Rose read the ordinance of the second time.

The applicant was not present.

Alderman Daniel stated she was not in favor of the rezoning because there were a lot of used car lots in town. The rezoning request was not consistent with the city's 2020 land use plan, which had shown a C-1 designation.

Alderman Santos thought the rezoning was inconsistent with the land use plan and it was not recommended by the staff. He asked if it was legal to accept a bill of assurance for a rezoning.

Mr. Tim Conklin, City Planner, added there had been some discussion of a bill of assurance stating that if the property was not used as a car lot then it would revert back to the C-1 designation. He stated the property could not revert back. The most that could be offered would be to limit the use of the property to a used car lot.

Mr. Rose stated any changes would have to come back to Council for a vote.

Alderman Reynolds stated the property was in disrepair and was abandoned.

The item was left on the second reading.

EXTERNAL DEFIBRILLATORS
An ordinance approving a bid waiver and purchase of ten Lifepak 500 Automatic External Defibrillators from Med Tronic Physio-Control Corporation of Redmond, Washington.

Mr. Rose read the ordinance for the first time.

Alderman Davis moved to suspend the rules and move to the second reading. Alderman Reynolds seconded the motion. Upon roll call the motion carried unanimously.

Mr. Rose read the ordinance for the second time.

Alderman Russell moved to suspend the rules and move to the third and final reading. Alderman Reynolds seconded the motion. Upon roll call the motion carried unanimously.

Mr. Rose read the ordinance for the third and final time.

Upon roll call the motion carried unanimously.

ORDINANCE 4173 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

CABLE TRANSFER
A public hearing and consideration of an ordinance approving the application for Franchise Authority consent to assignment or transfer of control of Cable Television Franchise submitted by TCA Cable Television, Inc. and Cox Classic Cable, Inc.

Mr. Rose read the ordinance for the first time.

Mr. Rose stated the Cable Board had approved the transfer at their last meeting.

Mr. Dennis Yocum, TCA Cable, explained the mergers were not complete and he was not sure of their future plans. He did not know their future plans for upgrades.

Mr. Rose stated the city was in the process of negotiating the new cable franchise. As part of that franchise there would be upgrade provisions in it. If the contract was signed by TCA, Cox would still be held legally responsible for the standards of the new franchise. If Cox had taken over by then they would sign the contract.

Alderman Santos moved to suspend the rules and move to the second reading. Alderman Russell seconded the motion. Upon roll call the motion carried unanimously.

Mr. Rose read the ordinance for the second time.

Alderman Trumbo moved to suspend the rules and move to the third and final reading. Alderman Santos seconded the motion. Upon roll call the motion carried by a vote of 7-0-0, Reynolds voting nay.

Mr. Rose read the ordinance for the third and final time.

Upon roll call the motion carried by a vote of 7-0-0, Reynolds voting nay.

ORDINANCE 4174 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

INTERNET SITE
A resolution endorsing the creation of Fayetteville.com, an internet site by Interface Computer Center. Interface Computer is the first company to commit to locate in the Arkansas Research and Technology Park and the internet site is a private commercial venture which will link to the City's and Chamber of Commerce's internet sites.

Mr. Tate Wolf, Interface Computer Co. Project Manager, gave a presentation of their site along with their goals and objectives. Packets were provided to give overview of the site.

Alderman Austin expressed concern about liquor sponsors and questioned how often children would pull up a liquor ad.

Mr. Wolf replied one in ten will see a liquor ad. He explained they were an independent commercial operation. It would be a completely commercial site. He reassured the Council that they had nothing to do with pornography. They did not have a single pornography site on any of their servers.

Mr. Jeff Erf stated he would like the same information for his web site. He asked if they would also have to fill out FOI request forms.

Ms. Alett Little, Economic Development Coordinator, stated the site would provide a service to the citizens by offering the information. She noted the convenience of having a city map on the internet and having it immediately updated.

Mayor Hanna stated they needed to consider tonight whether or not to endorse the site and to allow the staff to work out the details of the data exchange.

Alderman Trumbo moved to approve the resolution. Alderman Santos seconded the motion. Upon roll call the motion carried by a vote of 6-2-0, Austin and Reynolds voting nay.

RESOLUTION 99-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Meeting adjourned at 9:30 p.m.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

TENTATIVE AGENDA
FAYETTEVILLE CITY COUNCIL
AUGUST 3, 1999

A meeting of the Fayetteville City Council will be held on August 3, 1999 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

The following items will be discussed:

A. CONSENT AGENDA

1. **APPROVAL OF MINUTES:** Approval of the minutes from the July 20, 1999 City Council meeting.

2. **TREATMENT PLANT STUDY:** A resolution authorizing the Mayor and City Clerk to execute a contract with Burns and McDonnell for a Plant Capacity Study to be done at the Noland Wastewater Treatment Plant for a not to exceed figure of $32,472.00.

B. OLD BUSINESS

1. **RZ 98-22:** An ordinance approving rezoning request RZ 98-22 submitted by Richard Osborne on behalf of Littlefield Investment Company for property located at 1798 East Huntsville Road. The property is zoned C-1, Neighborhood Commercial, and contains approximately 0.788 acres. The request is to rezone the property to C-2, Thoroughfare Commercial for the purpose of installing a used car lot. Item was left on second reading at July 20, 1999 City Council meeting.

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C. NEW BUSINESS

1. **VA 99-8.00:** An ordinance approving vacation request VA 99-8.00 submitted by Laura Kelly of Rob Sharp Architect on behalf of East Avenue Investment Group, LLC for property located between blocks 4 and 5 of Harrison's Addition. The property is zoned R-2, Medium Density residential. The request is to vacate an unconstructed section of Fletcher Avenue between Center Street and the point where Fletcher Avenue's asphalt surface curves east from the platted right of way.

2. **RZA 99-1:** An ordinance approving annexation request RZA 99-1 submitted by John Burrow on behalf of Karen Hanna for property located at 3686 Wilson Hollow Road. The property is in the planning growth area and contains approximately 4.54 acres. The request is to annex the subject property into the City of Fayetteville.

AGENDA REQUEST FORM

XX AGENDA REQUEST

COUNCIL MEETING OF August 3, `99

FROM: Don Bunn (Name) | Public Works Admin (Division) | Public Works (Department)

ACTION REQUIRED: Resolution authorizing the Mayor and City Clerk to execute a contract with Burns and McDonnell for a Plant Capacity Study for a not to exceed figure of $32,472.00.

COST TO CITY:

$ 32,472.00 Cost-This Request	$ 1,000,000.00 Category/Project Budget	Water and Sewer Imp. Category/Project Name
5400 5700 5314 00 Account Number	$ -0- Funds Used To Date	Wastewater Plant Engr Program Name
98047-10 Project Number	$ 1,000,000.00 Funds Remaining	Water and Sewer Fund Category

BUDGET/CONTRACT REVIEW: X Budgeted Item ___ Budget Adj. Attached

Budget Coordinator	Date	Administrative Services Director	Date 21JUL99
Marilyn J. Cramer Accounting Manager	Date 7-20-99	ADA Coordinator	Date
City Attorney	Date 7-20-99	Yolanda Fields Internal Auditor	Date 7-20-99 ✓
Purchasing Officer	Date 7-21-99		

STAFF RECOMMENDATION: Staff recommends approval of the contract with Burns and McDonnell for Plant Capacity Study in the amount of a not-to-exceed figure of $32,472.00

Ass't Public Works Director	Date 7-19-99
Department Director	Date 7-21-99
Admin Services Director	Date 21JUL99
Mayor	Date 7/21/99

Cross Reference

New Item: Yes No

Prev Ord/Res #: ____________

Orig Contract Date: ____________

RECEIVED
JUL 21 1999
CITY OF FAYETTEV
CITY CLERK'S OFF

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

July 19, 1999

To: Fayetteville City Council

From: Don Bunn, Assistant Public Works Director
Thru: Charles Venable, Public Works Director
Fred Hanna, Mayor

Subject: Engineering Contract
Burns and McDonnell
Plant Capacity Study

Attached for your review and approval is a proposed contract with Burns and McDonnell for the Capacity Study of the Noland Wastewater Plant. The cost of the study is a not-to-exceed amount of $32,472.00. The services to be rendered by the engineer is contained in Section IV of the proposed contract, pages 2 and 3.

It is the recommendation of the Staff that the contract be approved. Funding for the project will come from the wastewater engineering budget.

CITY OF FAYETTEVILLE
AGREEMENT FOR ENGINEERING SERVICES

STATE OF ARKANSAS

COUNTY OF WASHINGTON

This Agreement entered into and executed this ____ day of ________________ 1999, by and between the City of Fayetteville acting by and through its Mayor hereinafter called the "OWNER" and Burns & McDonnell Engineering Company, Inc. with offices located in Kansas City, Missouri hereinafter called the "ENGINEER."

WITNESSETH:

Whereas the "OWNER" desires to have a study made to determine the actual capacity of the existing W.W.T.P.; and Whereas, the "ENGINEER'S" staff is adequate and well qualified and it has been determined that its current work load will permit completion of the plans for the project on schedule;

Now therefore, it is considered to be in the best public interest for the "OWNER" to obtain assistance of the "ENGINEER'S" organization in connection with said engineering services. In consideration of the faithful performance of each party of the mutual covenants and agreements set forth hereinafter, it is mutually agreed as follows:

SECTION I – EMPLOYMENT OF ENGINEER

The "OWNER" agrees to employ the "ENGINEER" to perform, and the "ENGINEER" agrees to perform, professional engineering services in connection with the project set forth in the Sections to follow; and the "OWNER" agrees to pay and the "ENGINEER" agrees to accept, as specified in the Sections to follow as full and final compensation for work accomplished in the specified time.

SECTION II – DESCRIPTION OF THE PROJECT

A review of the data relating to the existing W.W.T.P. Capacity.

SECTION III – INFORMATION & SERVICES

The "OWNER" will furnish any information which may relate to the project that is available.

Encl:

SECTION IV – SERVICES TO BE FURNISHED BY THE "ENGINEER"

A. Receive and review City-supplied influent flow database suitable for input to Microsoft Excel™ spreadsheet for the Paul R. Noland Wastewater Treatment Plant (the Plant) in Fayetteville, Arkansas to determine the following historical influent flow rates:

1. Annual Average Day (AAD)
2. Minimum Day (MinD)
3. Maximum Day (MaxD)
4. Maximum Month (MaxM)

B. Perform an engineering evaluation of the hydraulic capacity of the Plant to recommend to the City the following capacity ratings as are in general use in the industry:

1. Design Average Flow (Design)
2. Peak Design Flow (Peak Design)
3. Peak Hydraulic Flow (Peak)

C. Calculate the Surface Overflow Rate (SOR) for the clarifiers at each of the hydraulic flow rates in paragraph B and compare to industry standards.

D. Receive and review City-supplied treatment records database suitable for input to Microsoft Excel™ to determine organic capacity of the aeration basins.

E. Confine the evaluation of the hydraulic and organic capacity to the liquid train through the influent pumping station, primary clarifiers, aeration basins, secondary clarifiers, effluent sand filters, chlorine contact basins, effluent pumping station, and the associated interconnecting piping. Evaluation of electrical, mechanical, structural, screenings, sidestreams, solids processing, chemical feed and other process lines, reliability, redundancy, efficiency, safety, and operational aspects of the Plant are outside the scope of this evaluation.

F. Rely on the Conformed-to-Construction Records provided by the City for elevations of weirs, walls, ground surface elevations, pipeline inverts, basic unit dimensions, and diameters to be used in the analysis.

G. Meet with City staff approximately two weeks after commencement of work to advise staff of findings to date and schedule for final deliverable.

H. Prepare final letter report and deliver fifteen copies to City staff within 31 days after commencement of work.

SECTION V – COORDINATION WITH "OWNER"

The "ENGINEER" shall keep the "OWNER" updated as the study progresses.

SECTION VI – OFFICE LOCATION FOR REVIEW OF WORK

Review of the work as it progresses under this Agreement shall be made at the "OWNER'S" Public Works Director's Office.

SECTION VII – FINAL SUBMISSION

Fifteen (15) copies of the Report shall be submitted.

SECTION VIII – TIME OF BEGINNING AND COMPLETION

The "ENGINEER" shall begin work under this Agreement within ten (10) days of notice to proceed and shall complete the study within 31 calendar days.

SECTION IX – FEES AND PAYMENTS

For, and in consideration of, the services to be rendered by the "ENGINEER," the "OWNER" shall pay the "ENGINEER" on the basis of actual salary costs for work time directly connected with work chargeable to the project multiplied by a factor of 3.326 plus direct reimbursable expenses associated with the project which are payable as follows:

1.)	Total estimated Labor for Study:	$29,156
2.)	Total estimated Direct Expenses:	3,316
3.)	Total estimated Engineering Contract Amount, not to exceed:	$32,472

The basis of this upper limit and justification for the fee is contained in Appendix "A" attached hereto. Subject to the City Council approval, adjustment of the upper limit may be made should the "ENGINEER" establish and the "OWNER" agree that there has been or is to be a significant change in scope, complexity or character of the services to be performed; or if the "OWNER" decides to shorten the duration of work from the time period specified in the Agreement for completion of work and such modification warrants such adjustment.

Appendix "B" covers the classification of personnel and the salary rate for all personnel to be assigned to this project by the "ENGINEER."

Final payment for services shall be made upon the "OWNER'S" approval and acceptance with the satisfactory completion of the Report.

SECTION X – CHANGES

The "OWNER" may at any time, by written order, make changes within the general scope of the contract in the work and services to be performed. If any such change causes an increase or decrease in the cost of, or the time required for, performance of this contract, an equitable increase or decrease shall be made in the upper limit contract amount, including fee or time of required performance, or both, and the contract shall be modified in writing accordingly.

Changes, modifications or amendments in scope, price or fees to this contract shall not be allowed without a formal contract amendment approved by the Mayor or the City Council in advance of the change in scope, price of fees.

Any claim by the 'ENGINEER" for adjustment under this clause must be asserted within thirty (30) days from the date of receipt by the "ENGINEER" of the notification of change; provided, however, that the "OWNER" if it decides that the facts justify such action, may receive and act upon any such claim assessed at any time prior to the date of final payment under this contract. Failure to agree to any adjustment shall be cause for a dispute concerning a question of fact within the meaning of the clause of this contract entitled SECTION XIII – MISCELLANEOUS PROVISIONS, (1) Dispute Resolutions. However, nothing in this clause shall excuse the "ENGINEER" from proceeding with the contract as changed.

SECTION XI – OWNERSHIP OF DOCUMENTS

All documents remain the property of the "OWNER." The "ENGINEER" may retain reproduced copies.

SECTION XII – POSTPONEMENT OR CANCELLATION OF THE CONTRACT

It is understood that the "OWNER" will have the right to suspend or cancel the work at any time.

A. Postponement – Should the "OWNER," for any reason whatsoever, decide to postpone the work at any time, the "OWNER" will notify the "ENGINEER," who will immediately suspend work. Should the "OWNER" decide during such suspension not to resume the work, or should such suspension not be terminated within a year, the work shall be cancelled as hereinafter provided.

B. Cancellation – Should the "OWNER," for any reason whatsoever, decide to cancel or to terminate the use of the "ENGINEER'S" service, the "OWNER" will give written notice thereof to the "ENGINEER," who will immediately terminate the work. If the "OWNER" so elects, the "ENGINEER" may be instructed to bring a reasonable stage of completion to those items whose value would otherwise be lost. The "ENGINEER" shall turn over all data or information collected or produced hereunder whether partial or complete. Upon such termination of the "ENGINEER'S" services, the "ENGINEER" shall be paid on a proportional amount of the total fee, less prior partial payments, based on the ratio of work done to the total amount of work to be performed.

SECTION XIII – MISCELLANEOUS PROVISIONS

1. Dispute resolution – Any dispute concerning a question of fact in connection with the work and having a financial value of $10,000, or less, shall be referred for determination to the Mayor of the City of Fayetteville whose decisions in the matter shall be final and conclusive. Disputes resulting from claims greater than $10,000 shall be subject to mediation.

2. Responsibility for Claims and Liability – The "ENGINEER" shall save harmless the "OWNER" from all claim and liability due to its (the "ENGINEER'S") activities, or those subcontractors, its agents, or its employees during the time this contract is in force.

3. General Compliance with Laws – The "ENGINEER" shall comply with all federal, state and local laws and ordinances applicable to the work. The "ENGINEER" shall be a professional engineer, licensed in the State of Arkansas.

4. Engineer's Endorsement – The "ENGINEER" shall endorse the Report.

SECTION XIV – SUCCESSORS AND ASSIGNS

The "OWNER" and the "ENGINEER" each binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Agreement, except as above, neither the "OWNER" nor the "ENGINEER" shall assign, sublet or transfer its interest in this Agreement without written consent of the other. Nothing herein shall be construed as creating any possible personal liability on the part of any officer or agent of any public body which may be party hereto.

SECTION XV – COVENANT AGAINST CONTINGENT FEES

The "ENGINEER" warrants that it has not employed or retained by company or person, other than a bonafide employee working solely for the "ENGINEER," to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bonafide employee working solely for the "ENGINEER," any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this contract.

For breach or violation of this warranty, the "OWNER" shall have the right to annul this contract without liability.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date and year herein written.

CITY OF FAYETTEVILLE

By: ______________________
Mayor

ATTEST:

City Clerk

ENGINEER

Burns & McDonnell Engineering
Company, Inc.

By: ______________________
Joel A. Cerwick, P.E.
Vice President

ATTEST

Assistant Secretary

CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT OF PUBLIC WORKS
EVALUATION OF PAUL R. NOLAND WASTEWATER TREATMENT PLANT CAPACITY

APPENDIX A
PROJECT BUDGET JUSTIFICATION

LABOR

Task

Task	Project Manager			Project Engineer I			Project Engineer II			Technician/Steno			Reproduction			Total	
	Hours	Salary	Total	Hours	Salary	Total	Hours	Salary	Total	Hours	Salary	Total	Hours	Salary	Total	Hours	Total
Receive Notice to Proceed and mobilize to plant site	4	$31.73	$127	4	$28.02	$112	0	$28.74	$0	0	$11.21	$0	0	$10.76	$0	8	$239
Meet with City staff for initial meeting and receive records	4	31.73	127	4	28.02	112	0	28.74	0	0	11.21	0	0	10.76	0	8	239
Review material received and determine need for additional data	8	31.73	254	8	28.02	224	0	28.74	0	0	11.21	0	0	10.76	0	16	478
Review of Facilities Plan	8	31.73	254	4	28.02	112	0	28.74	0	0	11.21	0	0	10.76	0	12	366
Review of NPDES Permit	0	31.73	0	4	28.02	112	0	28.74	0	0	11.21	0	0	10.76	0	4	112
Review and analysis of plant influent/effluent flow records	0	31.73	0	0	28.02	0	8	28.74	230	0	11.21	0	0	10.76	0	8	230
Review of original plans and specifications	4	31.73	127	0	28.02	0	4	28.74	115	0	11.21	0	0	10.76	0	8	242
Review of Conformed to Construction Records	12	31.73	381	0	28.02	0	8	28.74	230	0	11.21	0	0	10.76	0	20	611
Review of governing standards and criteria	8	31.73	254	0	28.02	0	0	28.74	0	0	11.21	0	0	10.76	0	8	254
Establishment of design criteria to be used in evaluation	8	31.73	254	0	28.02	0	0	28.74	0	0	11.21	0	0	10.76	0	8	254
Preparation of interim report to City	12	31.73	381	0	28.02	0	4	28.74	115	8	11.21	90	0	10.76	0	24	585
Progress meeting with Director of Public Works and City Engineer	8	31.73	254	8	28.02	224	0	28.74	0	0	11.21	0	0	10.76	0	16	478
Preparation of hydraulic profile- chlorine contact basin to headworks	8	31.73	254	0	28.02	0	0	28.74	0	0	11.21	0	0	10.76	0	8	254
Analysis of capacity based on organic loading	0	31.73	0	8	28.02	224	0	28.74	0	0	11.21	0	0	10.76	0	8	224
Determine recommended plant capacity rating	12	31.73	381	12	28.02	336	0	28.74	0	0	11.21	0	0	10.76	0	24	717
Prepare report	64	31.73	2031	8	28.02	224	20	28.74	575	8	11.21	90	8	10.76	84	108	3005
Delivery of project report	8	31.73	254	8	28.02	224	0	28.74	0	0	11.21	0	0	10.76	0	16	478
Total Estimated Person-hours and Labor	168		$5,331	68		$1,905	44		$1,265	16		$179	8		$84	304	$8,766

Salary Multiplier								3.326
TOTAL LABOR								$29,156
DIRECT EXPENSES								
Item								
Travel, automobile roundtrips	3	@	600	miles @	$0.32	=	$576	
Lodging, nights	6	@	$75			=	450	
Subsistence, days	12	@	$30			=	360	
Reproduction, LS						=	130	
Subconsultants, hours	48	@	$37.50			=	1,800	
Total Estimated Expenses								$3,316
TOTAL ESTIMATED CONTRACT AMOUNT								$32,472

CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT OF PUBLIC WORKS
EVALUATION OF PAUL R. NOLAND WASTEWATER TREATMENT PLANT CAPACITY

APPENDIX B
PERSONNEL CLASSIFICATION AND SALARY RATE

The following personnel are anticipated to be assigned to the project:

NAME	PROJECT POSITION	POSITION CLASSIFICATION	CLASSIFICATION LEVEL	HOURLY SALARY
Jerry Sonderegger, P.E.	Project Manager	Associate	14	$31.73
David Hauser, P.E.	Project Engineer I	Senior	13	28.02
Kent Honter, P.E.	Project Engineer II	Senior	13	28.74
Staff, TBN	Technician/Stenographic	Technician*	6	11.21
Staff, TBN	Reproduction	General Office*	5	10.76

1. Position classifications listed above refer to the firm's internal classification system for employee compensation. For example, "Associate", "Senior", etc., refers to such positions as "Associate Engineer", "Senior Architect", etc.
2. The hourly salary rates shown above are effective for services through December 31, 1999, and are subject to revision thereafter.
3. For the non-exempt personnel in positions marked with an asterisk, overtime will be billed at 1.5 times the average hourly salary rates shown.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

July 27, 1999

To: Fayetteville City Council

From: Don Bunn, Assistant Public Works Director
Thru: Charles Venable, Public Works Director
Fred Hanna, Mayor

Subject: Engineering Contract Amendment
Benham Group
Dickson Street Project

The staff is proposing an amendment to our contract with the Benham Group which would allow for property surveys along either side of Dickson Street from College Avenue to Arkansas Avenue. The purpose of the surveys will be to establish the right of way of Dickson Street to insure that all of the proposed work is contained within the right of way and no work is performed on private property.

Attached is a proposal from Milholland Company, a subcontractor to the Benham Group, for the work. Milholland will perform the necessary surveys at a price of $31,950.00. Also it is estimated that the abstract work associated with the research of properties will be approximately $10,000.00 (100 partials at $100.00 each). The total contract amendment would be for $41,950.00. Also attached is a faxed copy of the proposed amendment with the Group.

A formal contract amendment is expected to be submitted by the Benham Group this week and will be available at the Council Meeting on August 3, 1999. It is the recommendation of the Staff that the contract amendment be approved.

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

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AGENDA REQUEST FORM

XX AGENDA REQUEST

COUNCIL MEETING OF August 3, 1999

FROM: Don Bunn (Name) — Public Wks Admin (Division) — Public Works (Department)

ACTION REQUIRED: Approval of a contract amendment with the Benham Group for property surveys on Dickson Street in the amount of $39,950.00.

COST TO CITY:

$ 41,950.00		
Cost-This Request	Category/Project Budget	Category/Project Name
Account Number	Funds Used To Date	Program Name
Project Number	Funds Remaining	Fund Category

BUDGET/CONTRACT REVIEW: ____ Budgeted Item ____ Budget Adj. Attached

Budget Coordinator	Date	Administrative Services Director	Date
Accounting Manager	Date	ADA Coordinator	Date
City Attorney	Date	Internal Auditor	Date
Purchasing Officer	Date		

STAFF RECOMMENDATION:

Ass't Public Works Director — Date: 7-27-99

Department Director — Date

Admin Services Director — Date

Mayor — Date

Cross Reference

New Item: Yes No

Prev Ord/Res #: ____________

Orig Contract Date: ____________

SURVEY CONTRACT

ADDENDUM No. 1"

BENHAM GROUP

....

DICKSON STREET RIGHT-OF-WAY (SURVEY)
Project No. S-2167A
Hourly Charges

MILHOLLAND COMPANY
Engineering & Surveying
205 W. Center Street
Fayetteville, AR 72701
Phone / Fax: (501) 443-4724 / 4707

TABLE I

"ESTIMATED HOURS PER DISCIPLINE"

JULY, 1999

STREET RIGHT-OF-WAY SURVEY

SECTION BASIC SURVEYING SERVICES	ENGR/MGR. V	SURV/MGR. IV	SURV/RLS III	SURVEYOR II	SURVEYOR I	CADD TECH II	CLERICAL	TOTALS
[1] APPARENT R.O.W. DETERMINATION:								
A) Research Record Ownerships*		6.00	32.00	24.00	8.00		6.00	76.00
B) Field Survey Right-of-Way		4.00	40.00	200.00	200.00			444.00
C) Compute Right-of-Way		6.00	32.00	24.00	8.00	24.00		94.00
D) Draw Surveyed Right-Of-Way Map		2.00	4.00	10.00	4.00	32.00		52.00
E) Locate Apparent Encroachments		2.00	4.00	16.00	16.00	8.00		46.00
[2] CORRESPONDENCE / RECORDS:		8.00	16.00	6.00		4.00	12.00	46.00
TOTAL HOURS	0.00	28.00	128.00	280.00	236.00	68.00	18.00	758.00
HOURLY RATE	$74.00	$56.50	$50.00	$40.00	$25.00	$35.00	$17.50	
TOTAL COSTS	$0.00	$1,582.00	$6,400.00	$11,200.00	$5,900.00	$2,380.00	$315.00	$27,777.00

15% COMPANY PROFIT: $4,173.00
***TOTAL AMOUNT: $31,950.00**

*NOTE NO. 1:

A. Ownership Documents and corresponding official Subdivision Plats-of-Record to be provided by Washington County Abstract Company (See attached Proposal from WACO).
B. City of Fayetteville to provide all Documents in City Records, which are NOT FILED for public record, as an attachment to deeds, in Washington County Circuit Clerks' Office.
C. There are approximately seventy five (75) partials, plus approximately twenty (20) side streets and alleys.

*NOTE NO. 2:
THE OBJECTIVE OF THIS "SURVEY CONTRACT" ADDENDUM IS TO PROVIDE A RIGHT-OF-WAY SURVEY OF DICKSON STREET FROM THE CENTERLINE OF COLLEGE AVENUE TO THE WEST BOUNDARY OF ARKANSAS AVENUE, PLUS, THE FIRST 100 L.F. OF EACH SIDE STREET AND ALLEY RIGHT-OF-WAY. SURVEYS SHALL BE FORMATTED IN AUTOCAD, RELEASE 13, FOR DICKSON STREET PROJECT. RATES AND TIME ESTIMATES ARE BASED ON A CONTINUOUS MANPOWER EFFORT, WITHOUT DELAYS, TO BE PERFORMED BEFORE THE END OF AUGUST, 1999.

ATTACHMENT: PROPOSAL FOR RECORD RESEARCH:
"PROPOSAL FROM WASHINGTON COUNTY ABSTRACT COMPANY" FOR THE RESEARCH OF RECORD DATA FOR EACH TRACT OF LAND ADJACENT TO DICKSON STREET, AND ADJACENT TO ALL ITS ADJOINING STREETS AND ALLEYS FOR A DISTANCE OF 100 L.F. FROM THE DICKSON STREET RIGHT-OF-WAY.

WACO'S FEES FOR THIS PROPOSAL ARE IN ADDITION TO THE FEES IN "ADDENDUM No. 1."

APPROVED
Date: 7-8-99
By: ____________
A/C: ____________
Job #: 119804300
Task: 0004 Dept: 5000

RESPECTIVELY SUBMITTED,

Melvin Milholland / pj

MELVIN L. MILHOLLAND, PE, PLS
MILHOLLAND COMPANY

AMENDMENT TO THE AGREEMENT FOR CONSULTING SERVICES

For the Downtown Dickson Street Enhancement Project:

BETWEEN:

The CONSULTANT
The Benham Group
1801 Forest Hills Boulevard
Bella Vista, AR 72715

and the **CLIENT**
City of Fayetteville, Arkansas
113 West Mountain
Fayetteville, AR 72701

THE PARTIES AGREE AS FOLLOWS:

WHEREAS, The Benham Group (TBG) and the City of Fayetteville (City) are parties to an Agreement for Consulting Services dated December 15, 1998, (the Agreement), and,

WHEREAS, the City has now determined that none of the funds appropriated for this project can be spent on improvements on private property outside the City street right of way, and therefore the location of the right of way lines and private property lines are critical and must be identified by a professional land surveyor, and,

WHEREAS, in order to properly conduct the required surveys, the ownership documents and plats of record must be assembled by a certified abstractor, and,

WHEREAS, TBG has obtained proposals from the Milholland Company and Washington County Abstract and Title Company, Inc. for the costs of the additional work, and,

WHEREAS, all other terms and conditions of the agreement remain in force,

NOW THEREFORE TBG and the City hereby mutually agree to increase the scope of work in the Agreement to include the above described surveys and title search for a maximum of 100 parcels. The City agrees to compensate TBG $ 41,950.00 for the additional work. The Contract in the Agreement is hereby increased from $346,748.04 to $ 388,698.04 .

IN WITNESS TO THEIR ACCEPTANCE to the terms and conditions of this Amendment, TBG and the City hereby execute this Amendment to the Agreement for Consulting Services on this _______day of __________________, 1999.

ACCEPTED BY:
CITY OF FAYETTEVILLE, ARKANSAS

By: ____________________________

Title: ____________________________

ACCEPTED BY:
THE BENHAM GROUP

By: ____________________________
Gary L. Carnahan

Title: Vice President

genservfay1.wpd

STAFF REVIEW FORM

__x__ AGENDA REQUEST
_____ CONTRACT REVIEW
_____ GRANT REVIEW

FOR: COUNCIL MEETING OF August 3, 1999 **MAYOR'S APPROVAL** n/a

FROM:

LaGayle D. McCarty	City Attorney	Legal
Name	Division	Department

ACTION REQUIRED:

A resolution approving settlement of City v. Hardin, CIV. 99-561, and payment of just compensation for the taking of real property in the amount of $52,396.50

COST TO CITY:

$52,396.50		
Cost of this Request	Category/Project Budget	Category/Project Name
Account Number	Funds Used to Date	Program Name
Project Number	Remaining Balance	Fund

BUDGET REVIEW: _____ Budgeted Item _____ Budget Adjustment Attached

Budget Coordinator

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: **GRANTING AGENCY:** __________

Accounting Manager	Date	Internal Auditor	Date
City Attorney	Date 7-27-99	ADA Coordinator	Date
Purchasing Officer	Date		

STAFF RECOMMENDATION:

Recommends approval of the settlement offer and payment of just compensation in the amount of $52,396.50.

Division Head	Date
Department Director	Date 7-27-99
Administrative Services Director	Date
Mayor	Date

CROSS REFERENCE

New Item: Yes No

Previous Ordinance/Resolution No.: __________

Original Contract Date: __________

FAYETTEVILLE

LEGAL DEPARTMENT
CITY ATTORNEY DIVISION

JERRY E. ROSE, CITY ATTORNEY
LAGAYLE D.MCCARTY, ASST. CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE

To: City Council

From: LaGayle D. McCarty, Assistant City Attorney

Date: July 27, 1999

Re: City v. Hardin
CIV. 99-561
Settlement

On April 20, 1999, the City Council passed and approved Ordinance No. 4157 authorizing eminent domain proceedings for the City to obtain land located North of Mt. Comfort Rd. and West of Salem Road for the extension of Rupple Road to the new school. City staff was also directed to initiate negotiations with Mr. and Mrs. Tony Hardin for the purchase of their home and property at 3670 Mt. Comfort Road.

City staff has worked closely with the Hardins to reach a negotiated settlement. The Hardins would like to remain in their home. Therefore, the settlement agreement reflects the minimum required right of way, temporary construction easements, etc. A copy of a letter to Mr. Hardin outlining the terms of the agreement is attached.

/cbp
Attachment(s)

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

CITY ATTORNEY DIVISION
113 WEST MOUNTAIN, 72701
PHONE: 501-575-8313
FAX: 501-575-8315

JERRY E. ROSE, CITY ATTORNEY
LaGAYLE D. McCARTY, ASSISTANT CITY ATTORNEY

July 22, 1999

Tony Hardin
3670 Mt. Comfort Rd.
Fayetteville, AR 72704

RE: City v. Hardin
CIV. 99-561

Dear Tony:

At our meeting on Friday, July 16, 1999, we were successful in reaching a negotiated settlement in the above referenced matter. The following, subject to City Council approval, reflects the terms agreed to.

1. Total just compensation in the amount of $52,396.50:

    A. $8284.00 - real property,
    B. $43619.50 - damages to the remainder property, and
    C. $493.00 - temporary construction easement.

2. A 6' privacy fence shall be installed between the property line and the retaining wall, to run even with the front of the house north to the chain link fence in back of the house.

3. A wood rail fence shall run from the privacy fence south to the corner of the property. (Approx. 150 feet)

4. The temporary construction easement shall be rewritten to minimize the encroachment on the remainder property.

Please review and sign showing your approval, and return a copy for my records. I will submit this to be placed on the agenda at the July 27, 1999, Council Agenda Session, for approval at the August 3, 1999, City Council Meeting.

If you have any questions, please give me a call.

Sincerely,

LaGayle D. McCarty
Assistant City Attorney

/ldm

Received and Approved:

____
Tony Hardin

RZ 98-22

BILL OF ASSURANCE

This declaration of a Bill of Assurance is made this 2nd day of August, 1999, by Clem Johnson, successor owner to Littlefield Investment Co. of real property located in Fayetteville, Washington County, Arkansas, more particularly described as follows, to wit:

> A part of the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼) of Section Twenty-three (23), Township Sixteen (16) North, Range Thirty (30) West, being more particularly described as follows: Beginning at the Northeast corner of said 40 acre tract, said point being an existing railroad spike in Happy Hollow Road; thence S89°59'01"W along the north line of said 40 acre tract 190.80 feet; thence S00°22'50"E 141.99 feet to a chiseled 'X' in a concrete drive on the north right-of-way of State Highway 16E (Huntsville Road); thence S68°26'03"E along said right-of-way 205.70 feet to a set cotton spindle in Happy Hollow Road on the east line of said 40 acre tract; thence N00°22'50"W 217.66 feet to the point of beginning, containing 0.788 acres, more or less, Fayetteville, Washington County, Arkansas. The above described 0.788 acre tract being subject to the right-of-way of Happy Hollow Road along the entire east boundary.

WHEREAS, Littlefield Investment Co. applied to the City of Fayetteville for a re-zoning of the above described real property from C-1 to C-2; and

WHEREAS, Littlefield Investment Co., owner at that time, and Clem Johnson, present owner, desire to restrict the use of the property described hereinabove to a used car lot or any use allowable in a C-1 zoning.

NOW, THEREFORE, Clem Johnson, present owner, hereby declares that the real property described herein shall be held, developed, transferred, sold, conveyed, and occupied subject to the restriction that if it is zoned C-2 by the City Council of the City of Fayetteville the use thereof shall be restricted to a "used car lot" (which requires a C-2 zoning), or any use allowable in a C-1 zone. In the event that said property ceases to be used as a used car lot for one (1) year, said property shall revert to C-1 zoning automatically.

Nothing contained herein shall prohibit Clem Johnson from petitioning the City of Fayetteville for the removal of this Bill of Assurance or seeking a different zoning classification.

Executed this 2 day of August, 1999.

CLEM JOHNSON

STATE OF ARKANSAS }
}ss:
COUNTY OF WASHINGTON }

BE IT REMEMBERED that on this day came before the undersigned, a Notary Public, duly qualified, commissioned and acting within and for the aforesaid State and County, Clem Johnson, and stated that he had executed the same on behalf of the corporation.

Witness my hand and said as such Notary Public this 2 day of August, 1999.

RICHARD P. OSBORNE, Notary Public

My Commission Expires:

RICHARD P. OSBORNE, NOTARY PUBLIC
WASHINGTON COUNTY, ARKANSAS
MY COMMISSION EXPIRES 08-03-08

0899.02.01

3

DRAFT

AIA Document A101

Standard Form of Agreement Between Owner and Contractor

where the basis of payment is a

STIPULATED SUM

1987 EDITION

THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES; CONSULTATION WITH AN ATTORNEY IS ENCOURAGED WITH RESPECT TO ITS COMPLETION OR MODIFICATION.

The 1987 Edition of AIA Document A201, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

This document has been approved and endorsed by The Associated General Contractors of America.

AGREEMENT

made as of the day of in the year of Nineteen Hundred and

BETWEEN the Owner: City of Fayetteville
(Name and address)
113 West Mountain Street
Fayetteville, Arkansas

and the Contractor: Nabholz Construction Corporation
(Name and address)
P.O. Box 277
Rogers, AR 72757

The Project is: Fayetteville Town Center Exhibition Hall
(Name and location)
Fayetteville, Arkansas

The Architect is: Wittenberg, Delony & Davidson, Inc.
(Name and address)
100 West Center, Suite 102
Fayetteville, Arkansas 72701

The Owner and Contractor agree as set forth below.

ARTICLE 1
THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement; these form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 9.

ARTICLE 2
THE WORK OF THIS CONTRACT

The Contractor shall execute the entire Work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others, or as follows:

ARTICLE 3
DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

3.1 The date of commencement is the date from which the Contract Time of Paragraph 3.2 is measured, and shall be the date of this Agreement, as first written above, unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

(Insert the date of commencement, if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

The date of commencement will be fixed in a written Notice to Proceed.

Unless the date of commencement is established by a notice to proceed issued by the Owner, the Contractor shall notify the Owner in writing not less than five days before commencing the Work to permit the timely filing of mortgages, mechanic's liens and other security interests.

3.2 The Contractor shall achieve Substantial Completion of the entire Work not later than

(Insert the calendar date or number of calendar days after the date of commencement. Also insert any requirements for earlier Substantial Completion of certain portions of the Work, if not stated elsewhere in the Contract Documents.)

Six hundred (600) consecutive calendar days from the date of the Notice to Proceed.

, subject to adjustments of this Contract Time as provided in the Contract Documents.

(Insert provisions, if any, for liquidated damages relating to failure to complete on time.)

5

ARTICLE 4
CONTRACT SUM

4.1 The Owner shall pay the Contractor in current funds for the Contractor's performance of the Contract the Contract Sum of Seven Million Three Hundred Forty-Six Thousand Four Hundred and Eight Dollars ($ 7,346,408.00 **************), subject to additions and deductions as provided in the Contract Documents.

4.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If decisions on other alternates are to be made by the Owner subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date until which that amount is valid.)

Base Bid	$8,786,650.00
Less deductive Alternate No. 1	(36,200.00)
Less Deductive Alternate No. 2	(2,017.00)
Less Deductive Alternate No. 3	(386,600.00)
Subtotal	$8,361,833.00
Negotiated Changes for Attachment"A" (3 pages)	($1,015,425.00)
Contract Amount	$7,346,408.00

4.3 Unit prices, if any, are as follows:

1. For drilled concrete piers per Section 02460 of the Project Manual:
   42" deduct $47.06 / add $39.31 per linear foot
   48" deduct $58.84 / add $49.84 per linear foot
   54" deduct $65.58 / add $54.08 per linear foot
   60" deduct $99.30 / add $76.68 per linear foot
2. For undercut of unsuitable material and off-site disposal
   Add/Deduct $ 7.25 per cubic yard
3. For importing, placin and compacting select fill material at undercut areas only.
   Add/Deduct $7.50 per cubic yard
4. For excavation and off-site disposal of trench rock
   Add/Deduct $125.00 per cubic yard
5. For excavation and off-site disposal of mass rock
   Add/Deduct $85.00 per cubic yard
6. For breaking up, excavating, hauling off and disposal of cisterns:
   Add/Deduct $ 85.00 per cubic yard

6

ARTICLE 5
PROGRESS PAYMENTS

5.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

5.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

For the period ending the Twenty-Fifth (25th) of each month.

5.3 Provided an Application for Payment is received by the Architect not later than the Twenty-fifth (25th) day of a month, the Owner shall make payment to the Contractor not later than the Tenth (10) day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than thirty (30) days after the Architect receives the Application for Payment.

5.4 Each Application for Payment shall be based upon the schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work and be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

5.5 Applications for Payment shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

5.6 Subject to the provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

5.6.1. Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of ten (10) percent (%). Pending final determination of cost to the Owner of changes in the Work, amounts not in the dispute may be included as provided in Subparagraph 7.3.7 of the General Conditions even though the Contract Sum has not yet been adjusted by Change Order;

5.6.2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of percent (zero (0)%);

5.6.3 Subtract the aggregate of previous payments made by the Owner; and

5.6.4 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Paragraph 9.5 of the General Conditions.

5.7 The progress payment amount determined in accordance with Paragraph 5.6 shall be further modified under the following circumstances:

5.7.1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to one hundred percent (100 %) of the Contract Sum, less such amounts as the Architect shall determine for incomplete Work and unsettled claims; and

5.7.2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Subparagraph 9.10.3 of the General Conditions.

5.8 Reduction or limitation of retainage, if any, shall be as follows:

(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Subparagraphs 5.6.1 and 5.6.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)

7

ARTICLE 6
FINAL PAYMENT

Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when (1) the Contract has been fully performed by the Contractor except for the Contractor's responsibility to correct nonconforming Work as provided in Subparagraph 12.2.2 of the General Conditions and to satisfy other requirements, if any, which necessarily survive final payment; and (2) a final Certificate for Payment has been issued by the Architect; such final payment shall be made by the Owner not more than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

Before issuance of the final certificate, the Contractor shall obtain in writing from the Bonding Company, appoval of such payment. No certificate issued, non-payment made to the Contractor, nor partial or entire use or occupancy of the contract work by the Owner, shall be acceptance of any work or materials not in accordance with this contract.

ARTICLE 7
MISCELLANEOUS PROVISIONS

7.1 Where reference is made in this Agreement to a provision of the General Conditions or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

7.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Contractor's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)

7.3 Other provisions:

ARTICLE 8
TERMINATION OR SUSPENSION

8.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of the General Conditions.

8.2 The Work may be suspended by the Owner as provided in Article 14 of the General Conditions.

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ARTICLE 9
ENUMERATION OF CONTRACT DOCUMENTS

9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated as follows:

9.1.1 The Agreement is this executed Standard Form of Agreement Between Owner and Contractor, AIA Document A101, 1987 Edition.

9.1.2 The General Conditions are the General Conditions of the Contract for Construction, AIA Document A201, 1987 Edition.

9.1.3 The Supplementary and other Conditions of the Contract are those contained in the Project Manual dated April 5, 1999, and are as follows:

Document	Title	Pages
00100	Bid Solicitation	2
00200	Instructions to Bidders	4
00320	Geotechnical Data	1 with attachment of Geotechnical Investigation
00400	Bid Form	3
00600	Bonds	1
00700	General Conditions	1 with attachment of 31 pages
00800	Supplementary Conditions	8

9.1.4 The Specifications are those contained in the Project Manual dated as in Subparagraph 9.1.3, and are as follows:
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

Section	Title	Pages

As listed on Attachment "B"

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9.1.5 The Drawings are as follows, and are dated unless a different date is shown below:

(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Number	Title	Date

As listed on Attachment "C"

9.1.6 The addenda, if any, are as follows:

Number	Date	Pages
1	April 14, 1999	6 with attachments
2	April 26, 1999	13 with attachments
3	April 30, 1999	8 with attachments

Portions of addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 9.

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9.1.7 Other documents, if any, forming part of the Contract Documents are as follows:

(List here any additional documents which are intended to form part of the Contract Documents. The General Conditions provide that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

Attachment "A" - List of Value Engineering/Cost Reduction items (3 pages)

This Agreement is entered into as of the day and year first written above and is executed in at least three original copies of which one is to be delivered to the Contractor, one to the Architect for use in the administration of the Contract, and the remainder to the Owner.

OWNER	CONTRACTOR
(Signature)	*(Signature)*
Fred Hanna, Mayor	
(Printed name and title)	*(Printed name and title)*

AIA CAUTION: You should sign an original AIA document which has this caution printed in red. An original assures that changes will not be obscured as may occur when documents are reproduced.

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"Attachment A"
FAYETTEVILLE TOWN CENTER
REVISED VALUE ENGINEERING / COST REDUCTION ITEMS
7-27-1999

General Conditions

1.0	Change construction time to 18 months *	$	30,000.00
1.1	Change construction boundaries to allow use of Rock Street & City leased lot *	$	72,000.00
		$	102,000.00

Allowances

2.1	Delete landscape allowance	$	75,000.00
2.2	Reduce testing allowance from $30,000.00 to $15,000.00	$	15,000.00
2.3	Delete interior signage allowance	$	15,000.00
2.4	Delete reinforcing allowance of 5 tons	$	2,316.00
		$	107,316.00

Changes to Waterproofing Requirements

3.1	Change floor sealers in deck and exhibition hall	$	37,971.00
3.2	Change to contractor suggested terrace & plaza waterproofing systems	$	18,884.00
3.3	Change below-grade waterproofing system except at Mountain Street	$	4,773.00
3.4	Change to contractor suggested terrace traffic coating	$	48,763.00
3.5	Delete corrosion inhibitor admixture requirement *	$	29,022.00
		$	139,413.00

Elevators / Freight Elevators

4.1	Delete smaller freight elevator - provide all rough-in *	$	99,456.00
4.2	Delete one passenger elevator - provide all rough-in *	$	30,478.00
		$	129,934.00

Exterior Items

5.1	Delete canopies from north and south *	$	12,970.00
5.2	Change pre-cast to split face CMU on deck, pre-cast on bldg. to remain *	$	6,264.00
5.3	Change face brick type *	$	17,405.00
5.4	Delete herringbone in-fill pattern *	$	15,207.00
5.5	Delete removable bollards *	$	3,651.00
5.6	Delete 8" painted handrails *	$	11,763.00
5.7	Change parking deck barrier to site cast with exp. agg. finish *	$	18,508.00
5.8	Delete painting of under side of parking deck	$	33,143.00

"Attachment A"
FAYETTEVILLE TOWN CENTER
REVISED VALUE ENGINEERING / COST REDUCTION ITEMS
7-27-1999

5.9	Delete plaza masonry, planter walls, and sodding *	$	50,587.00
5.10	Delete curved stair from south elevations *	$	43,962.00
5.11	Delete upper levels of tower above entry masonry *	$	101,513.00
		$	314,973.00

Interior Items

6.1	Delete freezer - provide rough-in *	$	12,250.00
6.2	Delete electric window shades - provide rough-in & electrical *	$	24,350.00
6.3	Delete vertical blinds - provide blocking *	$	5,625.00
6.4	Delete operable partitions-provide bulkheads & tracks *	$	88,091.00
6.4	Delete mesh storage room wall *	$	3,314.00
6.5	Delete storage millwork from back wall of service desk 421 *	$	3,482.00
6.6	Change round interior columns from precast to GFRP *	$	5,383.00
		$	142,495.00

Glass & Glazing Changes

7.1	Change auto entrances to swing doors *	$	6,632.00
7.2	Change from kynar to clear anodized accept at tower *	$	9,650.00
7.3	Delete low E glazing requirement *	$	10,646.00
		$	26,928.00

Electrical Items

8.1	Change light fixtures (pending cut sheets for review & approval) *	$	19,424.00
8.2	Delete selected light fixtures *	$	13,544.00
8.3	Allow transformer to be on grade *	$	3,092.00
		$	36,060.00

Mechanical Items

9.1	Change RTU-1 & RTU-3 to constant volume *	$	6,000.00
9.2	Delete energy management system *	$	3,961.00
9.3	Change duct work at RTU-1*	$	2,064.00
9.4	Delete fin tube heat at tower*	$	4,281.00
		$	16,306.00

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"Attachment A"
FAYETTEVILLE TOWN CENTER
REVISED VALUE ENGINEERING / COST REDUCTION ITEMS
7-27-1999

General Notes:

Note 1: All items marked with an asterisk (*) can be added back into the contract within the first 45 days after the Notice-to-Proceed at the pricing indicated. After that time they will not be able to be added back to the contract without the Contractor being given the opportunity to reprice the cost for adding these items back to the contract, if requested by the Owner.

Note 2: The balance of items not marked with an asterisk (*) can be added back into the contract within the first 200 days after the Notice-to-Proceed at the pricing indicated. After that time they will not be able to be added back to the contract without the Contractor being given the opportunity to reprice the cost of adding these items back to the contract and if the timing and construction sequence of the project will permit the ability to added the items back to the project and if requested by the Owner.

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"Attachment B"

FAYETTEVILLE TOWN CENTER

LIST OF PROJECT SPECIFICATIONS

7-27-1999

to be completed

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"Attachment C"

FAYETTEVILLE TOWN CENTER

LIST OF PROJECT DRAWINGS

7-27-1999

to be completed

WITTENBERG, DELONY & DAVIDSON, INC.
Northwest Arkansas Office
100 West Center, Suite 102
Fayetteville, AR 72701
Tel: 501-443-6666 Fax: 501-443-9515

CHANGE ORDER

DRAFT

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PROJECT:	CHANGE ORDER NO: 01
FAYETTEVILLE TOWN CENTER AND EXHIBITION HALL FAYETTEVILLE, ARKANSAS	PROJECT NO: 95059
TO:	DATE:
NABHOLZ CONSTRUCTION CORPORATION P.O. BOX 277 ROGERS, ARKANSAS	CONTRACT DATE:
	CONTRACT FOR: General Construction

You are directed to make the following change(s) in this Contract:

Add deductive alternate 1	$ 36,200.00 add
Add deductive alternate 2	$ 2,017.00 add
Add deductive alternate 3	$ 386,600.00 add
Add items from the value engineering list:	
2.4) Add reinforcing allowance	$ 2,316.00 add
4.1) Add smaller freight elevator	$ 99,456.00 add
4.2) Add passenger elevator	$ 30,478.00 add
5.1) Add canopies to north and south elevation	$ 12,970.00 add
5.3) Change face brick to Endicott	$ 17,405.00 add
5.4) Add herringbone in-fill pattern	$ 15,207.00 add
5.5) Add removable bollards	$ 3,651.00 add
5.6) Add 8" painted handrails	$ 11,763.00 add
5.9) Add masonry, planter walls and sodding	$ 50,587.00 add
5.10) Add curved stair to south elevation	$ 43,962.00 add
5.11) Add upper levels of tower above masonry	$ 101,513.00 add
6.2) Add electric window shades	$ 24,350.00 add
6.3) Add vertical blinds	$ 5,625.00 add
6.4) Add operable partitions	$ 88,091.00 add
6.6) Change round columns to pre-cast	$ 5,383.00 add
7.1) Change entrances to auto entrances	$ 6,632.00 add
7.2) Change to kynar finish framing	$ 9,650.00 add
9.1) RTU-1 & RTU-3 to be variable volume	$ 6,000.00 add
9.2) Add energy management system	$ 3,961.00 add
9.3) Add duct to RTU-1	$ 2,064.00 add
9.4) Add fin tube heat at tower	$ 4,281.00 add
Total Changes	$ 970,162.00 add

CONTRACT RECAP

The original Contract Sum was:	$ 7,346,408.00
Net change by previously authorized Change Orders:	0.00
The Contract Sum prior to this Change Order:	$ 7,346,408.00
The Contract Sum will be **increased** by this Change Order:	$ 970,162.00
The new Contract Sum including this Change Order will be:	$ 8,316,570.00
The Contract Time will be unchanged by zero (0) days.	

Not valid until signed by both the Owner and Architect.
Signature of the Contractor indicates his agreement herewith, including any adjustment in the Contract Sum or Contract Time.

WITTENBERG, DELONY & DAVIDSON, INC.	**NABHOLZ CONSTRUCTION**	**CITY OF FAYETTEVILLE**
100 West Center, Suite 102	P.O. Box 277	113 West Mountain Street
Fayetteville, AR 72701	Rogers, Arkansas 72757	Fayetteville, Arkansas 72701
BY:__________	BY:__________	BY:__________
DATE: __________	DATE: __________	DATE: __________

City of Fayetteville, Arkansas
Budget Adjustment Form

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Budget Year	Department: Town Center Construction Fund	Date Requested	Adjustment #
1999	Division:	07/27/99	
	Program:		

Project or Item Requested:
Additional funding is requested for the construction of the Town Center and Parking Garage project.

Project or Item Deleted:
None. Recognize additional investment earnuing over the life of the project from funds from the bond issue and transfer from A & P and use of fund balance from General Fund and Off Street Parking Fund is proposed for this adjustment.

Justification of this Increase:
The project bids were in excess of the funds available in the Town Center Fund to fully the fund the construction of the Town Center.

Justification of this Decrease:
Sufficient cash & investments exist in both funds to fund this request.

Increase Expense (Decrease Revenue)

Account Name	Amount	Account Number					Project Number	
Building cost	1,120,162	5600	9600		5804	00	97084	20
Transfer to Town Center	450,247	1010	6600		7602	60		
Transfer to Town Center	386,600	2130	9130		7602	60		

Decrease Expense (Increase Revenue)

Account Name	Amount	Account Number					Project Number	
Use of Fund balance	450,247	1010	0001		4999	99		
Use of Fund balance	386,600	2130	0913		4999	99		
Trnsfr from General Fund	450,247	5600	0960		6602	01		
Trnsfr from Off Street Parking	386,600	5600	0960		6602	13		
Interest - Investments	58,000	5600	0960		6708	00		
Interest - Construction Fund	225,315	5600	0960		6708	11		

Approval Signatures

Requested By — Date

Budget Manager — Date 7-27-99

Department Director — Date

Admin. Services Director — Date 27 JUL 99

Mayor — Date 8/3/99

Budget Office Use Only

Type: A B C D E

Date of Approval

Posted to General Ledger

Posted to Project Accounting

Entered in Category Log

Blue Copy: Budget & Research / Yellow Copy: Requester

D:\DATA\99BUDGET\BUDGTADJ\TOWNC

Rethinking Fayetteville's "Exhibit Hall/Town Center"

An Open Letter to Fayetteville's City Council for Aug. 3 1999 vote:

As you vote on the revised budget at the Tuesday Council meeting, please consider these issues, summarized from my comments to the Council earlier.

In a nut shell, my advocacy is for a top-notch true town center that will serve both as a freely accessible community gathering place and as a forum for the work of our local government, with a parallel role as a convention center. More nearly equal priority can be given to local and tourist uses, particularly if you vote to add City funds in a joint venture. If that's your vote, please ensure that architect has sufficient resources to build a world-class facility that will be landmark for Fayetteville.

You'll remember that I read from the attached summary of the 1997 public input session, which was published by the Project Design team. A copy of some of the Arkansas code on Advertising and Promotion Commissions is attached, also. I'll be happy to answer any questions at the meeting.

mt. OLIVE

Respectfully

JHB

Jim Bemis
964 Tanglebriar Lane
Fayetteville, AR 72701
Phone: 444 9825

<u>Key Points for Fayetteville's City Council Vote: August 3, 1999</u>

- **Reassessing Exhibit Hall function, if City Funds are Contributed**

The current "Town Center/Exhibit Hall Project" budgeting changes and requests for funds from the City have further highlighted the importance of reassessing how the building can best serve the community. Supporters of a true town center feel that the City now has an opportunity to negotiate the building of **a first-class Town Center – where we can feel free to gather in a public forum that is distinctive and recognized as community territory – a freely accessible open space for local folks, as with the Square and parks. It can also be a focal point for the work of our City government.**

- **Refocusing Public Input on Community-Friendly Downtown Space**

My main suggestion here is that we should refocus public input on how to define the term "Civic Center" as used on the ballot and in the management contract. Surely the City can find some ways to be more creative in what we want this public assembly facility to be and how it could operate more like a Fayetteville-friendly "Town Space" on the Square. I know that many local folks are agreed that the original Center feasibility study called for a building that was "to provide a sense of pride and place as the new "Town Center" of Fayetteville." That's also what we heard folks wanted in the public input meetings (see annex). Yet now we hear repeatedly that the exhibit hall MUST be devoted first to use for bringing in out-of-town dollars -- as a convention center or exhibit hall. At the same time, we also hear that the Project won't fly without big bucks from the City, from general funds.

- **Expanding our Square -- or Exhibit Hall Primarily for Tourists?**

Last Sunday's Times (July 25) carried an editorial that reminds us that: ***"Fayetteville clearly needs a place where those interested in being a part of the community can gather and meet."*** In their lead story on the "Town Center", the *Times* quotes the Mayor as saying *"This is just going to be an expansion of the Square, as far as I'm concerned."* I agree, but, unfortunately, the Mayor's authority to address these concerns (as Mayor) is limited. Under present agreements with the A&P Commission, the Mayor and the City Council will have scant say-so about the Center's policies and day-to-day operations. The Center will be managed directly by the A&P commission, even though the building is owned by the City, and even if partially funded by the City or other donors. Judging by quotes in recent newspaper articles, some of the members of the Council are just now beginning to realize that the City has a near-zero administrative or policy making role in managing the Center, beyond a yearly review. (The Mayor and Vice-Mayor sit as members of the A&P Commission, but as I understand the contract, the Council members will get their first shot at any changes in about 2003, after the Center's proposed first year of operation.)

- **Clarifying the Ping-Pong Process for Design, Planning, and Budgeting**

You'll be making your own judgments of data obtained in a process that has bounced between the A&P and the Council since about 1992, depending on who you talk to. The extremely complicated budget figures and process for removing the "deductive alternates" and then replacing them with "change orders" is far beyond my ability to digest. I'm still not at all clear on how the whole process affects the "low bidder" decision, or how the Planning Commission gets left out of the loop. For the record, I see the whole clunky committee-bound process and really sloppy state law as the major stumbling blocks -- not the Commission or Council members, or the architect, or the City staff. They are dealing with a legal and procedural nightmare..

- **Exploring What's Inside the Box**

Much of the discussion at Council and A&P commission meetings has centered on how to define "public use" and how "others" (as opposed to tourists) can be scheduled and charged for use of the facility. Perhaps you folks have seen a copy of the management game plan and visualizations of the interior of the building and related facilities and equipment. But I find no one who can tell me what the building now contains. Thus, the people of Fayetteville really don't know what will be available to "use." (If there are now written policies and procedures about daily operations, they have not been presented in public meetings.)

From the outset, parking has been the key concern, and parking considerations seem to have driven the Project location. However, even the Mayor has said there may be cheaper ways to obtain parking. (**Note:** If you vote to put the 40 underground parking spaces back into the bid, the *net* increase in parking for the City would be about 140 spaces -- with a grand total of 240 parking spaces in the project's parking sections. (There would be a *net* of only 140 spaces, because there are 100 spaces in the present parking lot on the site.) As I recall, the City paid only about $150,000 for the original 100-space lot. But for the 40 underground spaces, if retained, they'll pay about $386,000. The clinker is this -- even if the 40 spaces are left out, the Project would still pay more than $3,000,000 (three million dollars) for 200 parking spaces – that's an overall *net* of only 100 parking spaces. I hope I'm wrong on these calculations; maybe you folks can come up with some cheaper estimates.)

- **Broader Interpretation of HMR law and Related Local Use Policy**

I encourage the Council to look for a broader interpretation of the law that created the A&P commission, so as allow appropriate open public access of the new facility for families, neighborhoods, and community groups. This interpretation could be covered by the "family entertainment" or "public recreation" functions outlined in the Arkansas code (see below and annex). It seems clear to me that these terms can be construed to mean a facility where our local families feel comfortable, and which can be thought of as "community territory" -- with a sense of ownership by the public, as with our parks, libraries, and schools. Other such local facilities usually are made available the public "for free", or on a maintenance-cost basis.

In my view, the basic building design and operations should actively encourage family and community group gatherings and just "hanging out" socially to help in another kind of "bonding" of Fayetteville -- encouraging neighborhood and family participation. Maybe the definitions of "family entertainment and "public recreation" can be expanded to include free or minimal-charge use for family and neighborhood functions and group activities, much like that for the Square gardens and parks. As I see it, the term "multipurpose" building used in the Project's original feasibility study was intended to cover just such activities. (On another note, we have seen remarkably little discussion of how the building's use could reinforce the work of our local government, which was a primary function of the original town hall meetings in our country. Good examples are the current City efforts to pull together groups like the Mayor's Council on Stronger Families, the Library focus groups, the neighborhood disaster preparedness team, and other such civic groups.)

This "social capital" is a tremendously valuable investment, and provision for such use seems even more appropriate if the Council votes to contribute City general funds and bring private money into a joint venture. Certainly, the social capital investment is worthy of further analysis by the Council, if the City and other donors contribute money and other resources.

- **Revitalizing the Square – Our common goal**

For those of us who seek broader interpretations, our strongest argument is that the basic aim of the building is to revitalize and strengthen downtown Fayetteville – not just to create an income stream for the building and/or provide first for tourist events. (Unfortunately, many of our local citizens don't know their own "downtown," and if voter apathy is any indication, they don't have much interest). Maybe there's a way around assumed semantic barriers and earlier interpretations of legal requirements that would promote use of the facility to bring our own local citizens back to the Square area.

Current assumptions seem to be that all meetings in the building MUST create "rental" revenue, with tourists use given first priority. But that assumption doesn't hold for a true "Civic Center" that encompasses the terms "family entertainment" and "public recreation" – which are concepts that don't necessarily imply revenue production. (The non-monetary value –the "social capital" of voter participation and trust within the community -- is tough to figure a dollar cost basis. But a "customer generation" factor that can be measured in dollars is built into the numbers of our local folks using the facilities, as with City festivals, and the Farmer's Market. (For example, could the facility be managed so that the farmer/crafts market could be held indoors in bad weather or in winter months?)

- **Are we getting what we voted for on the 1997 ballot?**

My point is that if we don't find community-friendly performance built into a true Civic Center, then I feel that voters can strongly and legitimately protest that the final design and lease agreement do not meet the criteria implicit in the bond issue ballot used in the 1997 vote. **Many Fayetteville voters are convinced that we have a right to insist that the building and its management, as now being presented for Council approval, do not truly measure up to the "use" specifications that we, the public, thought we were voting for.** Rather than building public trust and involvement, an Exhibit Hall run primarily for tourists and bypassing local concerns could easily generate further disenchantment and disinterest in the whole democratic process of self government here in Fayetteville. (Please note (see annex) that the term used in the Authority to Issue bonds is "convention center projects", rather than "civic center", "town center" or "exhibit hall." Should the term "convention center" have been used on the ballot and bond issue?)

- **Bottom Line: What do Fayetteville Folks Get in Return for City Contributions?**

Now that the City and other donors are being asked to make substantial contributions, we have a "window" in the decision-making process through which the City could find some way renegotiate the management and policy guidelines. Perhaps there might be "leaseback" to the A&P (or other combination of institutions). This would allow more discretionary Center usage within the community and by our City government. (For example, the City might retain or sublease the management to another entity more directly responsive to community needs, as is done with the library, parks and recreation? Or the City could simply ask for a percentage of time and/or Center space that would be set aside for community use.

At previous Council meetings, I believe that the City Attorney has said that the language of the HMR law would allow entities other than the A&P to lease the building. How come we need more players in the management of a building that was proposed primarily as a complement to the CCE? The have topnotch staff and facilities, and are on the ground and running. Why couldn't they handle the tourist-oriented events, as they have for years, and the City could arrange scheduling of the community events?) As I see it, the City, in return for any money contributed, could now write in very specific language for prorated community use, based on the notions outlined here.

Please take a look at the following language from the law creating the A&P commission, which seems to provide for such use. As a non-lawyer, I see an opportunity for Fayetteville families, neighborhoods, and community groups to own a share of a truly flexible public facility...a Town Center. I can't imagine any responsible citizen voting against such a project.

****

Selected Key Points in Reinterpretation of Arkansas Code for A&P

(26-75-606 Use of funds collected)

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

(26-75-607. Authority to issue bonds)

Cities of the first class levying the tax and creating the commission as permitted in this subchapter are authorized to acquire sites for, construct, reconstruct, extend, equip, improve, maintain, and operate convention centers and facilities necessary for,

supporting, or otherwise pertaining to, convention centers which are collectively referred to in this section as "convention center projects" in such cities and are authorized to issue bonds to provide funds for accomplishing convention center projects and to pledge all or any part of the revenues from the tax levied by the city pursuant to this subchapter to pay the principal of. interest on. and fees and expenses in connection with the bonds.

Source: Handbook for Arkansas Municipal Officials, 1994 Edition

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(Annexes: Arkansas Code, Public Input Document, Ballot)

Arkansas Code, Advertising and Promotion Commissions

26-75-605. Advertising and promotion commissions.

(a) Any city levying a tax pursuant to this subchapter shall, by ordinance, create a city advertising and promotion commission, to be composed of seven (7) members, each of whom shall reside within the levying city, as follows:

(1) Four (4) members shall be owners or managers of businesses in the tourism industry, at least three (3) of whom shall be owners or managers of hotels, motels, or restaurants, and who shall serve for staggered terms of four (4) years;

(2) Two (2) members of the commission shall be members of the governing body of the city and selected by the governing body and shall serve at the will of the governing body; and

(3) One (1) member shall be from the public at large and shall serve for a term of four (4) years.

(b) In the case of a city creating the commission authorized in this section after March 4, 1993, the initial members of the commission shall be selected as follows:

(1) The four (4) tourism industry positions provided for in subdivision (a)(1) of this section shall be filled by appointment made by the governing body of the city for staggered terms so that:

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

(2) The at-large position provided for in subdivision (a)(3) of this section shall be filled by nomination by the chief administrator of the city and approval by the governing body of the city.

(c) In the case of a city in which a city advertising and promotion commission exists on March 4, 1993, the members of the commission shall continue in office for the balance of the terms to which they have been previously appointed; provided that, if on that date no commission member has been appointed to hold an at-large position, the mayor shall designate one (1) of the commission members who is also a member of the governing body of the city to fill the at-large position provided for in subdivision (a)(3) for a term of not longer than one (1) year.

(d) Vacancies on the commission, whether resulting from expiration of a regular term or otherwise, in any of the four (4) tourism industry positions provided for in subdivision
(e)
(f) (a)(1) or in the at-large position provided for in subdivision shall be filled by appointment made by the remaining members of the commission, with the approval of the governing body of the city.

History. Acts 1965, No. 185, § 5; 1969, No. 123, § 2; A.S.A. 1947, § 19-4616; Acts 1993, No. 364, § 3.

Publisher's Notes. The former last part of this section provided that, in the case of those commissions which were in existence on July1, 1969, the terms of all members would expire on July 1, 1969, and the commission would be constituted as provided in this section and the hotel, motel, and restaurant members would, at the first meeting of the commission after July 1, 1969, draw lots for terms so that: (1) One member would serve for a term of one year; (2) One member would serve for a term of two years; (3) One member would serve for a term of three years; and (4) One member would serve for a term of four years. Thereafter, their successors are to be ppointed for terms of four years.

Amendments. The 1993 amendment, in the introductory language of (a), substituted "shall, by ordinance" for "in the ordinance levyin the tax, shall" and inserted "each of whom shall reside within the levying city"; rewrote (a)(1)-(a)(3) and (b); and added (c) and (d).

26-75-606. Use of funds collected.

(a)(1) All funds credited to the city advertising and promotion fund pursuant to this subchapter shall be used for advertising and promoting the city and its environs or for the construction, reconstruction, extension, equipment, improvement, maintenance, repair, and operation of a convention center or for the operation of tourist promotion facilities in the city, and facilities necessary for, supporting, or otherwise pertaining to, a convention center, or for the payment of the principal of, interest on, and fees and expenses in connection with, bonds as provided in this subchapter in the manner as shall be determined by the city advertising and promotion commission. The city advertising and promotion commission may engage such personnel and agencies and incur such administrative costs that it deems necessary to conduct its business.

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

(3) [Repealed.]

(b)(1) Any city of the first class which is authorized to levy and does levy a tax pursuant to this subchapter is authorized to use or pledge all, or any part of, the revenues derived from the tax for the purposes prescribed in this subchapter, or for the operation of tourist-oriented facilities, including, but not limited to, theme parks and other family entertainment facilities, or for the retirement of bonds issued for the establishment and operation of other tourist-oriented facilities, including, but not limited to, theme parks and other family entertainment facilities. These revenues shall be used or pledged for the purposes authorized in this subsection only upon approval of the city advertising and promotion omission created pursuant to this subchapter.

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

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

(2) Such taxes shall not be used:

(A) For general capital improvements within the city;
(B) For the costs associated with the general operation of the city; or
(C) For general subsidy of any civic groups or the chamber of commerce.

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

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

History. Acts 1965, No. 185, § 6; 1969, No. 123, § 3; 1971, No. 188, § 1; 1977, No. 178, § 2; 1981, No. 20, § 2;1983, No. 821, § 1; A.S.A. 1947, §§ 19-4617, 19-4617.1; Acts 1989, No. 626, § 3; 1989, No. 650, § 1; 1991,No. 726, § 2, 1991, No. 1178 § 1; 1993, No. 347, § 2; 1993, No. 364, §§ 4-6.

Publisher's Notes. See Publisher's notes to § 26-75-602.

As to legislative findings, see Publisher's Notes, § 26-75-602.

Acts 1991, No. 1178, § 2 provided: "It is the intent of this act to affirm the authority of city advertising and promotion commissions over the use of the city advertising and promotion commission funds for administrative and promotional purposes."

Amendments. The 1991 amendment by No. 726, in (a)(1), inserted "or for the operation of tourist promotion facilities"; redesignated former (c) as present (a)(3), in (b)(1), substituted "one percent (1%)" for "two percent (2%) and "two percent (2%)" for "three percent (3%)"; and redesignated former (a)(3) as present (b)(2).

The 1991 amendment by No. 1178 added the last sentence in (a)(1).

The 1993 amendment by No. 347, in (b)(2), inserted "including but not limited to facilities constituting city parks,"inserted "also" preceding "for the payment," substituted "the" for "this" following "promotion commission for," added "of such payment" at the end, and made minor punctuation changes throughout.

The 1993 amendment by No. 364 repealed (a)(3), in (b)(1), substituted "tax pursuant to this subchapter" for "a one percent (1%) or two percent (2%) gross receipts tax on the gross receipts or gross proceeds derived from furnishing hotel or motel accommodations and upon the gross receipts or gross proceeds of restaurants and similar establishments, as authorized in this subchapter"; redesignated the introductory language of (c) as (c)(1) and former (c)(1)-(c)(3) as (c)(2)-(c)(4), substituted "§ 26-75-602(a)" for "§ 26-75-602(d)" in (c)(1) and made minor punctuation changes.

26-75-607. Authority to issue bonds.

Cities of the first class levying the tax and creating the commission as permitted in this subchapter are authorized to acquire sites for, construct, reconstruct, extend, equip, improve, maintain, and operate convention centers and facilities necessary for, supporting, or otherwise pertaining to, convention centers which are collectively referred to in this section as "convention center projects" in such cities and are authorized to issue bonds to provide funds for accomplishing convention center projects and to pledge all or any part of the revenues from the tax levied by the city pursuant to this subchapter to pay the principal of. interest on. and fees and expenses in connection with the bonds.

History. Acts 1965, No. 185, § 6; 1969, No. 123, § 3; 1971, No. 188, § 1; A.S.A. 1947, § 19-4617.

Publisher's Notes. See Publisher's notes to § 26-75-602.

Source: Handbook for Arkansas Municipal Officials, 1994 Edition

WITTENBERG, DELONY & DAVIDSON, INC.
Architecture
Planning
Interior Design
Northwest Arkansas Office · 100 West Center / Suite 102 · Fayetteville, AR 72701 · FAX 501/443-9515 · 501/443-6666

September 16, 1997

Fayetteville Town Center
Community Design Meeting
Participants

Dear Participant:

Thank you for taking time to be part of the Town Center Community Design Meeting held September 9, 1997. Community support for this project is vital to the overall success of this project. Your involvement will help to insure that community issues and objectives are taken into account throughout the design process.

Attached please find the Follow-Up report containing summary sheets from each one of the action team groups and an overall summary of the main concerns for the project.

The information obtained from this meeting will be used to help further the design process for the project and will help facilitate the evolution of the design to the next level of detail. It is the intent of the design team to draw on additional public input sessions as the detailed design is developed. As soon as further forums for public input are decided on we will inform you.

Again, thank you.

Sincerely,
WITTENBERG, DELONY & DAVIDSON, INC

R. Alderman

Richard Alderman, AIA

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Planning
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Fayetteville Town Center Exhibition Hall

Public Input Report

MEETING DATE NOVEMBER 25, 1997

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12 - 3- 1997

The following information is being sent to everyone who took part in the Public Forum held September 9, 1997 as a follow-up to your interest in this project. All those who attended the Public Forum received a comment report outlining your views, ideas and concerns from that meeting also. The design team appreciates your efforts and your input on behalf of this project.

As part of the continuing process of public input for the Town Center a series of smaller input groups was assembled from individuals who expressed interest at the Public Forum and that volunteered to help with technical issues of the project. Based on input from the initial Public Forum four technical issue groups were put together and asked to provide further ideas involving critical uses areas of the project, those subcommittees are:

Technical / Communications

James Alford	C.C.E.
Neil Adams	TCA Cable
Marvin Hilton	Cable Administrator

Exhibition / Community Users

Greg Taylor	Taylor Display
Marilyn Snapp	Chamber of Commerce
Becky Carter	Exhibit Plus

Kitchen / Catering

Jay Fennel	Jose's
Ken Woodbury	Ozark Brew Pub
Suzi Stephens	Nibbles
Alex Jerde	Hilton

SUMMARY OF CONCERNS

Although there seemed to be a broad variety of issues mentioned in each group, the same types of issues surfaced. The top issues included:

Quality materials, technology and form used in context of the Downtown Square. This includes the idea of creating a design relationship of this building with the historical nature of downtown and being sensitive to the civic importance of this new landmark. Materials should not be determined by budget, but selected with the idea of that the town center will be an important structure far into the future.

Space should be provided for non-profit community groups. To be a true "town center" the public sees an importance to make space available and accessible foremost to the citizens of Fayetteville. There is an understanding of both the need and the desire to have large exhibits and conventions, but the public users should be of the first concern.

The "edges" should respond sensitively to the pedestrian. This should include a close look at how landscape, retail, office etc. might be incorporated into the design to create an inviting perimeter to the pedestrian and provide a multiple of opportunities for them to interact and respond to the new center. Importance was also placed on the south facade and its relationship / sensitivity to South Fayetteville.

The functionality and flexibility of the Town Center will be key to its success. Many items mentioned were adequate toilets, adequate parking, and ease of exhibitor set-up. The sound technology, lighting, and acoustics could be a deciding factor for many exhibitors who are debating between several locations for their event. Another concern was the ease of vehicular access entering and exiting the site and parking deck.

It is our intent to follow up our public forum by sending out this summary report to those who requested. We will then inform them, as well as the general public, of any future workshops for the Fayetteville Town Center Exhibition Hall. We have appreciated their concern and input into the design process.

Public Space Design

Hank Kaminsky	Artist
Susan Ferrell	Square Gardens
Barry Kew	UofA Landscape Architecture
Cathy Dicus	Junior Civic League
Bootsie Ackerman	Downtown / Dickson Enhancement
Diane Boyd	Executive Square

Attached please find minutes of these meetings reflecting comments and concerns expressed by technical groups.

Since the Public Forum held in September several meetings of Fayetteville's Advertising & Promotion Commission have seen presentations of the project to help further refine all aspects of the design of the project. At the last Commission meeting early exterior concept ideas were reviewed and issues concerning materials, budget and possible additional space needs, with possible additional funding from the City, were discussed.

The next step in the development process for this project is to present more developed exterior concepts to the A & P Commission. Once further input is completed from these meetings we envision another Public Forum meeting to gather comments on the revised design including the proposed exterior development.

Thank you for your continued involvement with this project.

TECHNICAL / COMMUNICATIONS SUBCOMMITTEE

James Alford
Jim Bemis
Marvin Hilton

The Town Center needs to have fiber optics connection for communication. The location of nearest downtown trunk line needs to be determined. The connection will need to be new fiber wire with the largest "thru-put" capability.

The Center needs to be able to receive and send by satellite for interactive video conferencing. Costs would be kept at a minimum if a directly connected least to the CCE, but there is a great possibility that both facilities would need to receive simultaneously. The CCE currently uses a mobile truck to send signals. The truck is connected into the facility by cables & conduits. This truck could be rented by the Town Center to alleviate the cost of a separate sending satellite dish. The connection capability for the truck could be designed to minimize and simplify amount of cables required. The roof mounted satellite dish needs to have an automatic tracking system. Size, location, structural requirements, cable/conduit requirements need to be determined. Requirements need to be made to accommodate a high speed networking global market.

Lighting in the exhibit space needs to be subdivided in the hall. It needs to have various types of lighting for different lighting levels, at different physical levels, and for different focal points/speaker locations. There needs to be a control booth at a higher level to observe lighting, activity, sound, etc. Cameras can be used to view spaces not visible when the hall has been divided. Ideally the exhibit hall should be hard wired for cameras on the floor with multi pin connectors. Floor should also should have plug for sound, power, phone, fiber, computer at intervals approx. 20'.

The technology of the center should plan for the near future digital world. An acoustic consultant may need to be considered to help with the specifics of the hall space, materials, flexibility and help plan for the industry standards and requirements.

Plan for multiple screens in hall with audience participation. Plan for the use of "flat screen technology" and wall of monitors. Video conferencing will be planned for. Camera location and conduit should be provided to get full visibility of entire hall and when subdivided. Distance education should be planned for in this scenario.

There should be a front of the house mixer. Remotely controlled cameras. Projectors which can be adjusted in height and direction. Slide track or slings could be used for flexibility. Provide RTS communication system or similar. Hardwire is best. Plan for multi-Media presentations. Catwalk could be used for media cameramen location above crowd.

EXHIBITION / COMMUNITY USERS SUBCOMMITTEE

Becky Carter
Marilyn Snapp

There needs to be adequate storage for additional exhibit supplies that can be ordered from a service desk on the main hall level. Service desk can be off service hallway and would be manned by the exhibit contractor who organizes the setup of the event. Ideally the service desk would be two 8' counters with a service window. The exhibitor may request additional pipe, drape, lighting, skirted tables, etc. The majority of the supplies would be brought on site by the exhibitor setup contractor, but items are sometimes forgotten or not ordered properly by exhibitor. There needs to be a show manager's office. This can be small area with phone, power, and computer outlets.

There needs to be storage for a forklift on lower levels that can be used to move paletted materials shipped or brought on site. Power, communication requirements, etc. needs to be provided every 20' to 30'. Water should be provided, but not as often. Ideal freight elevator size should be 12 'X 10' with a minimum height of 8'-0". The passenger elevator needs to be increased some in size. There needs to be holding areas for exhibits near the freight elevators. Need to plan for exhibitors who have small exhibits. Plan for cars wanting to be in truck service drive. Provide separate drop off area for exhibitors.

KITCHEN / CATERING SUBCOMMITTEE

Suzi Stephens
Jay Fennel
Ken Woodbury

For a food preparation kitchen the equipment required would be: a 6 burner range with vented hood, one electric convection oven, one gas convection oven, one 100 cup coffee maker, a 3 compartment sink with sprayer and disposal, two 500 lb icemakers (portable), and four Carter-Hoffman 160 plate warmers (30" x 5' x 6' portable). Downstairs needs a 10' x 10' walk-in refrig with 5 x10 freezer inside. Need lots of plugs in kitchen and in service hallway. Provide high amps to adequately service multiple equipment use. Stainless steel counter tops. Plenty of lay out space for plate prep. Dishwasher may not be required by caterer, but would be used by small meeting groups and\or breakroom. Slope floors in service hall and kitchen for pressure washing. Portable bar can be used throughout facility when needed. Plan storage for tables, chairs, portable bars, dry foods. Plan for maximum serving capacity of 1000.

Catering vehicles typically are vans and box trucks 14' long. Service docks are too high for catering truck. Need to consider a dock leveler. 8'x8' min. size elevator is required.

- Consideration needs to be made for the times when the hall is subdivided and several different caterers are present. Equipment needs to be portable to allow service from hall. Provide convenience counter top at these locations. These spaces need to have plenty of high amp plugs.

PUBLIC SPACE DESIGN SUBCOMMITTEE

Susan Ferrell
Dianne Boyd
Bootsie Ackerman
Hank Kaminsky

Plaza design needs to accommodate a variety of users from children to the elderly. Public space should be the opportunity to display local sculpture and artwork. Artwork could provide interactive visual and tactile elements for people of all ages. Scale and edges should be appropriate. Design should incorporate both a sense of formality and movement. This is an opportunity to connect to the square gardens. The Plaza should accommodate an open pathway for emergency vehicles and/or the rare occasion to bring a single vehicle onto the floor. Maintenance requirements should be considered in selecting items and materials for public space. Who will be responsible for the maintenance of the landscaping?

Public bathrooms should be provided, but issues of security for both the exhibit hall and the users should be considered. The open hours for the public bathrooms may need to be limited.

Ideas discussed for the plaza include fountains, clock, time capsule, change in levels, banners, information kiosk, seating, retail, sculpture,... The trees should be a variety of species which would include a mix of evergreen and deciduous. The trees and planting needs to accommodate 12 months of color and foliage. Planting should take into consideration need for visibility to maintain security. Lighting is a key consideration to security as well as the design of the public space. Lighting needs to eliminate dark pockets around corners, bushes, stairwells, etc.

Retail users desired to be on Plaza level rather than on Rock. Night use shops would promote a more secure plaza by bringing more users after dark.

SPECIAL ELECTION

A CITY OF FAYETTEVILLE	B WASHINGTON COUNTY	C AUGUST 5, 1997
INSTRUCTIONS TO VOTER 1. To vote you must blacken the oval (⬬) completely next to your choice. 2. Use only the pencil provided. 3. After voting, detach stub and deposit the ballot in the ballot box, ballot stub in stub box. VOTE FOR OR AGAINST the issuance of bonds of the City of Fayetteville to finance the construction of the Fayetteville Town Center as a new, multi-purpose, civic center for meetings, conventions, exhibitions, entertainment events, related uses, and parking. The bonds will be issued in an amount not to exceed $6,950,000 and for a term of not to exceed twenty-two years and will be retired from all or any part of the proceeds of the City's existing 1% hotel and restaurant gross receipts tax. ( ) FOR issuance of the bonds ⬭ AGAINST issuance of the bonds		
A	B	C 026

Back | **Home**

RECEIVED
AUG 03 1999
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

August 1, 1999

Dear City Council Member,

When it comes to a discussion of the Fayetteville Town Center, like many others in our town, I am admittedly confused. Just what are we getting after all - an exhibit hall, a convention center, or a town center? How much will it finally cost? We think we have the answer to that one but witness the request for additional funds. Who is to say that more won't be asked for later. What will it finally look like? Who will be able to use it and under what conditions? Will it be a place where citizens can, at any time, take out of town guests to visit, go inside, and experience the "spectacular views.?

Along with other Friends For Fayetteville, I have watched and participated in the continuing dialogue on this very important matter. And, I still don't have answers to many of those questions. We now know that it will cost more than estimated - something that many of us feared years ago. What else might work out differently than has been promised? Will this actually turn out to be the proverbial "pig in a poke."

With the addition of extra funds, what other important civic needs will go unmet? I have been repeatedly frustrated with the city's response of no funds available for projects such as park and sidewalk enhancement, more facilities for children and new bike trails. So, if there isn't money for on going improvement projects, where is this pot of gold that is going to fund the Town Center?

Citizens are closely watching this endeavor and I believe in their hearts they really want something that will create a sense of place in our downtown area. A true "Town Center" that is open to all. No one is refused use and everyone feels a pride of ownership. If the citizens are unsure about this project, I believe that it is the city's responsibility to educate and inform, and then stick to the plan. We had public fora and people gave their input but they now feel that none of it even made a difference. Are all these decisions make by just a very few people or does public input really matter? It is time for the city to hear the citizens, really give them a Town Center, not just semantics. "Commerce without consciousness" is a deadly combination and can destroy a community.

Sincerely,
Andrea Fournet

Andrea Fournet, Chair
Friends For Fayetteville

Given at Agenda Ses
July 20, 1999
City Council

Fayetteville
CHAMBER OF COMMERCE

July 13, 1999

To: Fayetteville City Council

From: Marilyn Johnson M Johnson
Fayetteville Advertising and Promotion Commission

RE: Fayetteville Town Center

The Advertising and Promotion Commission at their meeting on July 12 voted to move the Town Center documents forward to you for your review and discussion.

You will remember that the Town Center project was bid on May 6, 1999. Those bids are binding on the apparent low bidder for 90 days. The last contract date with the apparent low bidder, Nabholtz Construction Co., is August 4th to complete a contract. A copy of the bid tabulation for the Town Center is attached for reference.

The low bid for the project is $8,361,833.00. This amount is the base bid of $8,786,650 less three deductive alternates:

Alternate #1 <$36,200.00> for portable kitchen equipment
Alternate #2 <$2,017.00> for loading dock leveling equipment
Alternate #3 <~~$280,000.00~~ 386,600> for the lowest half level of parking ± 40 cars

At this time, the project construction budget is set at $7,350,000 leaving this low bid $1,011,833 from the budgeted amount.

Since the bids were opened, the architect, city staff and I have been working with the apparent low bidder to develop a list of cost saving items that can be negotiated from the project. $792,541.00 in proposed cost reductions have been identified in the project to arrive at a current cost of $7,569,292.00 leaving the bid $219,292.00 from the budget. A copy of the list of possible cost reduction items is attached. The contractor and the architect are still working to find other cost reduction items for the $219,292.00 amount.

We are looking for your input on suggested cost reduction items, in order to sign a contract by August 4.

123 WEST MOUNTAIN • P.O. Box 4216 • FAYETTEVILLE, ARKANSAS 72702-4216 • (501) 521-1710 • FAX (501) 521-1791

WITTENBERG, DELONY & DAVIDSON, INC.

100 West Center Street, Suite 102, Fayetteville, Arkansas 72701 Telephone: 501-443-6666 FAX: 501-443-9515

BID TABULATION FOR: FAYETTEVILLE TOWN CENTER
FAYETTEVILLE, ARKANSAS

PROJECT NO.: 95059

BIDS RECEIVED: MAY 6, 1999 at 4:00 p.m.

BIDDERS & LICENSE NO.	BID BOND ENCLOSED	ADDENDA RECEIVED	AMOUNT OF BASE BID	DEDUCTIVE ALT. NO.1	DEDUCTIVE ALT. NO. 2	DEDUCTIVE ALT. NO. 3	UNIT PRICE NO.1	UNIT PRICE NO.2	UNIT PRICE NO.3
OAKRIDGE BUILDERS License # 0006960999	YES	YES	$8,693,000.00	$ 35,000..00 ($8,658,000.00)	$ 2,100.00 ($8,655,900.00)	$ 256,000.00 ($8,399,900.00)	42" Ded $ 22.00 Add $ 43.84 /L.F. 48" Ded $ 32.00 Add $ 55.11 /L.F. 54" Ded $ 41.50 Add $ 69.00 /L.F. 60" Ded $ 53.00 Add $ 85.80 /L.F.	$ 8.00 /CY	$ 9.00 /CY
NABHOLZ CONSTRUCTION License #0000020699	YES	YES	$8,786,650.00	$36,200.00 ($8,750,450.00)	$2,017.00 ($8,748,433.00)	$ 386,600.00 ($8,361,833.00)	42" Ded $47.06 Add $ 39.31 /L.F. 48" Ded $58.84 Add $ 49.84 /L.F. 54" Ded $ 65.58 Add $ 54.08 /L.F. 60" Ded $ 99.30 Add $ 76.68 /L.F.	$ 7.25 /CY	$ 7.50 /CY
BRANCO ENTERPRISES License # 0028640400	YES	YES	$8,970,000.00	$35,000.00 ($8,935,000.00)	$3,800.00 ($8,931,200.00)	$ 280,000.00 ($8,651,200.00)	42" Ded $ 45.00 Add $ 90.00 /L.F. 48" Ded $ 57.00 Add $ 105.00/L.F. 54" Ded $ 70.00 Add $ 125.00/L.F. 60" Ded $ 85.00 Add $ 150.00/L.F.	$ 8.00 /CY	$ 8.25 /CY

BIDDERS & LICENSE NO.	UNIT PRICE NO. 4	UNITPRICE NO. 5	UNIT PRICE NO. 6	TRENCH SAFETY	MECHANICAL SUBCONT	PLUMBING SUBCONT.	ELECTRICAL SUBCONT	ROOF/SHT. MTL SUBCONT	ELEVATOR SUBCONT
OAKRIDGE BUILDERS	$ 150.00 /CY	$ 40.00 /CY	$ 20.00 /CY	$10,000	MOUNTAIN 0011870200	MOUNTAIN 0011870200	CAMPBELL 04837011	HARNESS 018900300	DOVER 0022880400
NABHOLZ CONSTRUCTION	$ 125.00 /CY	$ 85.00 /CY	$ 85.00 /CY	$10,000	MOUNTAIN 0011870200	MOUNTAIN 0011870200	CAMPBELL 04837011	HARNESS 018900300	THYSSEN DOVER 0022880400
BRANCO ENTERPRISES	$ 140.00 /CY	$ 100.00 /CY	$ 100.00 /CY	$ 1,000	MECHANICAL 0021580400	MECHANICAL 0021580400	CAMPBELL 04837011	HARNESS 018900300	DOVER 0022880400

BID CERTIFICATION: I hereby certify that the bids as tabulated above are correct as received and read aloud.

Signature: R. Alderman

Richard Alderman, A.I.A., Principal / Project Manager

Date: May 6, 1999

07-13-99 01:29PM P03

WD&D

July 09, 1999

Ms. Marilyn Johnson
A & P Commission
City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

Re: Fayetteville Town Center
A & P Commission
Value Engineering Pricing

Dear Marilyn:

Attached is a recap of items from work with Nabholz Construction Company to create a possible list of cost reductions from the bidding of the above project. This recap is a result of several previous lists and work with the apparent low bidder to reduce costs from the project as bid. At this time we have been able to identify items that will reduce the project costs from $8,361,833.00 to $7,569,292.00.

We have also included for your review the contractor's work sheet showing all pricing options that have been looked at. Some of these items we feel do not represent an acceptable value for the work proposed and we have not included them in the recap of suggested cost reductions for that reason.

Sincerely,
WITTENBERG, DELONY & DAVIDSON, INC.

R. Alderman

Richard Alderman, AIA
Principal, Northwest Arkansas Office

c: Mr. Charles Venable, City of Fayetteville

Attachment 8 pages VE items

NORTHWEST ARKANSAS OFFICE
100 W. CENTER, SUITE 102
FAYETTEVILLE, AR 72701-6063
501/443-6666
501/443-9515 FAX

FAYETTEVILLE TOWN CENTER

REVISED VALUE ENGINEERING / COST REDUCTION ITEMS

7-09-1999

General Conditions

1.0	Change construction time to 18 months	$	30,000.00
1.1	Change construction boundaries to allow use of Rock Street & City leased lot	$	72,000.00
		$	102,000.00

Allowances

2.1	Delete landscape allowance	$	75,000.00
2.2	Reduce testing allowance from $30,000.00 to $15,000.00	$	15,000.00
2.3	Delete interior signage allowance	$	15,000.00
2.4	Delete reinforcing allowance of 5 tons	$	2,316.00
		$	107,316.00

Changes to Waterproofing Requirements

3.1	Change Floor sealers in deck and exhibition hall	$	37,971.00
3.2	Change to Contractor suggested Terrace & Plaza waterproofing systems	$	18,884.00
3.3	Change below-grade waterproofing system except at Mountain Street	$	4,773.00
3.4	Change to Contractor suggested Terrace traffic coating	$	48,763.00
		$	110,391.00

Elevators / Freight Elevators

4.1	Delete smaller freight elevator - provide all rough-in requirements	$	99,456.00
4.2	Delete one passenger elevator - provide all rough-in requirements	$	30,478.00
		$	129,934.00

Exterior Items

5.1	Delete canopies from north and south	$	12,970.00
5.2	Change pre-cast to split face CMU on deck, pre-cast on bldg. to remain	$	6,264.00
5.3	Change face brick type	$	17,405.00
5.4	Delete herringbone in-fill pattern	$	15,207.00

FAYETTEVILLE TOWN CENTER
REVISED VALUE ENGINEERING / COST REDUCTION ITEMS
7-09-1999

5.5	Delete removable bollards	$	3,651.00
5.6	Delete 8" painted handrails	$	11,763.00
5.7	Change parking deck barrier to site cast with exp. agg. finish	$	18,508.00
5.8	Delete paining of under side of parking deck	$	33,143.00
		$	118,911.00

Interior Items

6.1	Delete Freezer - provide rough-in	$	12,250.00
6.2	Delete Electric window shades - provide rough-in & electrical	$	24,350.00
6.3	Delete Vertical Blinds - provide blocking	$	5,625.00
6.4	Delete operable partitions-provide bulkheads & tracks	$	88,091.00
6.4	Delete mesh storage room wall	$	3,314.00
6.5	Delete storage millwork from back wall of service desk 421	$	3,482.00
6.6	Change round interior columns from precast to GFRP	$	5,383.00
		$	142,495.00

Glass & Glazing Changes

7.1	Change auto entrances to swing doors	$	6,632.00
7.2	Change from Kynar to Clear anodized accept at tower	$	9,650.00
7.3	Delete low E glazing requirement	$	10,646.00
		$	26,928.00

Electrical Items

8.1	Change light fixtures (pending cut sheets for review & approval)	$	19,424.00
8.2	Delete selected light fixtures	$	13,544.00
8.3	Allow transformer to be on grade	$	3,092.00
		$	36,060.00

Mechanical Items

9.1	Change RTU-1 & RTU-3 to constant volume	$	6,000.00
9.2	Delete graphic control system	$	2,200.00
9.3	Delete Energy Management System	$	3,961.00
9.4	Change ductwork at RTU-1	$	2,064.00
9.5	Delete fintube heat at tower	$	4,281.00
		$	18,506.00

FAYETTEVILLE TOWN CENTER
VALUE ENGINEERING - NCC
JULY 8, 1999

1. Delete use of 8" painted round steel handrail from top of all exterior te~~rrace and plaza~~ walls:
   DEDUCT: $ <11, 763.00> ✓

2. Delete cooler and freezer units from storage level, keep all rough-in details for future installation:
   DEDUCT: $ <12,250.00> ✓

3. Delete aluminum and glass canopies from south vestibule entry and east side of tower entry. Canopy on main north tower entry to remain.
   DEDUCT: $ <12,970.00> ✓

4. Delete sidewalks, curbs, gutters and street work on Block, Rock and East Streets. All work on Mountain Street to remain. All utility patching and other site work to remain.
   DEDUCT: $ <16,124.00> NO

5. Delete all work for topsoil, sodding and site preparation from the project including topsoil work in the planters on the plaza. Note that the landscape allowance only included final plant materials all other work is in the base bid.
   DEDUCT: $ < 4,223.00> NO

6. Delete the removable bollards shown at the entry to the plaza.
   DEDUCT: $ < 3,651.00> ✓

7. Delete precast work under brick on the three sides of the parking deck and replace with split face concrete masonry units. Precast on tower entry and south vestibule entry to remain.
   DEDUCT: $ < 6,264.00> ✓

8. Provide alternate pricing for specified brick pavers. Price alternate brick and concrete unit masonry products.
   DEDUCT: $ NO BID

9. Provide alternate pricing for the building face brick. Use ACME Denton 121 instead of Endicott masonry specified.
   DEDUCT: $ <17,405.00> ✓

10. Provide alternate pricing for face brick used on walls in plaza area. Use ACME Denton 121 instead of Endicott masonry specified.
    DEDUCT: $ WITH #9

11. Delete brick edging from plaza, provide score lines to replace edging. Brick at round entry to remain.
DEDUCT: $ <6,161.00> NO

12. Delete in-fill herringbone pattern in pavers at round entry, edging strips to form main grid pattern to remain, replace with concrete.
DEDUCT: $ <15,207.00>

13. Change 8'-0" aluminum doors at entrances and doors to exterior from exhibition hall to standard height units, provide glass transoms above.
DEDUCT: $ < 765.00> NO

14. Delete vertical blinds. Blocking to remain. DEDUCT: $ <5,625.00>

15. Delete electric window shade units from exhibition hall. Electrical conduit and rough-in to remain for future installation.
DEDUCT: $ <24,350.00>

16. Change four interior round precast column covers to GFRP (glass fiber reinforced plastic) products instead of precast concrete. GFRP to match details, reveals, and shapes shown for precast.
DEDUCT: $ <5,383.00>

16a. Dryvit finish in lieu of GFRP on item 16. DEDUCT: $ < 6,228.00> NO

17. Delete operable partitions from exhibition hall. Tracks, supports, framing, bulk heads and other rough-in items to remain for future installation.
DEDUCT: $ <88,091.00>

18. Delete wire mesh partitions from storage room 424. DEDUCT: $ <3,314.00>

19. Delete the smaller of the two freight elevators. Shaft, rough-in, electrical and other requirements for future installation to remain.
DEDUCT: $ <99,456.00>

20. Omit chair rail at Entrance Hall 403. DEDUCT: $ <1,265.00> NO

21. Redesign vanity and mirror configuration to flat wall and standard vanity framing at Men's Toilet 406 and Women's Toilet 405.
DEDUCT: $ NO BID

22. Delete one passenger elevator. Shaft, rough-in, electrical and other requirements for future installation to remain.
DEDUCT: $ <30,478.00>

23. Delete auto entrance doors at Entrance Tower 401 and replace with regular swing door as used in Vestibule 402.
DEDUCT: $ < 6,632.00>

24. Delete millwork at west wall of Service Desk 421. DEDUCT: $ < 3,482.00>

25. Delete wood base at Entrance Hall 403 and replace with vinyl:
DEDUCT: $ < 854.00> NO

25a. Change remaining millwork specified as stained from quartered book matched plain Aniegre to plain sliced Birch. DEDUCT: $ < 500.00> NO

Additional Value Engineering / Cost Saving Ideas for Consideration:

PAINTING

26. Delete accent color at reveals:
 a. Interior (see note on A3.4) DEDUCT: $ < 1,530.00> NO
 b. Exterior (See color "C" on ext . elevation color schedule DEDUCT: $ < 1,094.00> NO

26a. Delete painting of ceilings in the parking deck (all levels) plaza parking level 3c and service drive per finish schedule items 29. DEDUCT: $ <33,143.00>

MASONRY

27. Change precast barriers at perimeter of parking deck to site cast concrete with exposed aggregate flat faces. DEDUCT: $ <18,508.00>

27a. To change site cast concrete barriers to smooth finish with paint. DEDUCT: $ <22,268.00> NO

WATERPROOFING:

28. Floor sealers: Utilize Lapidolith on the parking decks, and Sonothance VOC on the interior concrete floor in lieu of sealer specified.
DEDUCT: $ <37,971.00>

29. Below-grade waterproofing: Delete drainage panels at all foundation walls except the Mountain Street wall, and install membrane (as specified) with protection board. DEDUCT: $ < 4,773.00>

30. Below-grade waterproofing: To also delete the drainage panels at the Mountain Street wall and install protection board. DEDUCT: $ < 791.00> NO

31. Terrace and Plaza Waterproofing System: Change Performance Roof Systems membrane with drainage panels to Sonneborn HLM5000 (already specified for the

planter areas) with PC-1 board. DEDUCT: $ $\boxed{<18,884.00>}$ ✓

32. Terrace Traffic Coating: Change the terrace traffic coating from Ultra Tex System to Sonneborn Sonoguard. DEDUCT: $ $\boxed{<48,763.00>}$ ✓

GLASS & GLAZING

33. Deduct to use clear anodized in lieu of painted material on all metal except on tower above precast band. DEDUCT:$ $\boxed{< 9,650.00>}$ ✓

34. At Tower F & G frames (3F and 1G) use 1" solar cool green/ low E in lieu of sandblasted glass or silk screen glass. DEDUCT: $ <15,042.00> NO

35. Delete third glass canopy of main north tower entry. DEDUCT: $ <10,982.00> NO

35a. Delete pairs of doors (doors labeled "A" -4 doors) in exhibition hall 400 between grids 3 & 4 and 6 & 7. DEDUCT: $ < 1,036.00> NO

35b. Delete pairs of doors (doors labeled "A"- 5 doors) in exhibition hall 400 at all remaining doors to exterior and provide single doors centered in opening. DEDUCT: $ < 2,512.00> NO

35c. Delete requirements for Low E glazing. Solar cool green and sand blasting to remain. DEDUCT: $ $\boxed{< 10,646.00>}$ ✓

ELECTRICAL

36. Light fixture deductive option #1. This option reduces the quality of light fixtures, but are furnished with T8 lamps and electronic ballast. DEDUCT: $ $\boxed{<19,424.00>}$ ✓

36a. To change option #1 light fixtures to option #2 light fixture from original light fixture. DEDUCT: $ <29,624.00> NO

36b. To delete (6) type L1, (8) type G2, (12) type L5, (8) type L3, (4) type K1 and (3) type T1 fixtures from light fixture package #1 DEDUCT: $ $\boxed{<13,544.00>}$ ✓

36c. To delete (6) type L1, (8) type G2, (12) type L5, (8) type L3, (4) type K1 and (3) type T1 fixtures from light fixture package #2 DEDUCT: $ <12,472.00> NO

37. Light fixture deductive option #2. This option changes T8 lamps and electronic ballast to T12 lamps and magnetic energy saving ballast. DEDUCT: $ < 4,848.00> NO

MECHANICAL

38. Deduct for making RTU-1 and RTU-3 constant volume units as originally specified (units were changed in addendum) DEDUCT: $ $\boxed{< 6,000.00>}$ ✓

Attn: Richard A.

39. Replace RTU- 1, 3 & 4 with three (3) thirty (30) ton units. This would allow one or two units to be shut down to save energy. DEDUCT: $ <10,000.00> NO

40. Deduct for deleting color graphic control system using standard controls loss computer. DEDUCT: $ < 2,200.00> ✓

40a. Deduct to change Energy Management system to a standard control system. DEDUCT: $ < 3,961.00> ✓

41. Change air device SD-2 "Flow bar" diffuser (added per addendum #2) back to originally specified 44" x12" SD-2 as shown on sheet M1.1.
DEDUCT: $ < 1,752.00> NO

42. Change Air device SD-3 from airfoil blade construction to standard construction. DEDUCT: $ < 832.00> NO

43. Omit rectangular R/A duct from RTU-1. Fire damper and duct above the kitchen to RTU-1 to remain. DEDUCT: $ < 2,064.00> ✓

44. Change spiral duct as shown on sheet M1.1 to rectangular duct with 1" duct liner. DEDUCT: $ < 1,032.00> NO

44a. Delete hot water circulating pump and line requirement.
DEDUCT: $ < 800.00> NO

44b. Delete eight (8) Fin-Tube heaters in tower. DEDUCT: $ < 4,281.00> ✓

DOORS & FRAMES

45. Change prefinished metal to 24 gauge steel P/F in lieu of .040" aluminum.
DEDUCT: $ < 1,137.00> NO

46. To supply 18 gauge insulated hollow metal doors at exterior locations in lieu of 16 gauge as specified. DEDUCT: $ < 620.00> NO

47. To supply plain sliced White Birch doors in lieu of quartered, book matched plain Aniegre.
DEDUCT: $ < 2,175.00> NO

47a. To supply "rotary cut" Natural 5-Ply Birch in lieu of quartered, book matched plain Aniegre.
DEDUCT: $ <4,106> NO

ELEVATOR: * Have asked for 7-ply price also.

48. Passenger Elevator- use Dover standard suspended ceiling in lieu of down light. DEDUCT: $ < 1,036.00> NO

49. Passenger Elevator - use Dover standard DLP cab design in lieu of DAP removable. DEDUCT: $ < 1,235.00> NO

50. Passenger Elevator - use Dover backed enamel finish on entrances in lieu of #4 stainless steel. DEDUCT: $ < 1,292.00> NO

51. Passenger Elevator - use Dover safety edge and light ray door protection in lieu of door detector. DEDUCT: $ < 269.00> NO

52. Passenger Elevator - use Dover, one speed doors in lieu of center opening. DEDUCT: $ < 656.00> NO

53. Freight Elevators- eliminate the ventilating fan not normally provided on freight DEDUCT: $ < 152.00> NO

54. Freight Elevators- eliminate handrails or bumper rails not required. DEDUCT: $ < 68.00> NO

55. Freight Elevators - eliminate glass sight gauge on oil tank unit DEDUCT: $ < 226.00> NO

56. Freight Elevators - eliminate audible signal per ANSI not required on freight. DEDUCT: $ < 68.00> NO

57. Freight Elevators - eliminate arrival lanterns not normally for freights. DEDUCT: $ < 413.00> NO

ALLOWANCES

58. Reduce testing allowance from $30,000 to $15,000 DEDUCT: $ <15,000.00> ✓

59. Delete landscaping allowance. DEDUCT: $ <75,000.00> ✓

60. Delete interior signage allowance. DEDUCT: $ <15,000.00> ✓

GENERAL CONDITIONS

61. Change construction duration from 14 months to 18 months. DEDUCT: $ <30,000.00> ✓

62. Allow GC control and access of Rock Street and southeast City leased gravel parking lot for duration of project. DEDUCT: $ <72,000.00> ✓

63. Delete the portion of storage room 201 in level 2A under the transformer enclosure. Move retaining walls to south and east, delete block walls, slab on deck and north & west beams. This allows transformer to be installed on grade. DEDUCT: $ < 3,092.00> ✓

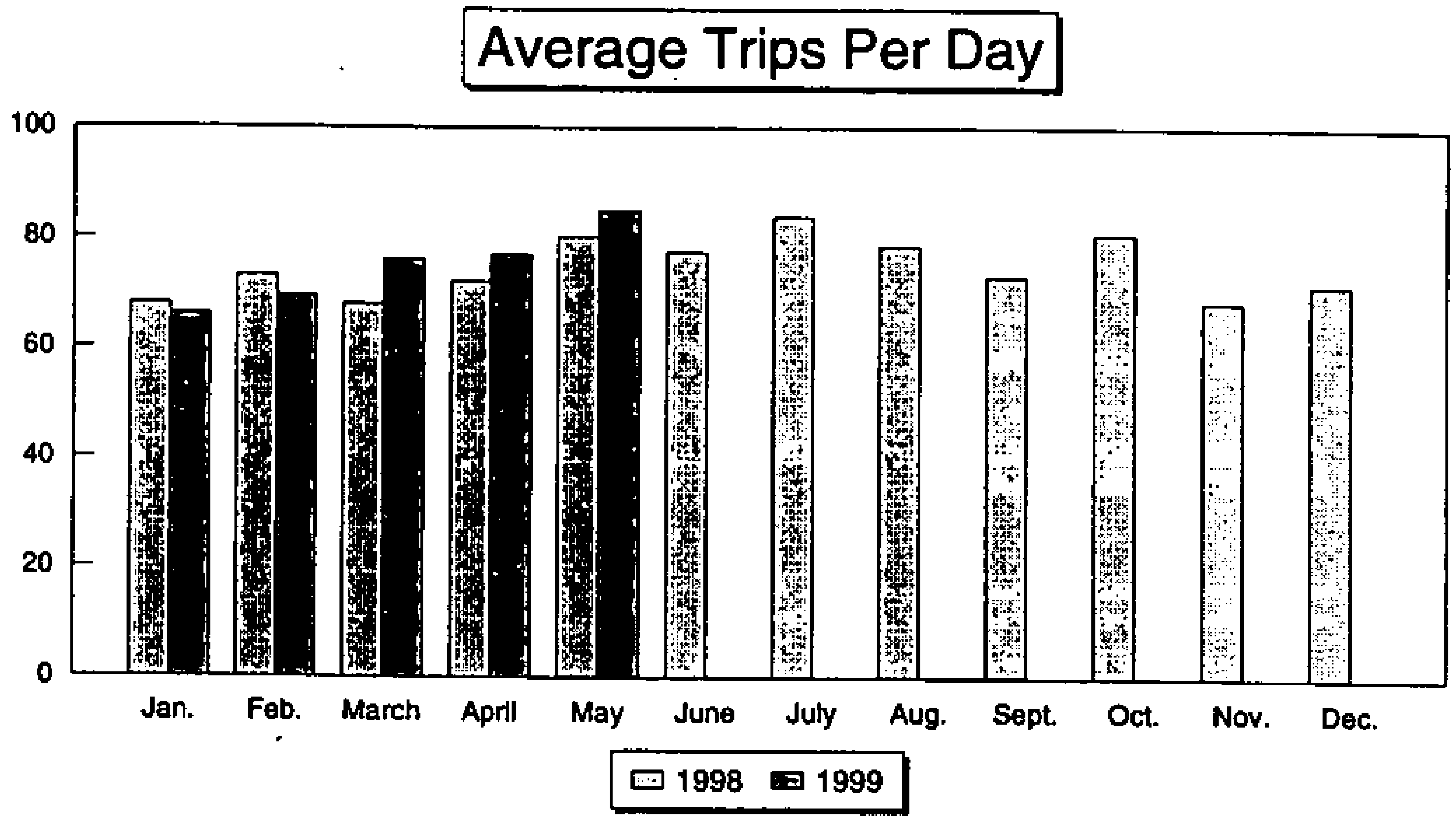
64. At wall section 4/A3.1 on inside of vestibule 402 and lobby 403 side of vestibule 402 and section 5/A4.7 on lobby 403 side of entrance tower 401, delete the 8x8 glazed tile and precast coping and provide gypsum board on studs painted. And section 5/A4.7 on inside only of entrance tower 401, delete 8x8 glazed tile above arched brick and provide gyp board painted. DEDUCT: $ < 7,426.00> No

65. Delete all cost stone planters. DEDUCT: $ < 7,100.00> NO

66. Delete reinforcing allowance of 5 tons to be used at Engineer's discretion. DEDUCT: $ < 2,316.00>

City of Fayetteville - Trolley Operation
Regular Route

Month	1998 Activity Trip Count	1998 Activity Days of Operation	1998 Activity Average Trips Per Day	1999 Activity Trip Count	1999 Activity Days of Operation	1999 Activity Average Trips Per Day
Jan.	1,600	23.50	68.09	1,457	22.00	66.23
Feb.	1,609	22.00	73.14	1,529	22.00	69.50
March	1,630	24.00	67.92	1,899	25.00	75.96
April	1,728	24.00	72.00	1,884	24.50	76.90
May	1,804	22.50	80.18	1,996	23.50	84.94
June	1,857	24.00	77.38	0	0.00	0.00
July	1,930	23.00	83.91	0	0.00	0.00
Aug.	1,844	23.50	78.47	0	0.00	0.00
Sept.	1,678	23.00	72.96	0	0.00	0.00
Oct.	1,973	24.50	80.53	0	0.00	0.00
Nov.	1,438	21.00	68.48	0	0.00	0.00
Dec.	1,644	23.00	71.48	0	0.00	0.00
	20,735	278.00	74.54	8,765	117.00	74.91



Summary of Other Trolley Trips (May, 1999)	Trip Count
City of Fayetteville - City Council	20
City of Fayetteville - Planning Commission	22
Fayetteville Chamber of Commerce	16
St. Joseph's Catholic Church	35
Val-Pak - Merle Taylor	20
Older Adult Programs	35
Older Adult Programs	20
TOTAL - OTHER TROLLEY TRIPS	168

\TROLLEY

Town Center

ATTORNEY GENERAL OF ARKANSAS
Mark Pryor

Opinion No. 99-152

August 2, 1999

The Honorable David R. Malone
State Senator
P. O. Box 1048
Fayetteville, AR 72701-1048

Dear Senator Malone:

This is in response to your request for an opinion on the following questions:

1. May the City Council, with this bid, or upon rebid of the project, and by resolution, legally appropriate funds to the Town Center Project?
2. Does A.C.A. § 22-9-203(f)(3) limit the negotiated award to a contract amount of $7,350,000 or may the City negotiate an award of a contract up to 20% in excess of $7,350,000?
3. Assuming a contract is entered into without the deductive alternates may such alternatives or other additions to the contract be added back into the contract at a later date by issuing a change order and, assuming such change orders are possible, must the deductive alternatives be added back in any specific order?
4. Does Act 675 of 1999 apply to the fact situation set forth above regarding the Town Center Project?
5. If so, is Nabholz Construction company the low bidder after applying Act 675 or should the low awarded bid go to Oakridge Builders?

323 Center Street • Suite 200 • Little Rock, Arkansas 72201
(501) 682-2007 • FAX (501) 682-8084
Internet Website • http://www.ag.state.ar.us/

> 6. If Act 675 applies is the negotiated award limited to a contract amount of $7,350,000 or may the City negotiate an award of a contract up to 25% in excess of $7,350,000?

According to your correspondence, these questions are asked with regard to bids that have been submitted for the construction of a Fayetteville Town Center ("the Project"). A bond issue has been approved to finance the construction. The amount appropriated, certified and read before the bid opening was $7,350,000, representing the approximate amount in the construction fund. All bids submitted exceeded the amount appropriated for the award of the contract. You state that the City proposes to determine the low bidder by deducting the alternates in numerical order as required by A.C.A. § 22-9-203(f)(2) and award the bid to the then responsible low bidder, Nabholz Construction. The cost of the project, after deducting the alternates, is less than 20% above the $7,350,000 appropriated and the City desires to enter into negotiations to award the contract to Nabholz Construction.

RESPONSE

Question 1 – May the City Council, with this bid, or upon rebid of the project, and by resolution, legally appropriate funds to the Town Center Project?

A conclusive answer to this question may require reference to the particular facts and circumstances surrounding the anticipated additional appropriation. If the appropriation is made following negotiations with the apparent responsible low bidder (see response to Question 2, *infra*), then I believe the additional funding would, as a general matter, be authorized. This assumes, however, that the City is not thereby defeating the "low bidder" determination under A.C.A. § 22-9-203(f).[1] If, for instance, the contract was entered into with any deductive alternates (see § 22-9-203(f)(1)), one might question the winning bidder's status as low bidder, depending upon the particular amount(s) involved.

[1] When all bids exceed the "amount appropriated" (defined in § 22-9-203(h) (Supp. 1997) as "funds currently available for the project as determined . . . prior to the solicitation of any bids[,]") the "apparent responsible low bidder" may be determined by deducting alternates in numerical order. See A.C.A. § 22-9-203(f)(2) (Supp. 1997).

Question 2 – Does A.C.A. § 22-9-203(f)(3) limit the negotiated award to a contract amount of $7,350,000 or may the City negotiate an award of a contract up to 20% in excess of $7,350,000?

Assuming that the City has properly determined the low bidder in accordance with § 22-9-203(f)(2) (see n.1, *supra*), then it is my opinion that an award of the contract may be negotiated up to 20% in excess of the amount appropriated ($7,350,000 in this instance). This reasonably follows, in my opinion, from § 22-9-203(f)(3), which states:

> After making the deductions, if the cost of the project is less than twenty percent (20%) above the amount appropriated, then, and only in that event, the state agency may negotiate an award with the low bidder so determined.

See also A.C.A. § 22-9-203(e) (providing for authority to negotiate an award when all bids exceed amount appropriated and bidding on alternates was not required, "but only if the low bid is within twenty percent (20%) of the amount appropriated.") The authority to negotiate is triggered, under § 22-9-203, by the fact that all bids exceeded the amount appropriated (i.e., the amount determined to be available prior to soliciting bids) for the award of the contract. By allowing negotiations only in the event the "cost of the project" is within 20% of the amount appropriated (§ 22-9-203(f)(2)), the General Assembly has, I believe, expressed its intent for the parties to negotiate an award of the contract within this range. The "cost of the project" is clearly the cost as determined by the low bidder. The obvious inference, therefore, assuming the availability of additional funds, is that the City may (although it is not required to) negotiate an award with reference to this cost. This conclusion is based upon the relevant language, given the absence of any other evidence of legislative intent or any helpful case law authority on point. Legislative clarification may therefore be necessary to conclusively resolve the matter.

Question 3 – Assuming a contract is entered into without the deductive alternates may such alternatives or other additions to the contract be added back into the contract at a later date by issuing a change order and, assuming such change orders are possible, must the deductive alternatives be added back in any specific order?

It is my opinion that the answer to this question is, generally, "yes." Section 22-9-203 is silent on the question, as it only addresses the award procedure and places no limitations or requirements on subsequent contractual matters relating to the project. Assuming the availability of funds, therefore, it appears that such change orders could be made pursuant to the City's general contractual authority. See, e.g., A.C.A. § 14

Question 4 – Does Act 675 of 1999 apply to the fact situation set forth above regarding the Town Center Project?

It is my opinion that the answer to this question is "no." Act 675 of 1999 does not contain an emergency clause nor does it specify an effective date. It is thus not effective until July 30, 1999. See Op. Att'y Gen. 99-120.

Even assuming that this contract is not awarded until after Act 675's effective date it is my opinion that the act will not apply to this fact situation where the bids have already been submitted and composed to determine which bidder is the "apparent responsible low bidder," after making the alternate deductions in accordance with A.C.A. § 22-9-203(f) (Supp. 1997).[2] The substantive effect of retroactively applying Act 675 thus seems apparent. And in that instance, I believe it will be presumed that the act operates prospectively only. See generally *Estate of Wood v. Arkansas Dept. of Human Serv.*, 319 Ark. 697, 894 S.W.2d 573 (1995). As stated in 1A Sutherland Statutory Construction § 22.36, at 200:

> "[I]t is presumed that provisions added by [an amendatory act] affecting substantive rights are intended to operate prospectively."

Your remaining two questions are rendered moot by the response to question four (4).

[2] The amendment under Act 675 of 1999 deletes subsection (f) and removes any reference to "bidding on alternates" in subsection (e) of § 22-9-203. See Acts 1999, No. 675, § 2. It also increases the amount by which the low bid may exceed the amount appropriated (in order for the contract to be negotiated), from 20% to 25%.

Assistant Attorney General Elisabeth A. Walker prepared the foregoing opinion, which I hereby approve.

Sincerely,

Mark Pryor

MARK PRYOR
Attorney General

MP:EAW/cyh

C.1 page 1
VA 99-8.00

RECEIVED

JUL 20 1999

CITY CLERK'S OFFICE

STAFF REVIEW FORM

X Agenda Request
____ Contract Review
____ Grant Review

For the Fayetteville City Council meeting of August 3, 1999.

FROM:

Name	Division	Department
Tim Conklin	Planning	Public Works

ACTION REQUESTED: To approve an ordinance for vacation request VA99-8.00 submitted by Laura Kelly of Rob Sharp Architect on behalf of East Avenue Investment Group, LLC for property located between blocks 4 and 5 of Harrison's Addition. The property is zoned R-2, Medium Density Residential. The request is to vacate an unconstructed section of Fletcher Avenue between Center Street and the point where Fletcher Avenue's asphalt surface curves east from the platted right-of-way.

COST TO CITY:

$0 Cost of this request	Category/Project Budget	Category/Project Name
Account Number	Funds used to date	Program Name
Project Number	Remaining balance	Fund

BUDGET REVIEW: ____ Budgeted Item ____ Budget Adjustment Attached

Budget Coordinator

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: GRANTING AGENCY: ____________

Accounting Manager	Date	ADA Coordinator	Date
City Attorney	Date 7-19-99	Internal Auditor	Date
Purchasing Officer	Date		

STAFF RECOMMENDATION: Staff recommended approval and the Planning Commission voted to deny the request by a vote of 7-0-1. Commissioner Shackelford abstained from voting.

Division Head	Date 7-19-99
Department Director	Date 7-20-99
Administrative Services Director	Date 20 JUL 99
Mayor	Date 7/21/99

Cross Reference

New Item: Yes No

Prev Ord/Res#: ____________

Orig Contract Date: ______

R E G I S T E R E D
ROBERT SHARP, ARCHITECT
311 WEST DICKSON STE 103
FAYETTEVILLE AR 72701
PHONE: 501-442-0229
FAX: 501-442-8721

July 14, 1999

City Clerk
Fayetteville Administration Building
113 West Mountain Street
Fayetteville, Arkansas 72701

To Heather Woodruff, City Clerk,

I am writing in regards to the Petition to Vacate a portion of Fletcher Avenue which was heard at the Planning Commission meeting of July 12th. The planning staff recommended approval of the vacation of the unconstructed portion of Fletcher Avenue based largely on a council resolution passed on February 20, 1996, which states "streets or roads should not be extended over Mt. Sequoyah which would...connect Highway 45 to Highway 16.... Landowners and developers of land on Mt. Sequoyah shall not be required or encouraged to build streets which would act as part of a connection over Mt. Sequoyah from college Ave. to Highway 265, nor as a part of a connection between Hwy. 16 and Hwy. 45. The Planning Commission seemingly disagreed with the intent of this resolution, and voted 8-0 to deny the vacation. I would like this issue to be heard before the City Council on August 3rd.

The Planning Commission did not seem familiar with the portion of the Fletcher right of way in question or with the fact that the grade at that point presents a grave obstacle to the construction of a connecting road. I am wondering if the council members will take a site visit to the right of way in question, or if I should bring some evidence of its condition.

I understand that by writing this letter, I may still present my case at the August 3rd meeting of the City Council.

Thank you for your time and help in this matter.

Respectfully,

Laura Kelly

Laura Kelly
architectural intern, office of Rob Sharp, Architect
cc: File
Greg House, Houses, Inc.

RECEIVED
JUL 14 1999
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

PC Meeting of 12 July 99

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
113 W. Mountain St.
L.L.C.
Fayetteville, AR 72701

Street Right of Way vacation
East Avenue Investment Group,

TO: Fayetteville Planning Commission Members
THRU: Tim Conklin, City Planner
FROM: Ron Petrie P.E., Staff Engineer
DATE: July 8, 1999

Project: VA 99.00-8.00: Street Right of Way Vacation as requested by East Avenue Investment Group, L.L.C. for an unconstructed portion of Fletcher Avenue located north of Center Street and between Block 4 and Block 5 of Harrison's Addition. The adjacent properties located to the west of this portion of Fletcher are zoned R-2, Medium Density Residential and the adjacent properties to the east are zoned R-1, Low Density Residential. Please refer to the attached drawings.

The applicant has submitted the required notification forms to the utility companies and to the City. The results are as follows:

Ozarks Electric - No objections.
Southwestern Electric Power Company - No objections provided that the abandoned portion be retained as an easement.
Arkansas Western Gas - No objections provided that the abandoned portion beretained as an easement.
SW Bell - No objections.
TCA Cable - No objections.

City of Fayetteville:
Water/Sewer - No objections provided that the abandoned portion be retained as an easement.
There is a 30" waterline and other smaller water lines located within this area.
Street Department - No objections.
Solid Waste - No objections.

Recommendation: Approval of street right of way vacation provided that the portion being abandoned is retained as a utility easement.

The undeveloped street right-of-way to be vacated is located at the southern end of Fletcher Ave. directly south of where it turns to the east. The area to be vacated contains approximately 10,977.27 sf. This right of way adjoins existing undeveloped right-of-way for Center Street and Fletcher Ave.

The City Council passed a resolution February 20, 1996 that states "streets or roads should not be extended over Mt. Sequoyah which would ...connect Highway 45 to Highway 16. ...Landowners and developers of land on Mt. Sequoyah shall not be required or encouraged to build streets which would act as part of a connection over Mt. Sequoyah from College Ave. to Highway 265, nor as a part of a connection between Hwy. 16 and Hwy. 45.

PLANNING COMMISSION ACTION: __yes__Required
_____Approved _____Denied

Date: ___/___/___

Comments:

CITY COUNCIL ACTION: __yes___Required
______Approved ______Denied

Date: ___/___/___

P.O. Box 3494
Fayetteville, AR 72702
1 April, 1999

REGISTERED
ROBERT SHARP, ARCHITECT
311 WEST DICKSON STE 103
FAYETTEVILLE AR 72701
PHONE: 501-443-0229
FAX: 501-442-8721

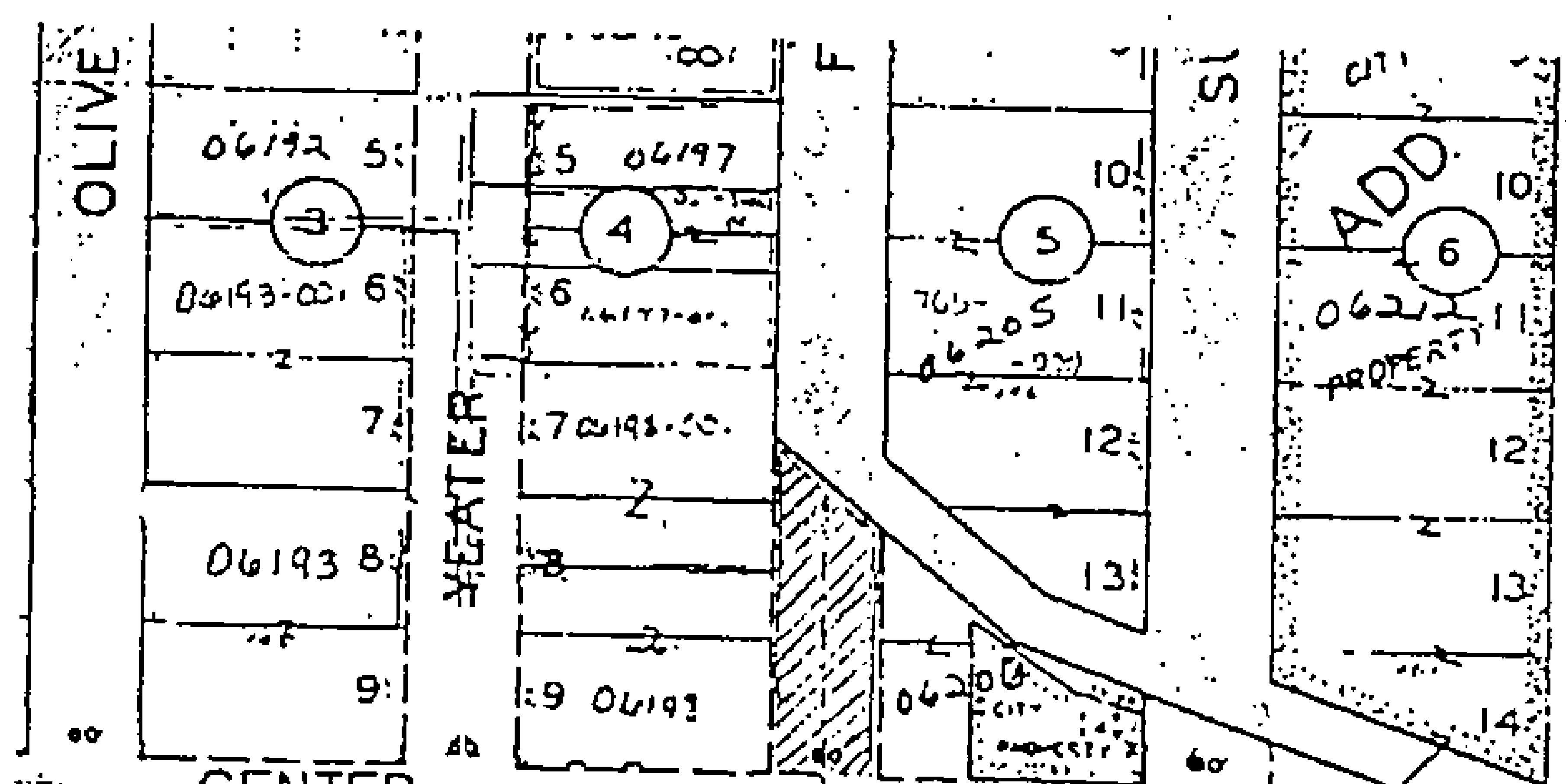
Fayetteville Planning commission
113 West Mountain Street
Fayetteville, AR 72701

To: The Fayetteville City Planning Commission
and The Fayetteville City Council

We, the undersigned, being the owners of all the real estate abutting the portion of Fletcher Avenue hereinafter sought to be abandoned and vacated lying between Blocks 4 and 5, Harrison's Addition to the City of Fayetteville, Arkansas, a municipal corporation, petition to vacate the portion of which is described as follows:

A part of Fletcher Avenue between Block 4 and Block 5 of Harrison's Addition to the City of Fayetteville, Arkansas, as per plat of said addition on file in the office of the circuit clerk and ex-officio recorder of Washington County, Arkansas, and being the unconstructed section between Center Street and the point where Fletcher Avenue's asphalt surface curves east from the platted right-of-way.

The above described part being more particularly described as follows:
Commencing at the Northeast corner of Lot 7 of Block 4 of Harrison's Addition to the City ofFayetteville, Arkansas;
Thence due East 6.3' to a point 30' perpendicularly distant from the centerline of the paved Fletcher Avenue;
Thence following this 187.5' radius curve which is 30' equidistant from the paved Fletcher Avenue centerline in a Southeasterly direction 113.1';
Thence S 0d 6' 19" W along the east edge of the platted right-of way for Fletcher Avenue 127.4' to the north line of the platted Center Street right-of-way;
Thence N 89d 53' 41" W along the north line of said platted Center Street right-of-way 60' to the eastern line of the platted Fletcher Ave. right-of way;
Thence N 0d 6' 19",E along the east line of the platted right-of-way for Fletcher Avenue 225' to the point of beginning.



Petitioners state that the above described real estate is not open, and has never been used by the public, and that the public interest and welfare would not be adversely affected by the abandonment of the portion of the above described alley.

This petition conveys the request that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate subject, however, to the utility easements and sewer easements as required, and that the above described real estate be used for their respective benefit and purpose as now approved by law.

The petitioners further pray that the above described real estate be vested in the abutting property owners as provided by law.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to said utility and sewer easements, and that title to said real estate sought to be abandoned be vested in the abutting property owners as provided by law, and as to that particular land the owners be free from the easements of the public use of said right-of-way.

Dated this ~~29~~ 30th day of March, 1999

X Velma Block — printed name

Velma Block — signature

__________ printed name

__________ signature

RESOLUTION NO. 19-96

A RESOLUTION REITERATING A POLICY OF NOT EXTENDING STREETS OR ROADS OVER MT. SEQUOYAH; NOT REQUIRING OR ENCOURAGING LANDOWNERS AND DEVELOPERS TO BUILD SUCH STREETS OR ROADS; REQUIRING CITY COUNCIL APPROVAL FOR ANY SUCH STREETS OR ROADS; AND ALLOWING TRAIL ACCESS IN UNDEVELOPED LAND OWNED BY THE METHODIST ASSEMBLY CENTER.

WHEREAS, after numerous public hearings in 1994 with extensive citizen participation, the Planning Commission established a policy not to connect streets over Mt. Sequoyah (sometimes referred to as East Mountain), but rather endorsed a loop concept in which traffic would be directed along established highways and major thoroughfares shown on the Master Street Plan rather than on local streets through established neighborhoods; and

WHEREAS, the City Council Street Committee after hearings endorsed and supported the Planning Commission's recommendations concerning these policies as shown on the Master Street Plan; and

WHEREAS, the Fayetteville City Council formally adopted and passed the Master Street Plan in 1995 and has continued to expend substantial City revenues on Highway 265, Cliffs Boulevard, Happy Hollow and Joyce Street (in furtherance of the loop concept); and

WHEREAS, it would not be in the best interests of the City to connect College Avenue or Mission Boulevard over Mt. Sequoyah on its narrow, winding and congested streets to Manor Drive, Highway 265, Cliff Boulevard or Happy Hollow Road, nor to connect Highways 45 and 16 East over Mt. Sequoyah.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City reiterates its policy that streets or roads should not be extended over Mt. Sequoyah which would connect College Avenue to Manor Drive, Highway 265, Happy Hollow or Cliffs Boulevard, or which would connect Highway 45 to Highway 16.

Section 2. That landowners and developers of land on Mt. Sequoyah shall not be required nor encouraged to build streets which would act as part of a connection over Mt. Sequoyah from College Avenue to Highway 265, nor as part of a connection between Highway 16 and 45.

Page 2
Resolution No. 19-96

Section 3. That prior to approval by the Planning Commission or City staff of a street that would act as a connection over Mt. Sequoyah, a resolution to approve such request must be presented and approved by the City Council after opportunity for public comment.

Section 4. That roads accessing or through undeveloped land owned by the Methodist Assembly Center on the east side of Mt. Sequoyah should not be required nor encouraged, but access by trails should be provided if agreed to by the Methodist Assembly.

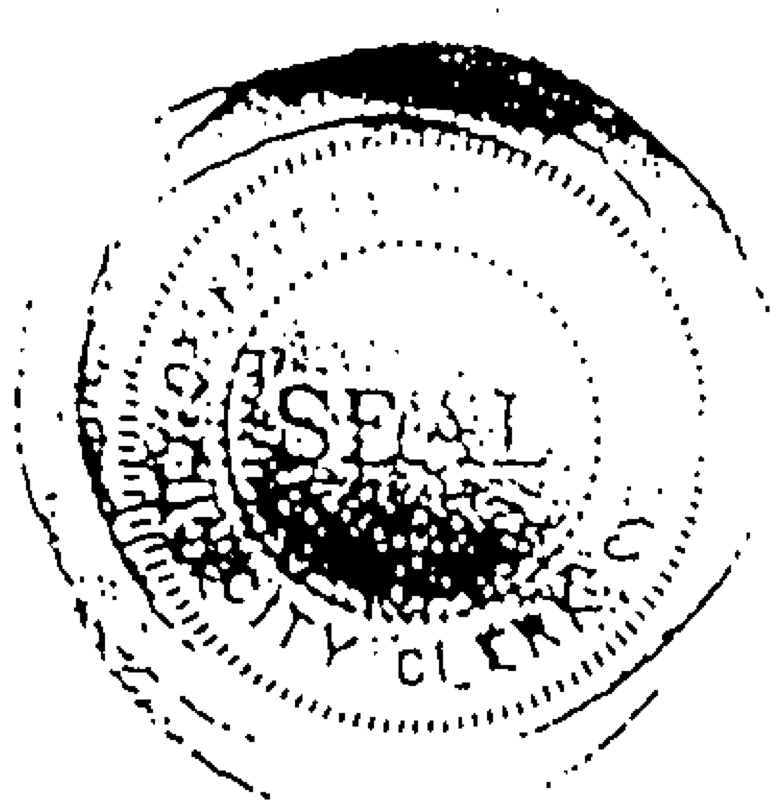
PASSED AND APPROVED this 20th day of February, 1996.

APPROVED:

By: ______________________
Fred Hanna, Mayor

ATTEST:

By: ______________________
Traci Paul, City Clerk



February 6, 1996

<u>OTHER BUSINESS</u>.

<u>Alderman Williams - Statement Re: Mt. Sequoyah</u>

Mayor Hanna announced that Alderman Williams had a statement to make.

Alderman Williams thanked the Mayor for this opportunity. He stated he would like to set the record straight and clear up misunderstandings concerning his interest in preserving Mt. Sequoyah. After first noting that he is the only alderman living on Mt. Sequoyah, he made the following statement:

> "I live on the south side of the shoulder of the mountain, at the end of a dead end private road. For most of their adult lives, my parents spent the majority of their earnings, first, to buy the old family home where I grew up and now live with my family and, later, my parents purchased the woods area around our home to protect us from encroaching development. Because of my parents' sacrifice and foresight, forty acres of woods surrounds our home and protects us from the noise and hazard a connecting road over Mt. Sequoyah would bring.
>
> Unfortunately, many of my neighbors and constituents that live on Mr. Sequoyah do not have a buffer of 40 acres of woods that my family enjoys. If landowners and developers Mr. and Mrs. Coody are forced by City staff and the Planning Commission to dedicate a street connection down the mountain toward Happy Hollow, it will probably only be a matter of time before the residents of the Cliffs subdivision will be driving over the mountain and along Rogers Drive and Fletcher Street, through the established neighborhoods on Mt. Sequoyah, for a shortcut to College Avenue. That is why I oppose pushing streets over Mt. Sequoyah, to protect my constituents.
>
> I regret that an alderman chose to speculate to a newspaper reporter about whether I could have a conflict of interest, alleging a street connection could be close to my home. If that alderman had asked me during a City Council meeting, that alderman would have known that my house is well over a hundred yards from Rogers Drive. Yet I oppose extending Rogers Drive over the mountain just as I oppose extending Manor into Rockwood over the mountain.

February 6, 1996

I know that we aldermen are hamstrung by the Freedom of Information Act and are prevented from obtaining information from one another outside regular meetings. But before we speculate on each other's integrity to the press, I believe we should get the facts. The fact is that there is no chance that a developer could connect a road near my home. The fact is that I have no conflict of interest in trying to preserve the integrity of Mt. Sequoyah from through traffic over Mt. Sequoyah.

Fayetteville has long suffered divisiveness, which was reflected and possibly even encouraged by the disrespect between some previous Board members, until that government was repudiated by the voters and replaced by this City Council. We, instead, now should be a unifying force for Fayetteville. We should set the example for fairness, not only to our citizens but to each other; and we usually do. I hope we remain a positive, courteous, and fair-minded City Council. I will do everything I can to bring credit on this City Council and to follow the Golden Rule, which seems too much ignored in public life today. Thank you for letting me make this statement."

Alderman Daniel apologized.

Friends for Fayetteville - Support Hwy 265 Widening

Connie Cramer, Friends for Fayetteville, stepped up to say she was nominated by this organization to appear before the Council to say they are very much in support of the resolution passed regarding Highway 265. They think it is a step in the right direction and addresses the issues of both safety and civic duty and hope this will be the beginning of public input on this issue. They appreciate the effort that the Council made in developing this resolution and moving this project forward.

Mayor Hanna adjourned the meeting at 8:25.

February 20, 1996

OLD BUSINESS

Mayor Hanna introduced consideration of items that have been brought before the Council but were tabled or no decision made to allow further information to be presented.

A. **MT. SEQUOYAH: A resolution limiting roads across Mt. Sequoyah as proposed by Alderman Parker.**

Noting that Alderman Williams also had a resolution regarding this issue to consider, Mayor Hanna opened the discussion for the Council to decide which one would be brought forward first.

Alderman Williams commended Alderman Parker for the work done on his resolution. Stating Parker's resolution was a good one, but believing the Council should deal in broad policy statements, Williams tendered his resolution for discussion as it is a policy statement rather than a concrete line drawn on a map.

Alderman Parker suggested introducing his resolution at this time for the benefit of all who were not yet familiar with it. He showed maps of the area and alternative solutions to this issue.

Parker stated the issue is who makes the decision on roads through these neighborhoods which might connect to Highway 265 and pour traffic through the neighborhoods. Now the decisions are being made by the Planning Commission and City staff. The Council has ultimate control if someone happens to bring the issue up for an appeal, but it usually doesn't reach the Council. The product of this is that the express wishes of the Council can be disregarded.

Parker commented on the operative language of Alderman Williams' proposed resolution. First, it does not say where Mt. Sequoyah is. Parker stated that the Mayor and his staff have told him Rogers Drive is not part of Mt. Sequoyah. City staff or the Planning Commission should not interpret where Mt. Sequoyah is. A line is geographically specific.

Second, while William's resolution states that landowners and developers shall not be required nor encouraged to build streets over Mt. Sequoyah, it does not say they are not allowed to do this. The proposed line might be changed, but a resolution should be passed that says roads cannot be built over the mountain.

Third, Williams' resolution says prior to approval by the Planning Commission or City staff of a street that would act as a connection over Mt. Sequoyah, a resolution to approve such request must be presented and approved by the City Council after opportunity for public comment. Parker's resolution does not allow the Planning Commission or staff to consider it.

February 20, 1996

Finally, Parker stated, Williams' resolution could allow a scenario he described earlier where the legalities of the resolution were met but not the intent and a connection over the mountain would be accomplished.

Acknowledging a valid criticism made earlier by Alderman Hill, Parker stated a map with a more defined line could be prepared by the City's planning department.

Alderman Williams stated the primary difference between his approach and Alderman Parker's was one of trust. The Planning Commission did not have any roads going over Mt. Sequoyah. When it came to the Street Committee, which he chairs, there was nothing on the map regarding Mt. Sequoyah that they had to address.

There has been discussion in the Planning Commission about the loop concept and not infringing on neighborhoods. However, there was never a policy in resolution form stating that there would be no roads over Mt. Sequoyah. Once the Council enunciates a clear policy statement, the planning staff and Planning Commission will follow the stated policy.

Williams proposed his resolution because it is a broad policy statement. He feels it is the Council's job to set policy, not micro-manage the government. If the Council were to adopt his resolution, which he believes is a crystal-clear statement, no roads will connect over Mt. Sequoyah. It is clear to him where Mt. Sequoyah is. He does not believe this is an issue. His resolutions reiterates a policy which he feels has been established but not written that roads should not cross over the mountain. Even though it does not prohibit roads over the mountain, if someone proposes such a road, they have to come to the City Council. There will be a public hearing, the citizen's of Fayetteville will get notice and an opportunity to be heard.

Alderman Williams agreed with Parker and the general policy that there should not be roads over Mt. Sequoyah and if there is an exception it must come to the City Council. He stated that he does respect the honor and trustworthiness of the Planning Commission and all the citizen commissions and the planning staff and the Mayor's office. He sees no problems with them if this resolution passes. It would have to be brought to another Council before anything unwanted now would ever come about.

In response to a comment from Alderman Hill, Williams stated there were no substantive changes in the draft presented tonight from the rough given out earlier.

February 20, 1996

Alderman Hill asked if there was a problem with putting this forward at the next agenda session and giving citizens opportunity to see the resolution. The Council has not had much chance to look at this resolution.

Alderman Bassett stated the issue needed to be resolved and could be done this night. Both resolutions have the same goal and the Council has an obligation to end it now if possible.

Alderman Daniel disagreed as she has not had time to study this new resolution and needed more information. She asked the staff if they had had time to look at Alderman Williams' proposal.

Alett Little, Planning Director, stated she had just received it.

Alderman Williams noted that there had been a meeting of the community on Mt. Sequoyah with all aldermen present where he had handed out copies of his proposal. He stated that not one resident of Mt. Sequoyah has endorsed the idea of roads connecting over the mountain. He agreed with Alderman Bassett that this issue needs to be resolved now.

Alderman Parker agreed that the public in attendance needed to leave with this issue resolved.

Alderman Schaper also agreed that enough time has been spent on this. The language in both resolutions is clear. His one concern was to make sure that no one would be inadvertently landlocked.

Alderman Parker stated that problem would be solved in either resolution because if there is a need to do so, the Council can waive this. Both resolutions have an out clause.

Alderman Daniel stated she has received comments from citizens in the area of Mt. Sequoyah but not on the mountain. Traffic in the area needs to be dispersed and there is an uncharitable attitude of isolation on the part of residents of Mt. Sequoyah.

Alderman Williams responded that it is through-traffic the residents are concerned about, not neighborly traffic. It is not ungenerous to not want connecting roads. A study done several years ago by the City found it did not make sense. It is time to have a clear policy statement about this.

Alderman Miller stated that both resolutions say what he wants to see in a resolution concerning this issue, there will not be connection over Mt. Sequoyah and if one is ever considered, it would come before the Council complete with public hearing. Either resolution will work. One should be passed and we should move on.

February 20, 1996

Mayor Hanna read from both proposed resolutions, showing where one differed from the other. He quoted Section 3 of Alderman Williams' proposed resolution which says, "Prior to approval by Planning Commission or City Staff of a street that would act as a connection over Mt. Sequoyah, a resolution to approve such request must be presented and approved by the City Council after opportunity for public comment." He then read from Section 2 of Alderman Parker's resolution, "It shall be the stated policy of the City of Fayetteville, its staff, administration, employees, boards, and commissions, that no paved road or roads be designed, constructed, maintained, or developed which would cross the north-south line set forth in Section 1 above." The Mayor went on to say that Section 3 states, "Any waiver or exception to the policy will be allowed only by the express approval of the Fayetteville City Council upon a showing that such is in the best interest of health, safety, and welfare of the citizens of Fayetteville" and this would be done at a public meeting like all City business. The Mayor then called for public comment.

Tom Wilkerson, a resident of Dogwood Lane, spoke to support choosing Alderman Parker's resolution as it is specific and leaves no doubt as to the intention of the Council. Parker's proposal is the more emphatic and precise resolution.

Larry Snodgrass, Ridgeway Drive, urged the Council to pass Alderman Parker's resolution as it is the most restrictive resolution, restrictive in a positive sense. It will tell developers and homeowners that this is what the City expects and wants. If someone is landlocked, there is an appeal process and the resolution would not address that in a restrictive manner.

Nan Lawler, Skyline Drive, agreed with Alderman Williams position that this should be a broad policy decision, but disagreed with his willingness to trust the Planning Commission. She felt Parker's resolution was very precise, which is important as she has witnessed a single-minded determination on the part of the Planning Commission to build roads all over the mountain. In response to Alderman Daniel's comments, Lawler stated she has no objection to people, only to traffic. There is a lot of wildlife that needs to be protected. She urged the Council to pass Alderman Parker's resolution.

Dan Coody, Rogers Drive, voiced again that Parker's resolution is the stronger, believing that the 335 people who attended the neighborhood meeting would support choosing the stronger measure. The people of Mt. Sequoyah are not against neighborhood connectivity. The fear is the connection of major thoroughfares. He urged the council to vote for the stronger resolution. Though both are good and have the same intent, the more clear the picture is now, the fewer the problems down the road.

February 20, 1996

David Dubbell, Rockwood Trail, expressed appreciation for all who have worked on this issue and those who have shown concern by attending meetings and voicing opinions. Stating it was the Council's job to make the wise decision, he hoped it would be done now at this meeting.

There were no further comments from the audience.

Alderman Miller stated that before the Mt. Sequoyah meeting of Thursday night, the Water & Sewer Committee met. Something important happened at that meeting but there were no citizens and no press. The Water & Sewer Committee reviewed a pretreatment code that will do a lot to keep heavy metals and toxic chemicals out of our water, something we are having trouble with in this area. He expressed disappointment that this was not recognized and wanted all to know that other important issues are also being dealt with by the City.

Alderman Daniel addressed a comment made by Dan Coody regarding there being no resistance to the connection of neighborhoods. She has not found this to be so. Park Place did not want to connect to the subdivision to the east of them. Where there was originally to be three streets there is now just one. She fears this idea will snowball and has already heard of one nearby neighborhood that wants to block off a road.

Anthony DePalma, a resident of this community for 60 years who has held property of approximately 120 acres for 45 years, has seen insidious encroachment and desecration beginning. For the sake of brevity, he did not go into detail, but offered for archival purposes a copy of the agenda and notes taken of the Mt. Sequoyah meeting. He then read a short letter he'd written to the editor of the Northwest Arkansas Times on April 22, 1986, which referred to the study commissioned by the City whose recommendations were not accepted by the Planning Commission. It commended the then Board of Directors for their vote rejecting the proposed project.

There being no further comments from the audience, Mayor Hanna closed the public discussion.

Alderman Bassett stated he regrets this controversy has arisen as he thought it had been dealt with when the Master Street Plan was adopted in 1995. The decision was made then that there would be no through streets over Mt. Sequoyah. He supported that principle on the Street Committee and on this Council and still feels the same way.

February 20, 1996

Bassett stated it is not practical to build through streets over the mountain. It would unfairly interfere with established neighborhoods and do little to alleviate existing traffic problems. It would not be right to move traffic through the mountain neighborhoods and then dump it in the Historic District, a position he took when there was discussion about widening Lafayette Street.

He has held from the beginning that a person can be opposed to connecting streets over the mountain and at the same time be against passing a resolution. He does not want to do anything that would unnecessarily hamper the ability of the Planning Commission to do its job. It is also a concern that if this is done for one area of town, other neighborhoods could expect the same protection.

Weighing those thoughts and the pros and cons of having a resolution, he decided to support a resolution despite initial reservations. Alderman Williams' proposal is the one which makes the most sense to him. Something needs to be done at this meeting to end the dispute and to avoid losing the faith and confidence of citizens.

Bassett went on to say that the City has a serious traffic problem. There is a great deal being done to deal with it on a pay as you go basis, which he completely supports. However, in the months and years to come, the City will have to consider either a two-year temporary sales tax or a bond issue to raise capital for street improvements or we will fall further behind. To accomplish the loop concept, additional revenue must be raised.

Finally, Bassett defended the staff and Planning Commission saying the City has a first-class planning staff. Alett Little and the people who work for her and with her do an absolutely incredible job. The Planning Commission is the best we've ever had with good balance and diversity. Our rate of growth presents us with the continuing challenge to keep this the best place to live in Arkansas, some tribute should be paid to those who work day in and day out on this extremely difficult job. A lot more can be accomplished working together than working against each other.

Alderman Young stated that connecting streets was an issue of the last election. He attended the Mt. Sequoyah meeting which was well attended; however, others in the community have mentioned to him that it may not be a good idea to pass a resolution. They have not organized and have not appeared to speak to this issue. If one of these resolutions is passed, the Council will be setting a larger policy for the City to follow, which is why he supports Kit's resolution. Some people in Fayetteville may not have come out in opposition because it does not hit their neighborhood directly.

February 20, 1996

After checking with City Attorney Rose as to procedure, Alderman Young moved to adopt Kit William's resolution.

Alderman Parker agreed that whichever one is passed, the Council would be setting a larger policy for the City of Fayetteville, saying the Council is listening to the people. He asked for a show of hands from those in the audience who live in the Mt. Sequoyah area and support his resolution.

Mayor Hanna called Alderman Parker out of order, stating this is the Mayor's job should he chose to do it. He reminded the Council there is a motion on the floor.

Alderman Bassett seconded the motion.

Mayor Hanna stated there is a second and called for a vote by roll.

Alderman Schaper stated that procedurally, this is difficult. There are two resolutions that do the same thing. He asked Alderman Young if Alderman Parker's resolution could be voted on first as it is the more restrictive and then Alderman Williams' resolution if it is necessary. He feared that those who might prefer Alderman Parker's resolution would not want to see both resolutions turned down.

Alderman Miller brought up the point that Alderman Parker was the first to present a resolution and there might be a procedural question here.

Alderman Parker stated he did want to see his resolution voted on first as it is the one on the agenda, having been brought up through proper channels. If it did not pass, Alderman Williams' proposal could then be voted on.

Alderman Bassett offered to withdraw his second to allow Alderman Parker's resolution to be voted on first.

Alderman Young withdrew his motion.

Alderman Hill asked City Attorney Rose if he has seen both these resolutions. He questioned whether or not Alderman Parker's was legal without giving legal notification to the landowners of where this line is drawn.

City Attorney Rose replied that the Council may feel it is fair to notify the landowners but there is no legal requirement of formal notification.

February 20, 1996

Mayor Hanna expressed his opinion that this was being made far more complicated than needed. He did not wish to see it devolve into a popularity contest. He agreed that a resolution needs to be passed now. He commended Alderman Parker and Alderman Williams for the work they have done in connection with this. If the Council wished to vote on Alderman Parker's resolution first, a motion needed to be made.

Alderman Miller moved to vote on Alderman Parker's resolution. Alderman Schaper seconded the motion.

Alderman Williams stated he was dismayed at the expressions of distrust. Alderman Parker continues to question the integrity of the Planning Commission. Alderman Williams explained he would not support Alderman Parker's resolution.

Alderman Bassett echoed this. Everyone involved in this issue is well intentioned. There are honest disagreements, but politics should not get personal. With due respect to Parker, Bassett would not vote for his resolution.

Alderman Miller cautioned people not to use words that hurt, are mean, and divisive as they cannot be taken back.

Alderman Parker stated he is not trying to be divisive and apologized to Little and the Planning Commission for giving that impression. He looks at the members of his ward as he looks at his clients. He tries to give them the best and ironclad protection he can.

Alderman Daniel also commended the staff and Planning Commission for the jobs they do. She said she would not vote for either of these resolutions at this time as she does not have all the information she would like to have.

Alderman Schaper stated that whether the Council chooses the more specific resolution or the more general one, his vote should not be construed as a vote against connectivity. Connectivity is one of the principles in the land use plan. Neighborhoods should be connected. The problem is, in this case, that making a single connection across would result in establishing a collector street and there are no collector streets on the Master Street Plan in that area. Our goal is to channel the traffic around the mountain and keep it out of neighborhoods, another stated goal of the land use plan. There is fear whenever a street connection is made because the City has not been able to catch up in the road system and create roads designed to carry that through traffic. Something may have to be done to accelerate the necessary road widening in the future.

February 20, 1996

Alderman Hill stated that it was clear the Council was setting a couple of policies: one, protection of neighborhoods and, two, changing procedure in the way that neighborhood streets are handled. He hoped the Planning Commission and staff would work on this and give direction.

Mayor Hanna called for the vote.

Upon roll call, Alderman Parker's resolution was defeated on a vote of 5 to 3, with Parker, Schaper, and Miller voting in favor of it.

Mayor Hanna called for another motion.

Alderman Young made a motion to adopt Kit Williams' resolution. Alderman Williams seconded. Upon roll call, the motion passed on a vote of 7 to 1, with Alderman Daniel voting no.

RESOLUTION 19-96 AS RECORDED IN THE CITY CLERK'S OFFICE.

Mayor Hanna stated this is a very good resolution, especially the part that endorses the loop concept. The policy statement set forth in this resolution should serve Fayetteville well.

B. RAZING AND REMOVAL OF STRUCTURES: An ordinance providing for the razing and removal of buildings or houses that have become dilapidated, unsafe, unsanitary, or detrimental to the public welfare; and providing for a lien on the real property.

Mayor Hanna stated this ordinance was left on its second reading at the February 6 Council meeting.

Alderman Miller moved to suspend the rules and go to the third reading. Alderman Parker seconded. Upon roll call, the motion passed on a vote of 8 to 0.

City Attorney Rose read the ordinance for the third time.

Alderman Schaper stated that he agreed with Alderman Young's additions to this ordinance. He pointed out the need for this ordinance as there was recently another fire in an unoccupied structure on S. University which totally destroyed that structure and did serious damage to the adjoining structures. Every effort must be made to get these abandoned structures quickly removed.

Alderman Williams moved to pass this ordinance.

Mayor Hanna asked for comments from the audience.

February 20, 1996

Paula Marinoni, who lives at 617 W. Lafayette St. which is a building on the National Register of Historic Places, spoke. She noted that when this was on the first reading, the main change was not notifying the public. She expected people to express alarm at that. Her main interest in the community is historic preservation and restoration. From that standpoint this waived a red flag, buildings possibly being torn down without the public knowing about it. With notice, someone may come forward to restore the building for offices, etc.

Marinoni read Section 1 of the proposed ordinance and pointed out that she had researched what ordinances are on the books allowing for the upkeep of property and found only three ordinances. There is not now on the books an ordinance that tells people property must be kept up. If we want to tear these buildings down, a more positive action would be to put an ordinance on the books to encourage people to keep up their property. Marinoni offered her assistance to the Council in working on such an ordinance.

Alderman Schaper agreed with Marinoni's comments. His ordinance is an ordinance of last resort. He would prefer to see properties kept up and have stronger regulations about this. Unfortunately, there are times when property is left to run down. This ordinance is needed to avoid the safety hazard of these kinds of buildings.

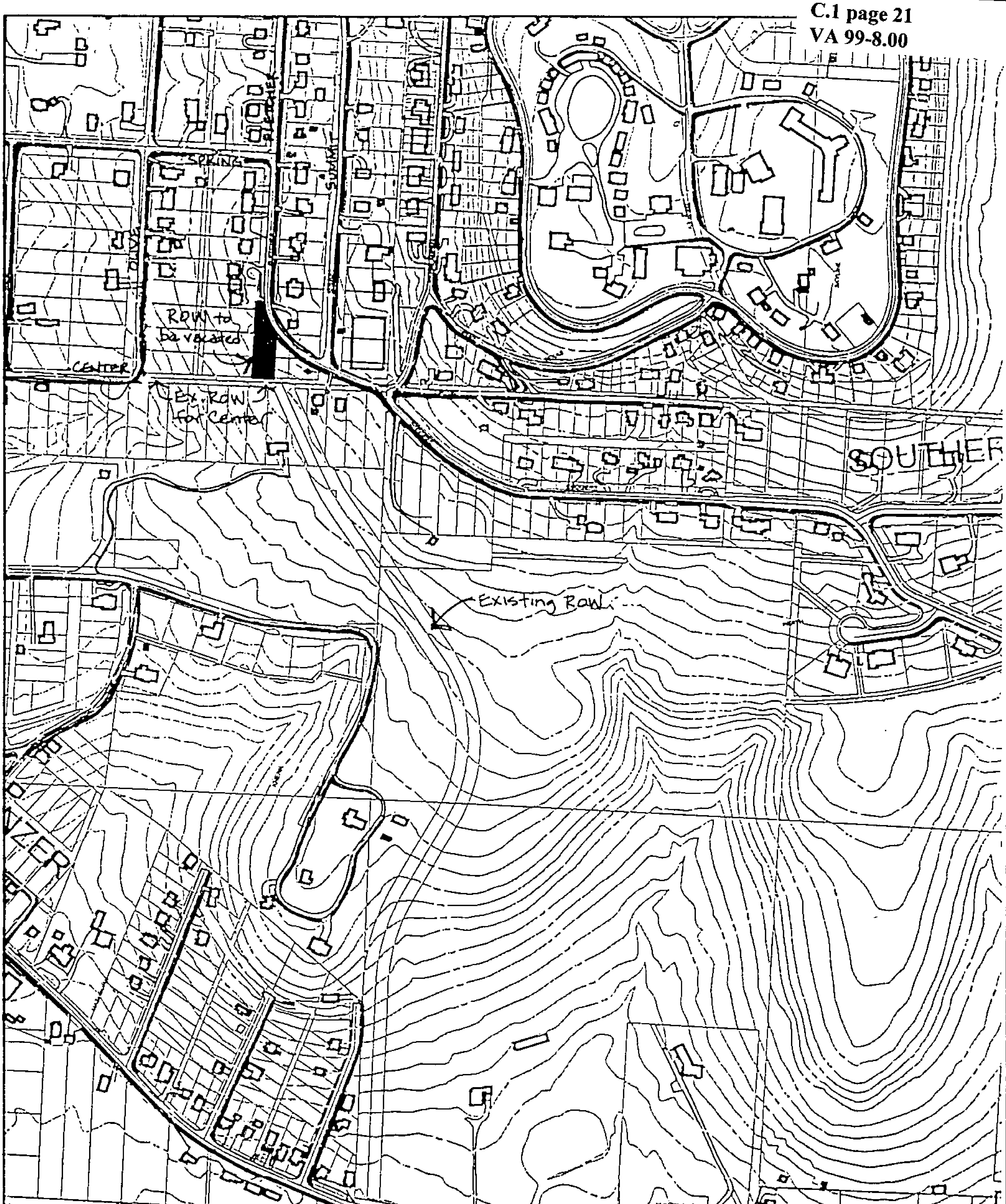
Alderman Young pointed out the changes he had made to Schaper's ordinance. One of them does exactly what Marinoni talked about. One of his main concerns was historic houses. The City's inspection department has rules and procedures in place right now which he added to this ordinance so they would have to go through such procedures before tearing down a house.

Alderman Parker noted that the ordinance did have provision for notice by certified copy to the owner or posted on the property if the owner cannot be found. Though this would not be public notice, it is notice to the owner and the City is not just coming in and rolling over the property.

Mayor Hanna brought the discussion back to the Council, reminding them a motion had been made. Mayor Hanna stated this ordinance is on its third reading so a second is not necessary.

Upon roll, call the ordinance passed on a vote of 8 to 0.

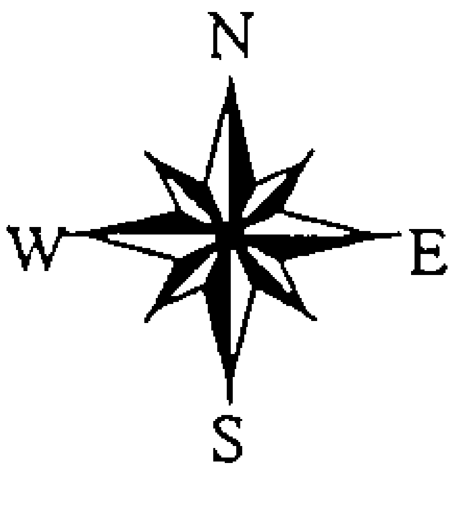
ORDINANCE 3948 APPEARS ON PAGE OF ORDINANCE BOOK


SPRING
ROW to be vacated
CENTER
Ex. ROW for Center
SOUTHER
Existing ROW
HUNTSVILLE
400 0 400 Feet

VA99-8.00 - East Avenue Investment Group - Close Up

VA99-8.00 - East Avenue Investment Group - One Mile Diameter

1400 0 1400 Feet



VA99-8: VACATION
EAST AVENUE INVESTMENT GROUP, PP485

This item was submitted by Laura Kelly of Rob Sharp Architect on behalf of East Avenue Group, LLC for property located between block 4 and 5 of Harrison's Addition. The property is zoned R-2, Medium Density Residential. The request is to vacate an unconstructed section of Fletcher Avenue between Center Street and the point where Fletcher Avenue's asphalt surface curves east from the platted right of way.

Laura Kelly was present on behalf of the project.

Staff recommended approval of the street right of way vacation provided that the portion being abandoned is retained as a utility easement.

Commission Discussion

Johnson: This is essentially where Fletcher starts turning up the hill. Tim, do you have additional explanation for this proposed street right of way vacation.

Conklin: The applicant has requested to vacate that portion of Fletcher Street that would intersect with the undeveloped portion of Center Street. This is to the south and contains approximately 10,900 square feet. The reason for the vacation is for the applicant to add that additional property to property they own to the west and they intend to develop it in the near future.

Johnson: All right.

Kelly: I represent Robert Sharp Architect who is doing a design for a development that is adjacent and immediately to the west of the portion of the unconstructed Fletcher Avenue that we are petitioning to get vacated. The on site visit, I'm sure, showed how the particular unconstructed portion is extremely steep and undevelopable. I have a comment from the City of Fayetteville engineering department that it was platted largely for water easement purposes as an unofficial comment and not intended to be developed. There is a finding by the city staff that points out that there is no requirement to connect Highway 16 and 45 across Mt. Sequoyah due to the nature of the residential development on Mt. Sequoyah and by vacating this area small portion of Fletcher that disallows Fletcher to continue down to Huntsville Road at any point in the future which is advantageous to the residential neighborhood.

Johnson: I didn't understand that you said there was something from one of the city offices that indicates that this -- that although this street is platted, it never was intended to be a street?

Kelly: Right. Fletcher Avenue -- the platted Fletcher Avenue continues off in a northeast direction for some distance. It follows the city's water main from the tanks on Mt. Sequoyah to the northeast.

Conklin: With regard to that comment about Fletcher not being a platted street right of way for a future street extension, I did talk with our drafting division and they did indicate that the right of way was obtained when they did obtain the easement for the waterline. So, not only did they obtain the utility easement for the waterline, they also obtained right of way for a future street extension. Apparently, that was debated and discussed in the 70's and that proposal to extend Fletcher to Huntsville Road was abandoned and they did not pursue connecting that street at that time.

Johnson: Do you have initial questions of the applicant?

Shackelford: I wanted to let you know that I will be abstaining from this vote.

Johnson: All right. I appreciate that, Loren.

Public Comment

Eva Coltreman, residing across the street from the property in question, was present in opposition to the vacation.

Further Discussion

Johnson: Is there discussion or questions?

Odom: On the map we were given on page 6.1, it looks like a phantom road going to Huntsville Road. Is that on the master street plan? I don't understand this map at all.

Conklin: That is not on the master street plan. It is platted right of way, it is my understanding, that was acquired in the 1970's.

Odom: But, it's not on our master street plan.

Conklin: It's not on the master street plan.

Estes: Do I understand that the city owns that as a right of way? Is that --

Conklin: That is correct. The city owns that portion of Fletcher and actually the entire portion of Fletcher where it heads off to the south and bends all the way down to Huntsville Road.

Estes: And that would connect Center Street with Huntsville? Am I reading this correctly?

Conklin: Yes. Center Street -- actually, if you extend Fletcher down it would go all the way down to Huntsville Road. That is correct.

Estes: When we grant the vacation request, we have made that impossible. Am I reading the map correctly?

Conklin: The only portion of right of way to be vacated is that small portion that -- let me get a map for you -- page 7.3. It potentially could connect to that portion of Fletcher Street. We're not vacating Center Street with this right of way from where Center Street currently dead ends. If you're on Center Street going up that hill, this stops at Olive Street or just south of Olive. That right of way does continue all the way up to Fletcher Street. One other bit of information, the City of Fayetteville owns the property directly east of right of way vacation. Under state law, the City of Fayetteville will be obtaining half of the right of way. The developer will only be receiving 30 feet. There is total width of 60 feet. The City of Fayetteville owns the right of way between that entire block of Fletcher.

Estes: So, looking at page 6.3, Fletcher then would connect across Center Street and extend on down to Huntsville Road.

Conklin: That is correct.

Estes: Are we giving up any City property by granting this vacation request?

Conklin: We're giving up 30 feet from centerline to the west.

Estes: For free.

Conklin: Yes, that is correct.

Estes: With no consideration.

Kelly: It remains a utility easement.

Marr: Just to make sure I'm clear on this. I have a question for staff. This platted road that doesn't exist that was done in the 70's, are we to be considering anything with that or not? Should it be here or not?

Conklin: There was a resolution the City Council passed on February 20, 1996 and that resolution states:

> "The City reiterates it's policy that streets or roads should not be extended over Mt. Sequoyah which would connect Highway 45 to 16. Owners and developers of land on Mt. Sequoyah shall not be required nor encouraged to build streets which will act as part of the connection over Mt. Sequoyah between Highways 16 and 45."

So, there is a resolution stating that developers are not required nor encouraged to make those types of connections.

Estes: Thank you.

Johnson: Which means that anytime we have a subdivision, we have to be sure that you can't go through it and get from one highway to the other.

Estes: I am troubled by us providing public property for private use without compensation.

Johnson: How troubled are you? Troubled enough to make a motion? Our action that we take this evening will not be dispositive. A vacation is something that we merely make a recommendation to the City Council on. I believe that it is not good planning to vacate right of way that theoretically could connect the city.

MOTION

Johnson: I move that we deny vacation 99-8. Is there a second to the motion?

Marr: Second.

Johnson: We have the motion by the chair and seconded by Commissioner Marr that we deny vacation 99-8. Is there discussion of the motion?

Roll Call

Upon roll call, the motion passed with a unanimous vote of 7-0-1. Commissioner Shackelford abstained.

Further Discussion

Johnson: The motion to deny the vacation carried on a vote of 7 with one abstention.

Kelly: Is this then -- the developer now will be encouraged to develop it -- or no?

Johnson: My motion was that we have not vacated this right of way. We do not recommend that the City Council vacate the right of way.

Kelly: When development occurs next to platted streets, are developers required to develop the street to code?

Conklin: That is something we will take a look at when the development goes through plat review process and we'll expect a decision at that time whether or not -- what type of streets and improvement will be necessary to serve this development.

Kelly: If it's not requested to be developed, is there another change to petition to vacate?

Conklin: Your vacation request will automatically go to the City Council. The recommendation of the Commission will be forwarded to the City Council. The City Council will make the final decision.

Kelly: Thank you.

C.2 page 1
RZA 99-1

RECEIVED
JUL 20 1999
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

STAFF REVIEW FORM

X Agenda Request
____ Contract Review
____ Grant Review

For the Fayetteville City Council meeting of August 3, 1999.

FROM:

Tim Conklin	Planning	Public Works
Name	Division	Department

ACTION REQUESTED: To approve an ordinance for annexation request RZA99-1 submitted by John Burrow on behalf of Karen Hanna for property located at 3686 Wilson Hollow Road. The property is in the planning growth area and contains approximately 4.54 acres. The request is to annex the subject property into the City of Fayetteville.

COST TO CITY:

$0		
Cost of this request	Category/Project Budget	Category/Project Name
Account Number	Funds used to date	Program Name
Project Number	Remaining balance	Fund

BUDGET REVIEW: ____ Budgeted Item ____ Budget Adjustment Attached

Budget Coordinator ____ Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: GRANTING AGENCY: ____

Accounting Manager	Date	ADA Coordinator	Date
City Attorney	7-19-99 Date	Internal Auditor	Date
Purchasing Officer	Date		

STAFF RECOMMENDATION: Staff recommended approval and Planning Commission voted unanimous approval to forward the request to the City Council.

Division Head	7-19-99 Date
Department Director	7-20-99 Date
Administrative Services Director	22JUL99 Date
Mayor	7/21/99 Date

Cross Reference

New Item: Yes No

Prev Ord/Res#: ____

Orig Contract Date: ____

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (501) 575-8264

PLANNING DIVISION CORRESPONDENCE

TO:	**Fayetteville Planning Commission Members**
THRU:	**Tim Conklin, City Planner**
FROM:	**Brent Vinson, Associate Planner**
DATE:	July 12, 1999

RZA 99-1.00: Annexation (Hanna, pp 759) was submitted by John Burrow on behalf of Karen Hanna for property located at 3686 Wilson Hollow Road. The property is in the planning growth area and contains approximately 4.54 acres. The request is to annex the subject property into the City of Fayetteville.

RECOMMENDED MOTION:

Staff recommends approval of the requested annexation based on the findings included as part of this report.

PLANNING COMMISSION ACTION: YES Required

_____Approved _____Denied

Date: July 12, 1999

Comments:

CITY COUNCIL ACTION: YES Required

______Approved ______Denied

Date: / /

BACKGROUND :

The applicant requests the annexation of her property to make available water and sewer services from the City of Fayetteville. No other construction or improvements to the property are contemplated. On the June 11, 1999, the Washington County Judge confirmed the Order of Annexation for the property to be annexed into the City of Fayetteville. The property is located approximately two miles east of Drake Field and two miles north of Lake Wilson. The property is on Wilson Hollow Road which is unpaved. The applicant currently resides at the property and is the owner of 2.36 acres inside of the city limits just west of the subject property and of 10.53 acres outside the city limits south of the subject property. Property annexed into the city is automatically zoned A-1. The property contains 4.54 acres and with this annexation would meet the two acre minimum lot requirement with 388.70' of frontage (200' of frontage is required under the A-1 zoning.)

ADJACENT LAND USE AND ZONING:

North: Single family and undeveloped land (outside the city limits)

South: Undeveloped land (outside the city limits)

East: Single family (outside the city limits)

West: Single family and undeveloped land, R-1 and A-1

INFRASTRUCTURE:

Streets: Wilson Hollow Road (unpaved) is a residential street.

Water: There is a 2-1/4" waterline along Wilson Hollow Road.

Sewer: There is an no existing sewer line along Wilson Hollow Road or City Lake Road to the west.

LAND USE PLAN:

The General Plan 2020 shows this area as Residential.

§161.03 DISTRICT A-1 AGRICULTURAL.

A. **Purposes.** The regulations of the Agricultural District are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; prevent unsightly development, increase scenic attractiveness; and conserve open space.

B. Uses.

1. Permitted Uses.

Unit 1	City-Wide Uses by Right
Unit 3	Public Protection and Utility Facilities
Unit 6	Agriculture
Unit 7	Animal Husbandry
Unit 8	Single-Family and Two-Family Dwellings

2. Uses Permissible on Appeal to the Planning Commission.

Unit 2	City-Wide Uses by Conditional Use Permit
Unit 4	Cultural and Recreational Facilities
Unit 20	Commercial Recreation; Large Sites

C. Bulk and Area Regulations.

Lot Width Minimum	200 ft.
Lot Area Minimum: Residential Nonresidential	 2 acre 2 acre
Lot Area Per Dwelling Unit	2 acre

D. Yard Requirements (feet).

FRONT YARD	SIDE YARD	REAR YARD
35	20	35

E. Height Requirements. There shall be no maximum height limits in the A-1 District, provided, however, that any building which exceeds the height of 15 feet shall be setback from any boundary line of any residential district a distance of 1.0 foot for each foot of height in excess of 15 feet. Such setbacks shall be measured from the required yard lines.

FILED

IN THE COUNTY OF WASHINGTON COUNTY, ARKANSAS '99 JUN 11 AM 9 06

MARILYN EDWARDS
CO. & PROBATE CLERK
WASHINGTON CO. ARK.

IN THE MATTER OF ANNEXATION OF
CERTAIN TERRITORY TO THE CITY OF
FAYETTEVILLE, WASHINGTON COUNTY,
ARKANSAS, A MUNICIPAL CORPORATION

NO. CC 99-3

CONFIRMATION OF ANNEXATION

On this 11th day of June, 1999, this Court considers its Order of Annexation dated the 11th day of May, 1999, wherein certain property was annexed to the City of Fayetteville, Washington County, Arkansas. Said property is more particularly described as follows, to-wit:

> Part of the Northeast Quarter (NE1/4) of the Southeast Quarter (SE1/4) of Section 34, Township 16 North, Range 30 West of the Fifth Principal Meridian, Washington County, Arkansas, being more particularly described as follows, to-wit: Beginning at the Northeast Corner of said Northeast Quarter (NE1/4) of the Southeast Quarter (SE1/4); thence S 1°08'14", E 679.22 feet to the center line of a county road; thence following said centerline, N 64°04'20", W 388.70 feet; thence leaving said centerline, N 1°40'11", E 502.38 feet; thence N 88°45'32", E 321.54 feet to the point of beginning and containing 4.54 acres, more or less and subject to that portion which lies in the county road on the south side and to a 40 foot easement on the east side.

This Court finds that its Order entered on the 11th day of May, 1999, was recorded by the County Clerk on the 11th day of May, 1999, more than thirty day hence, and that there have been no objections filed to such order.

THEREFORE, the Order of this Court dated the 11th day of May, 1999, annexing the above described property to the City of Fayetteville, Washington County, Arkansas, and all proceedings before this Court relating thereto, are hereby confirmed.

Jerry Hunton, County Judge

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

IN THE MATTER OF ANNEXATION OF
CERTAIN TERRITORY TO THE CITY OF
FAYETTEVILLE, WASHINGTON COUNTY,
ARKANSAS, A MUNICIPAL CORPORATION — NO. CC 99-3

ORDER OF ANNEXATION

Now on this 11th day of May, 1999, comes on before the Court the matter of annexation of certain lands to the City of Fayetteville, Washington County, Arkansas, described as follows, to-wit:

> Part of the Northeast Quarter (NE1/4) of the Southeast Quarter (SE1/4) of Section 34, Township 16 North, Range 30 West of the Fifth Principal Meridian, Washington County, Arkansas, being more particularly described as follows, to-wit: Beginning at the Northeast Corner of said Northeast Quarter (NE1/4) of the Southeast Quarter (SE1/4); thence S 1°08'14", E 679.22 feet to the center line of a county road; thence following said centerline, N 64°04'20", W 388.70 feet; thence leaving said centerline, N 1°40'11", E 502.38 feet; thence N 88°45'32", E 321.54 feet to the point of beginning and containing 4.54 acres, more or less and subject to that portion which lies in the county road on the south side and to a 40 foot easement on the east side.

From the evidence presented by the petitioner, Karen Hanna, the Court finds as follows:

1. That petitioner has petitioned this Court to annex the above described property into the City of Fayetteville, Washington County, Arkansas, and have published notice of the hearing as required by law and no one has appeared against the petition on the date and time set for the hearing.

2. That all the lands proposed to be annexed into Fayetteville, Washington County, Arkansas, are within the Fayetteville School District, and further the lands are contiguous to property already situated in Fayetteville, Washington County, Arkansas.

3. That the property which is legally described in the petition has been accurately described and an accurate map thereof has been made and filed and the prayer of the petitioner is right and proper.

4. The Court therefore determines that an Order of Annexation is proper.

IT IS THEREFORE, CONSIDERED, ORDERED, ADJUDGED AND DECREED that the above described tract of land be, and hereby is annexed to and made a part of the City of Fayetteville, Washington County, Arkansas, subject to approval by the City Council for the City of Fayetteville, Arkansas.

County Judge

PLAT—OF—SURVEY

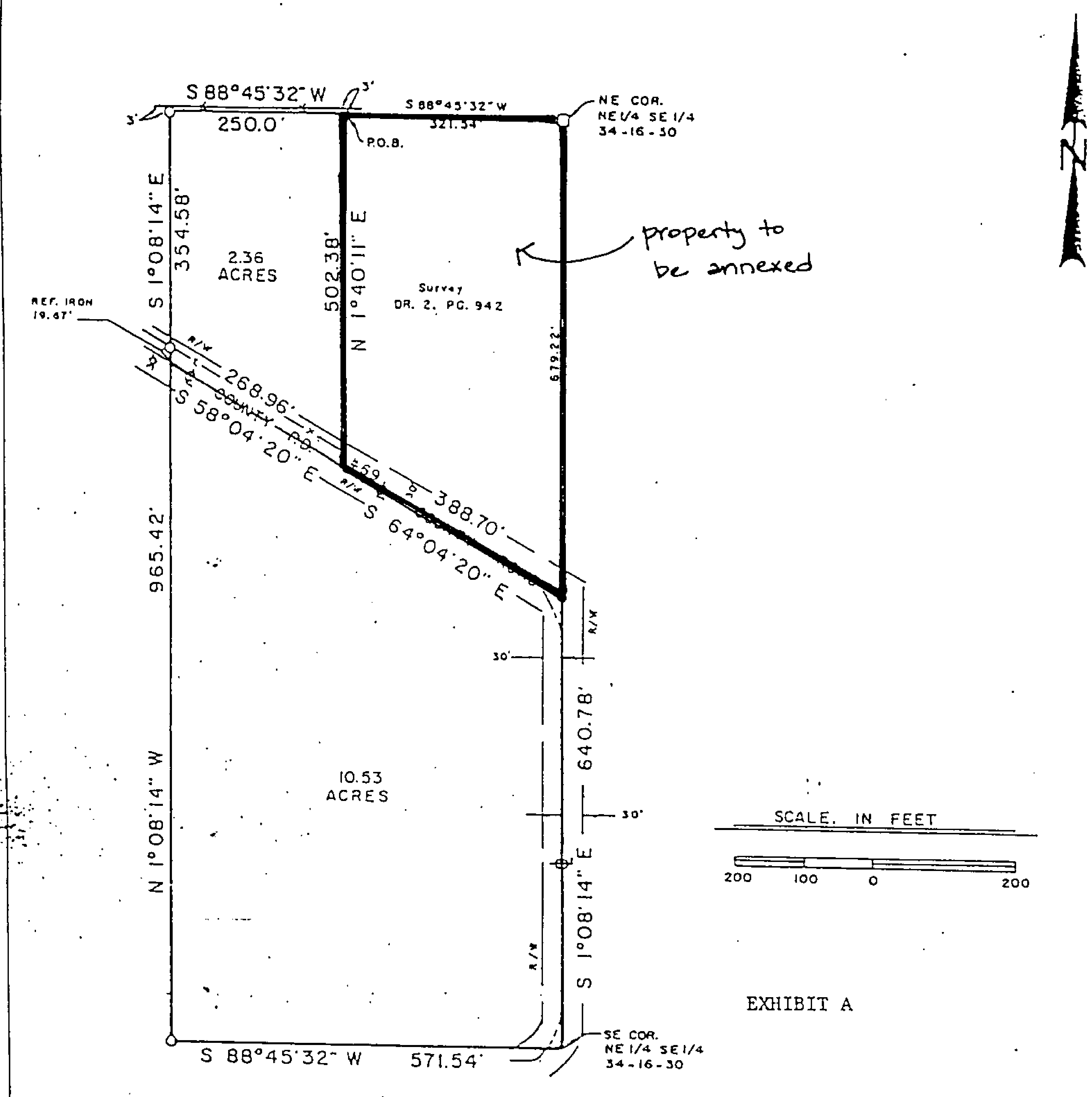


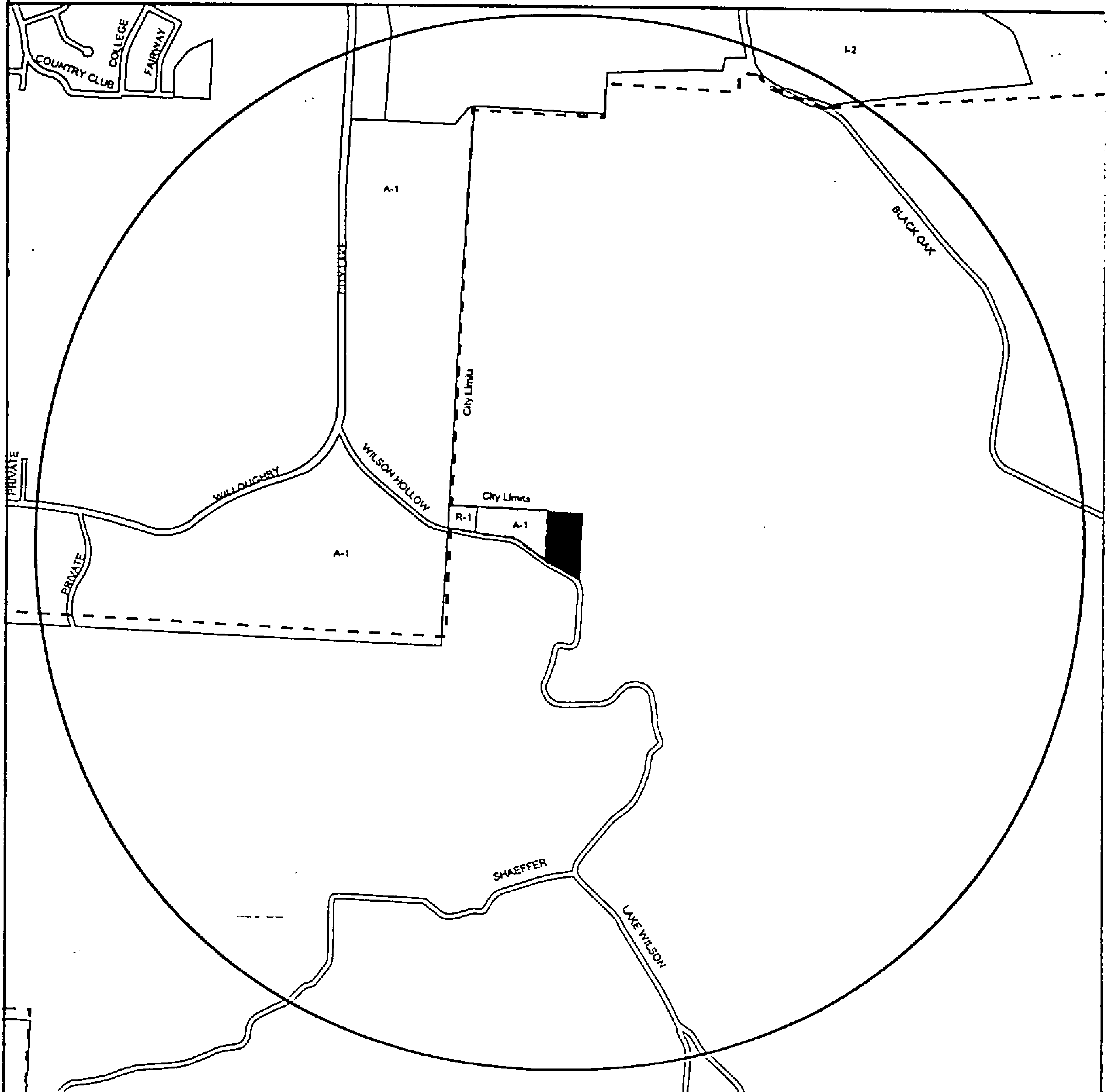
EXHIBIT A

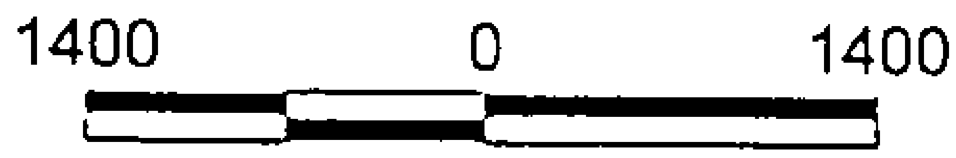
Hanna Property

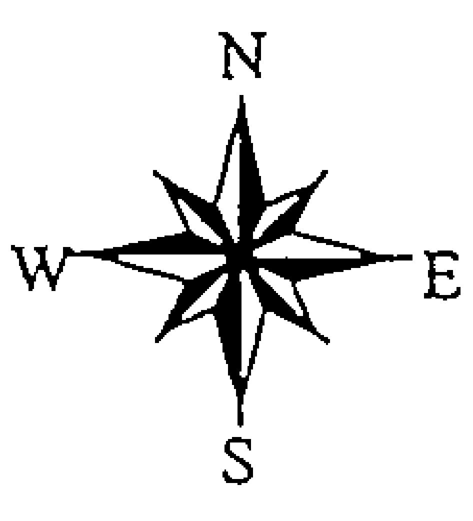
SURVEY DESCRIPTION

SEE ATTACHED SHEET

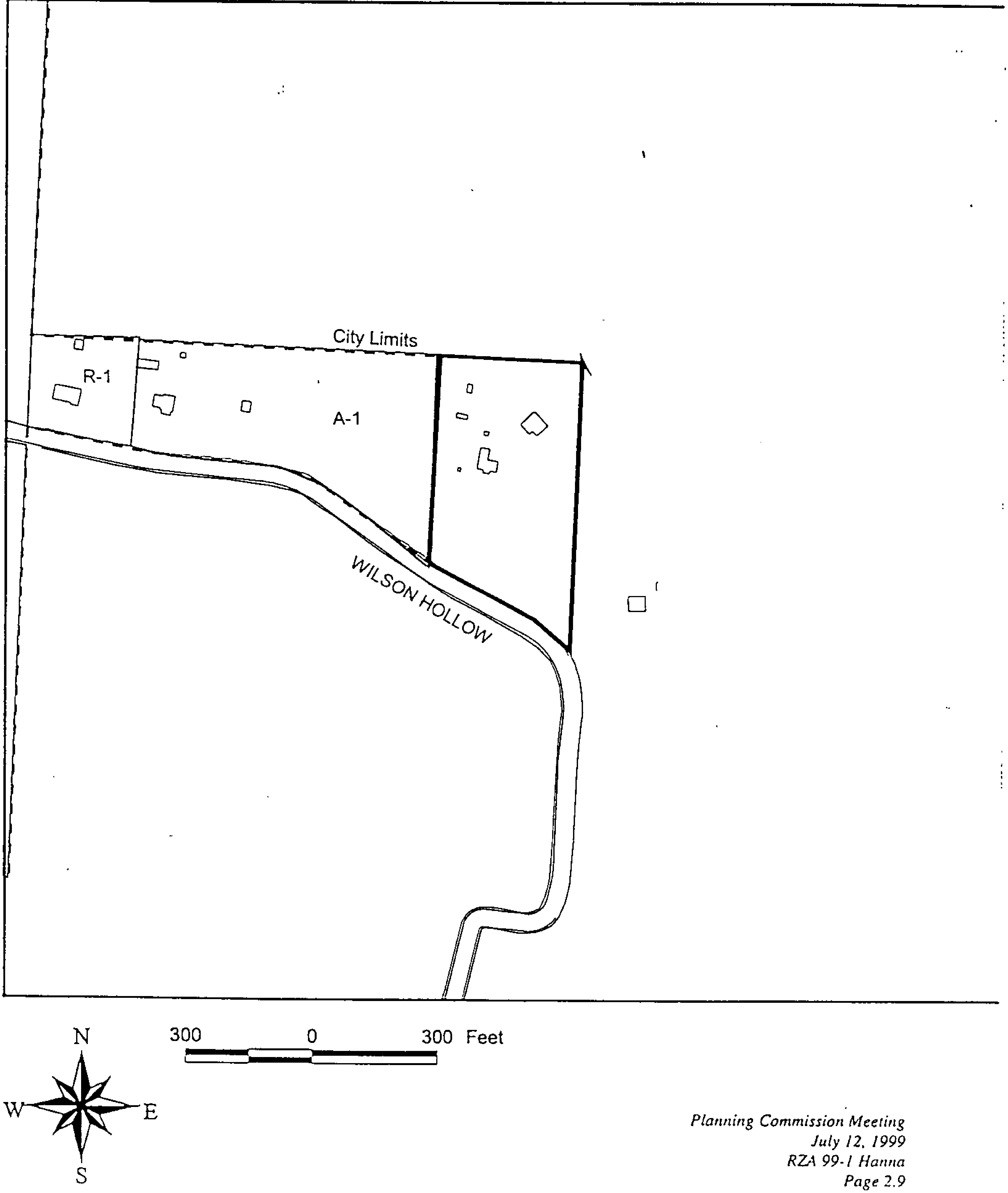
RZA99-1.00 - Hanna - One Mile Radius







RZA99-1.00 - Hanna - Close Up



RZA 99-1: ANNEXATION
HANNA, PP759

This item was submitted by John Burrow on behalf of Karen Hanna for property located at 3686 Wilson Hollow Road. The property is in the planning growth area and contains approximately 4.54 acres. The request is to annex the subject property into the City of Fayetteville.

Staff recommends approval of the requested annexation.

John Burrow was present on behalf of the request.

Committee Discussion

Johnson: The request is to annex into the City for water and sewer service in the future and also for trash pickup. The maps start on page 2.7. Does staff have anything additional to what we had in our packet handed out at agenda session?

Conklin: There is no additional information.

Johnson: Okay, Tim. Mr. Burrow, tell us who you are for the record and tell us what you have to add or subtract from our packet if you will.

Burrow: I'm here on behalf of and with Karen Hanna. We would--first, I'd like to thank the staff for the care and consideration they gave us in preparation and discussion with Tim in this petition and to say on behalf of the City of Fayetteville, we are proud to have you all working for us. It's a simple request for the annexation of this land into the City of Fayetteville. There is absolutely no change in the existing use contemplated. Ms. Hanna simply wants to access city water and solid waste disposal services. That's basically how I would respond to your inquiry. I think this petition is pretty complete.

Johnson: Thank you, Mr. Burrow. Are there initial questions of the applicant? Seeing none right off the bat, let me ask whether there is anyone in the audience who would address us on this particular annexation request?

Public Comment

None

Further Discussion

Johnson: Are there questions, comments or motions?

MOTION

Odom: I move approval and forwarding of RZA99-1.

Johnson: Is there a second?

Marr: Second.

Johnson: We have the motion by Commissioner Odom, seconded by Commissioner Marr that we vote approval of the proposed annexation RZA99-1. Of course, remind us that our recommendation on annexation is only that. It's a recommendation that goes forward to the City Council for final action. Any questions on this proposed annexation?

Roll Call

Upon roll call the motion passed with a unanimous vote of 8-0-0.

Further Discussion

Burrow: When will that be heard by the Council?

Conklin: We will place that -- approximately 2 and half weeks from now. I'll give you call tomorrow.

Burrow: We're very grateful. Thank you all so much and thank you, again.

Johnson: Thank you, John.

STAFF REVIEW FORM

X Agenda Request
___ Contract Review
___ Grant Review

FOR THE FAYETTEVILLE CITY COUNCIL MEETING OF August 3, 1999

FROM:

Charles Venable		Public Works
Name	Division	Department

ACTION REQUESTED: Approval of a resolution to repay the Arkansas State Highway and Transportation Department federal aid enhancement funds reimbursed for the design of the St. Paul Rail Trail and Errol Street Trail since the St. Paul Trail will not be constructed and the Errol Street Trail has been changed. Job number 040195. Approval of a budget adjustment funding this request is needed.

COST TO THE CITY:

$87,829.86	-0-	Professional Services
Cost of this request	Category/Project Budget	Category/Project Name
4470-9470-5314-02	-0-	Transportation Impvs.
Account Number	Funds used to date	Program Name
99069	-0-	Sales Tax Capital
Project Number	Remaining Balance	Fund

BUDGET REVIEW:

___ Budgeted Item X Budget Adjustment Attached

Budget Coordinator Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

Accounting Manager	Date 7-26-99	Internal Auditor	Date 7-27-99 ✓
City Attorney	Date 7-27-99	ADA Coordinator	Date
Purchasing Officer	Date 7-27-99		

STAFF RECOMMENDATION:

Division Head	Date
Department Director	Date 7-27-99
Administrative Services Director	Date 27 JUL 99
Mayor	Date 7/27/99

Cross Reference

New Item: Yes No

Prev Ord/Res #: ______

Orig. Contract Date: ______

STAFF REVIEW FORM

Description____________________ Meeting Date__________

Comments: Reference Comments:

Budget Coordinator

Accounting Manager

City Attorney

Purchasing Officer

ADA Coordinator

Internal Auditor

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Fred Hanna, Mayor

From: Charles Venable, Public Works Director *cv*

Date: July 23, 1999

Subject: Reimbursement of Federal Aid Enhancement Funds

As you know, the City received federal aid enhancement funds under the 1991 Federal Aid Highway Act (ISTEA) for the construction of bicycle trails along the abandoned spur line that serves the industrial park, and the Errol Street Trail which has since been changed to Raven Trail.

A consulting engineering firm was employed in June 1996 to design these trails and provide right-of-way information for the procurement of the land necessary for the trails. As a result, a total of $87,829.86 in federal funds were expended and reimbursement of these funds was received by the City. The St. Paul Trail has been dropped since it has been determined that the railroad spur line will be reconstructed in order to serve the industrial park. The "Raven Trail" project that was designed has been completely changed and all of the redesign has been done in-house since we have terminated the consultant contract.

We wrote the Arkansas Highway and Transportation Department (AHTD) a letter on June 23, 1999, asking if the remainder of the funds could be utilized for other trails. The AHTD responded on July 14, 1999, and it appears that the funds will be allowed to be utilized subject to the reimbursement of the federal aid funds expended on the two trails. In accordance with paragraph 12 found on page 3 of the attached agreement, the City will be responsible for 100 percent of all project design, right-of-way, and other costs incurred should the City not complete the construction phase of the project.

If additional information is needed, please do not hesitate to contract me.

CV:msm

enclosures:

(1) Letter from AHTD dated July 14, 1999
(2) Letter to AHTD dated June 23, 1999
(3) Agreement of Understanding dated January 6, 1995

Arkansas State Highway Commission

HERBY BRANSCUM, JR., CHAIRMAN
PERRYVILLE

JOHN "M" LIPTON, VICE CHAIRMAN
WARREN

J.W. "BUDDY" BENAFIELD
HICKORY PLAINS

MARY P. "PRISSY" HICKERSON
TEXARKANA

JONATHAN BARNETT
SILOAM SPRINGS

DAN FLOWERS
DIRECTOR OF
HIGHWAYS AND TRANSPORTATION

P.O. Box 2261
LITTLE ROCK, ARKANSAS 72203-2261
TELEPHONE NO. (501) 569-2000
FAX NO. (501) 569-2400

July 14, 1999

The Honorable Fred Hanna
Mayor of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Dear Mayor Hanna:

Reference is made to your recent letter concerning the City's enhancement projects.

Your proposal to construct additional bike trails in Fayetteville seems acceptable. However, before we make a final decision as to whether the funds approved for railroad corridor preservation (Jobs 040198 and 040221) can be used to construct the additional trails, we would first like to reconcile the payments on Job 040195, Fayetteville Bike Trails (ATEP-94) (S).

It is our understanding that the City now plans to design all bike trails in-house and your consultant's designs for the St. Paul rail trail and the Errol Street trail will not be utilized. You noted that to date, $87,829.86 in Federal-aid has been reimbursed to the City. In accordance with our Agreement of Understanding, we hereby request that the City remit these funds at this time, or document any funding for work completed that will still be utilized.

Your check for $87,829.86 (made payable to the Arkansas State Highway and Transportation Department) should be forwarded to this office. If you wish to discuss this matter further, please contact Bill Bradberry of our Programs and Contracts Division at (501)569-2261.

Sincerely,

Dan

Dan Flowers
Director of Highways
and Transportation

c: Commissioner Jonathan Barnett
Chief Engineer

RECEIVED
JUL 19 1999
CITY OF FAYETTEVILLE
MAYOR'S OFFICE

encl 1

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

June 23, 1999

Mr.. Dan Flowers, Director
Arkansas Highway and Transportation Department
PO Box 2261
Little Rock, AR 72203-2261

RE: Federal Aid Enhancement Funds

Dear Mr. Flowers:

We appreciate Mr. Bill Bradberry visiting with us on the afternoon of June 9, to discuss the enhancement projects we have ongoing. As you are aware, we have received federal aid enhancement funds from the 1991 ISTEA program. These funds were made available for the following projects:

1. Job No. 040195 (ATEP-94)S for bike trails in the amount of $400,000

2. Job No. 040198 (ATEP-94)S and Job No. 040221 (ATEP-95)S for railroad corridor preservation in the amount of $99,792 and $113,039.60 respectively

To date, a consultant was hired to develop plans under Job No. 040195 and a total of $87,829.86 in federal funds have been expended. Work has been progressing on a trail near the Butterfield School (Errol Street) and a trail along the abandoned railroad spur (St. Paul). Recently it has come to our attention that the abandoned rail lines, which serves our industrialized district, will probably be revised with a new spur line since activity in the Industrial Park now needs rail service. Therefore, we plan to abandon plans to construct a trail in this corridor. The Errol Street trail is planned for construction this year.

Our question to you is as follows: Can the funds appropriated to us under Jobs 040198 and 040221 be used by the City to construct trails at any location other than the St. Paul trail? We are hopeful that we will be permitted to use these funds in the this manner.

We do have several trail locations that we would like to construct if the funds could be used. The trails could be designed and placed under contract in a very short time frame since very little right-of-way would be required in most cases. Enclosed is a map showing the location of these trails, and following is a brief description of each.

encl 2

1. Completion of the Joyce Boulevard multi-use trail located on the north side of Joyce between a tributary to Mud Creek and Old Missouri Road, a distance of approximately 2700 feet. No additional right-of-way will be required, although a T.C.E. may be necessary to actually build the trail. Completion of this segment will connect a trail that begins at Front Street and traverses to the Mud Creek tributary, and a trail that begins at Old Missouri Road and ends at Highway 265. The trail will be constructed to handle bicycles and pedestrians. It is estimated the costs for this segment of trail will be approximately $90,000.

2. Completion of a multi-use trail from Gulley Park, eastward to Routh Park. The trail will be approximately 5000 feet in length. No right-of-way is required between Gulley Park and Azalea Terrace, a distance of approximately 1700 feet. This is planned to be the first phase of work. Between Azalea Terrace and Routh Park, a distance of approximately 4100 feet, approximately 1000 feet of right-of-way will be required near Routh Park from four separate properties. A bridge across Mud Creek tributary will also be required on this segment.

   Phase 1 is estimated to cost approximately $50,000 and Phase 2 is estimated to cost approximately $170,000. Phase 1 can be constructed almost immediately and Phase 2 can be ready to acquire right-of-way and award of contract early 2000.

3. A multi-use trail that begins at Front Street to connect with the existing trail and proceed westward along Mud Creek to Gregg Avenue, a distance of approximately 5800 feet. Completion of this trail will provide a multi-use trail from Gregg Avenue on the west, to Highway 265 on the east, taking into account Item 1 above.

   This trail would be constructed in stages with the first stage running from Front Street, west for a distance of approximately 3800 feet. It would intersect a new street, Steele Boulevard, which will be constructed this year. The trail will be located on the south side of Mud Creek until it reaches Mall Avenue (also to be constructed this year), cross over the bridge on Mall Avenue, and continue on the north side to the Steele Boulevard intersection. Right-of-way has been made available for this trail as a part of the CMN Business Park, which is under development. It is estimated Phase 1 of the project will cost in the neighborhood of $150,000 and can be constructed during the year 2000.

   The second phase of work, which will begin at Steele Blvd. and proceed westward a distance of approximately 2000 feet, could be constructed during the year 2001. Right-of-way will have to be acquired for the western most 1600 feet. Costs are estimated at $110,000, including right-of-way.

4. A multi-use trail from Routh Park, northward to Sweetbriar Park, along Mud Creek a distance of approximately 3000 feet. This route, when constructed, would provide a continuous trail from Gulley Park, through Routh Park, to Sweetbriar Park. Right-of-way will have to be acquired along this trail and it will probably be the year 2001 before this trail could be constructed. An estimate of costs for this trail is in the neighborhood of $175,000, including right-of-way.

The total amount of federal funds remaining in the three projects that have been made available to the City is as follows:

Job 040195	$312,120
Job 040,198	99,792
Job 040221	113,090
TOTAL ...	$525,052

The total estimated costs of the four trails shown above is $745,000, of which approximately $596,000 would be federal aid funds. It is realized that this exceeds the funds currently appropriated to us, and if you do allow the use of the present funds to go toward these trails, it may be necessary to receive an additional grant from the 1998 TEA-21 program.

We feel the construction these trails will provide the beginning for what we hope will eventually be a trail network throughout the City. I also want to assure you that every effort will be made to place these trails under contract within the time frame mentioned above. We also understand that the procedures for handling these types of projects have changed within the past few months, and we would ask that the agreement we now have be modified to allow the City to proceed under the new guidelines.

I look forward to hearing from you in the near future and hopefully with the news that the existing funds can be utilized as set forth in this letter. I will be more than happy to furnish any additional information or answer any questions you may have.

Sincerely yours,

Fred Hanna

Fred Hanna
Mayor

enclosure

c Trails Advisory Committee

AGREEMENT OF UNDERSTANDING

BETWEEN

THE CITY OF FAYETTEVILLE

AND

THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

In Cooperation with the
U. S. Department of Transportation
Federal Highway Administration

RELATIVE TO

The implementation of **Job 040195, Fayetteville Bicycle Trails (ATEP-94) (S)**, (hereinafter called "the project") as a transportation enhancement project.

WHEREAS, the Intermodal Surface Transportation Efficiency Act of 1991 provides 80% Federal-aid funds to be matched with 20% non-federal funds (cash match) for certain transportation enhancement projects, and

WHEREAS, the City of Fayetteville (hereinafter called "Sponsor") has expressed its desire to use Federal-aid funds for an eligible project and to provide necessary matching cash share for such funds, and

WHEREAS, funding participation for each phase of the project will be as follows:

	Federal %	Sponsor %	
Project Design:	80	20	
Project Review:	80	20	
Right-of-Way:	80	20	
Utilities:	80	20	
Project Implementation:	80	20	
Project Inspection:	80	20	, and

WHEREAS, the Sponsor knows of no legal impediments to the completion of the project, and

WHEREAS, it is specifically agreed between the parties executing this agreement that it is not intended by any of the provisions of any part of the agreement to create the public or any member thereof a third party beneficiary hereunder or to authorize anyone not a party to this agreement to maintain a suit or action for injuries or damage of any nature pursuant to the terms or provisions of this agreement, and

ENCL 3

WHEREAS, the Sponsor understands that the Arkansas State Highway and Transportation Department (hereinafter called "Department") will adhere to the General Requirements for Recipients and Sub-Recipients Concerning Minority Business Enterprises (see attached).

IT IS HEREBY AGREED that the Sponsor and the Department, in cooperation with the Federal Highway Administration, will participate in a cooperative program for implementation of the project and will accept the responsibilities and assigned duties as described hereinafter.

THE SPONSOR WILL:

1. Indemnify and save harmless the Department from all suits, actions, or claims of any character brought because of any damage sustained on account of the operations or actions of the said Sponsor; or because of any act of omission, neglect, or misconduct of said Sponsor; or from any claims or amounts arising or recovered under any law, ordinance, order, or decree. Nothing contained herein shall be construed in any manner as a waiver of statutory tort immunity as provided under Arkansas Code Ann. § 21-9-301.

2. Assure that its policies and practices with regard to its employees, any part of whose compensation is reimbursed from federal funds, will be without regard to race, color, religion, sex, disability, or national origin in compliance with the Civil Rights Act of 1964 and 49 CFR Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation.

3. Be responsible for its portion of the total project cost, which will include project design, construction inspection services, appraisal and acquisition of right-of-way, relocation services (when required), and adjustment of all man-made improvements, including utilities.

4. Grant the right of access to the Sponsor's records pertinent to this project and the right to audit by the Department and Federal Highway Administration officials. Such records shall be retained in accordance with the requirements of 23 CFR Part 17 - Recordkeeping and Retention Requirements for Federal-aid Highway, Records of State Highway Agencies (copy attached).

5. Where appropriate, contact the Arkansas Historic Preservation Program (AHPP) to execute a Deed of Conservation Easement for enhancement projects involving certified historic properties or obtain a waiver from the AHPP.

6. If the Sponsor requests the Department to be responsible for project engineering, submit to the Department five percent of the estimated total project cost before engineering by the Department begins.

7. If the Sponsor proposes to be responsible for project engineering, submit a copy of the contract for engineering services to the Department for approval prior to contract execution.

8. Submit a letter to the Right-of-Way Division of the Department which either (1) stipulates the services relative to right-of-way acquisition, appraisal, relocation, and utilities that the sponsor will assume or (2) requests that the Department handle some or all of these services. Acquisition of property, where federal funds are involved, must be accomplished in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (commonly referred to as the "Uniform Act"). **NOTE: Failure to notify the Department prior to initiating this phase of work may result in any expenditures being declared non-participating in federal funds.**

9. Submit to the Department the local matching share, when applicable, of the estimated cost of each project phase before project implementation begins or before a contract for that portion of the project is awarded.

10. Where appropriate, provide a copy of the registered deed or an appropriate certification, showing the Sponsor's clear and unencumbered title to any right-of-way to be used for the project.

11. Enter into a Supplemental Agreement with the Department for the project, or for separate project phases, which details the responsibilities of the Sponsor and/or its representative regarding notifications, routine inspections, certification of materials, payroll and wage rate records, and other documentation as necessitated by the scope of the project.

12. Be responsible for 100% of all project design, right-of-way, and any other costs incurred should the Sponsor not complete the construction phase of the project.

13. Be responsible for 100% of any additional cost above the construction contract amount, unless prior written approval is obtained from the Department.

14. Be responsible for 100% of any and all expenditures which are declared non-participating in federal funds, including awards by the State Claims Commission.

15. Retain total, direct control over the project throughout the life of the improvements and **not, without prior approval from the Department**:

    - sell, transfer, or otherwise abandon any portion of the project;
    - change the intended use of the project as stated in the approved project application;
    - make significant alterations to any improvements constructed with Federal-aid funds; or
    - cease maintenance or operation of the project due to the project's obsolescence.

16. Be responsible for satisfactory maintenance and operation of all improvements and for adopting regulations and ordinances as necessary to ensure this. Failure to adequately maintain and operate the project in accordance with Federal-aid requirements may result in the Sponsor's repayment of federal funds and will result in withholding future Federal-aid.

17. Promptly notify the Department if the project is rendered unfit for continued use by an act of God or other cause.

THE DEPARTMENT WILL:

1. Be responsible for administering Federal-aid funds and for project approval and acceptance.

2. When requested, provide the necessary services relative to right-of-way acquisition, appraisal, relocation, and utility adjustments in accordance with the Uniform Act and will be reimbursed for costs involved in performing these services.

3. Reimburse the Sponsor for all legitimate, documented costs in accordance with the Supplemental Agreement for routine inspection and documentation.

IT IS FURTHER AGREED that should the Sponsor fail to fulfill its responsibilities and assigned duties as related in this Agreement, such failure could disqualify the Sponsor from receiving future Federal-aid funds administered by the Department.

IT IS FURTHER AGREED that should the Sponsor fail to pay to the Department any required funds due for project implementation or fail to complete the project as specified in this Agreement or fail to adequately maintain or operate the project, the Sponsor will be responsible for all costs of the project. In such cases, the Department may cause funds as may be required to be withheld from the Sponsor's gasoline tax allotment.

IN WITNESS WHEREOF, the parties thereto have executed this Agreement on this 6th day of January, 1995.

RECOMMENDED:

Assistant Chief Engineer for Planning

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

Dan Flowers
Director of Highways and Transportation

CITY OF FAYETTEVILLE

Fred Hanna
Mayor

GENERAL REQUIREMENTS
FOR
RECIPIENTS AND SUB-RECIPIENTS
CONCERNING MINORITY BUSINESS ENTERPRISES

It is the policy of the U. S. Department of Transportation that minority business enterprises (MBEs) as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Agreement. Consequently, the MBE requirements of 49 CFR Part 23 apply to this Agreement.

The recipient or its contractor agrees to ensure that MBEs as defined in 49 CFR Part 23 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this Agreement. In this regard all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that MBEs have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted contracts.

If as a condition of assistance the recipient has submitted and the Department has approved a minority business enterprise affirmative action program which the recipient agrees to carry out, this program is incorporated into this financial assistance agreement by reference. This program shall be treated as a legal obligation and failure to carry out its terms shall be treated as a violation of this financial assistance agreement. Upon notification to the recipient of its failure to carry out the approved program, the Department shall impose such sanctions as noted in 49 CFR Part 23, Subpart E, which sanctions many include termination of the Agreement or other measures that may affect the ability of the recipient to obtain future DOT financial assistance.

The recipient shall advise each sub-recipient, contractor or subcontractor that failure to carry out the requirements set forth in Subsection 23.43(a) shall substitute a breach of contract and after the notification of the Department, may result in termination of the agreement or contract by the recipient or such remedy as the recipient deems appropriate.

(NOTE: Where appropriate, the term "recipient" may be modified to mean "sub-recipient", and the term "contractor" modified to include "subcontractor".)

23 CFR Part 17

RECORDKEEPING AND RETENTION REQUIREMENTS FOR FEDERAL-AID HIGHWAY, RECORDS OF STATE HIGHWAY AGENCIES

§17.1 Purpose.

This regulation prescribes the recordkeeping and retention requirements for the Federal-aid highway program.

§17.3 Definitions.

As used in this regulation:

(a) *Records.* Includes all accounts, papers, maps, photographs, or other documentary materials regardless of physical form or characteristics, made or received by any agency, firm or individual in connection with the transaction of Federal-aid highway business. This includes, but is not limited to, financial records, supporting documents, statistical records, and other records pertinent to Federal-aid highway projects.

(b) *Retention period.* The minimum period of time records are required to be held by the Federal Highway Administration (FHWA). Other governmental (Federal as well as State, municipal, etc.) or private entities may require or choose longer periods.

(c) *Federal-aid highway program.* All activity undertaken by a non-Federal governmental agency, business firm, or individual in connection with Federal grants-in-aid related to title 23, United States Code.

§17.5 Requirements.

(a) State record systems and requirements for maintaining documentation concerned with the Federal-aid highway program will meet applicable requirements of Federal and State laws and regulations, establish a sound basis for auditing the State program, and be consistent with generally accepted records management and accounting practices.

(b) Records pertaining to the Federal-aid highway program shall be retained for a minimum period of 3 years with the following exceptions:

(1) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records shall be retained until all litigations, claims, or audit findings involving the records have been resolved.

(2) Records for nonexpendable property acquired with Federal funds shall be retained for 3 years after the final disposition of the property.

(3) Records which have been transferred to the Federal Highway Administration for retention.

(4) Toll facility records shall be retained for 3 years subsequent to the date when the facility became operable on a toll-free basis.

(c) The start of retention periods for State and third parties is as follows:

(1) *State records.* (i) For project oriented records, the 3-year retention period starts when the final voucher is submitted.

(ii) For cost accounting and fiscal records which usually relate to more than one project and are not project oriented, the 3-year retention period starts at the end of the State's fiscal year in which an entry is made.

(2) *Third party records.* For third party records, the 3-year retention period starts when the third party receives final payment.

(d) FHWA may, from time to time, request transfer of records from State and local governments when it is determined that these records possess long-term retention value. However, to avoid duplicate recordkeeping, the Division Administrator may make arrangements with State and local governments to retain any records which are continuously needed for joint use.

(e) State or third parties should not limit access to Federal-aid highway records on the basis of this regulation. Federal-aid highway records need be kept confidential only when FHWA can demonstrate that such records must be kept confidential and would be exempted from disclosure under the Freedom of Information Act (5 U.S.C. 552) if the records were FHWA records.

(f) All records shall be available at all reasonable times for inspection by any authorized representative of the federal Government and copies thereof shall be furnished when requested.

§17.7 Authorization to microfilm records.

Microfilmed copies may be used in lieu of original records subject to the following requirements:

(a) Copies must be legible and contain all the significant record detail shown on the originals.

(b) Copies shall be so arranged, identified and indexed so that any individual document or component of the records can be located with reasonable facility.

(c) Copies shall be adequate substitutes for the original records and serve the purposes for which such records were created or maintained.

§17.9 Waiver.

The granting of a waiver to the provisions of this regulation is expressly reserved to the Federal Highway Administrator subject to:

(a) Full written justification demonstrating unusual circumstances by the requesting party.

(b) An indication that compliance would be an unreasonable burden upon the State or contractor, and

(c) A determination by FHWA that the waiver is in the public interest.

RESOLUTION NO. 3-95

A RESOLUTION EXPRESSING THE WILLINGNESS OF THE CITY OF FAYETTEVILLE, ARKANSAS TO UTILIZE FEDERAL-AID MONIES.

WHEREAS, the City Council of Fayetteville, Arkansas understands Federal-Aid Surface Transportation Enhancement funds are available at 80% federal participation and 20% local cash match for the following project:

Acquisition of abandoned rail corridors and conversion of those corridors to trails.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. The City Council of Fayetteville, Arkansas will participate in accordance with its designated responsibility, including maintenance of this project.

Section 2. The Mayor of Fayetteville, Arkansas is hereby authorized and directed to execute all appropriate agreements and contracts necessary to expedite the construction of the above stated improvement.

Section 3. The City Council of Fayetteville, Arkansas pledges its full support and hereby authorizes the Arkansas State Highway and Transportation Department to initiate action to implement this project.

PASSED AND APPROVED this 3rd day of January, 1995.

APPROVED:

By: Fred Hanna

Fred Hanna, Mayor

ATTEST:

By: Traci Paul

Traci Paul, City Clerk

FEDERAL-AID ENHANCEMENT PROJECT RESOLUTION

RESOLUTION NO. 3-95

A RESOLUTION EXPRESSING THE WILLINGNESS
OF the City of Fayetteville, Arkansas
(Sponsor)
TO UTILIZE FEDERAL-AID MONIES

WHEREAS, the Fayetteville City Council understands Federal-Aid Surface
(Sponsor's Governing Authority)

Transportation Enhancement funds are available at 80% Federal participation and 20% local cash match for the following project: Acquisition of abandoned rail corridors and conversion of those corridors to trails.

NOW, THEREFORE, BE IT RESOLVED BY THE Fayetteville City Council
(Sponsor's Governing Authority)

_______________, THAT:

SECTION I: the City of Fayetteville will participate in accordance
(Sponsor)

with its designated responsibility, including maintenance of this project.

SECTION II: The Mayor of Fayetteville is hereby authorized and
(Title of Sponsor's CEO/CAO)

directed to execute all appropriate agreements and contracts necessary to expedite the construction of the above stated improvement.

SECTION III: The Fayetteville City Council pledges its full support and
(Sponsor's Governing Authority)

hereby authorizes the Arkansas State Highway and Transportation Department to initiate action to implement this project.

THIS RESOLUTION adopted this 3rd day of January, 19 95.

(Sponsor's CEO/CAO)

ATTEST: Traci Paul

(SEAL)

SEAL

WITHDRAWN

RECEIVED

JUL 20 1999

CITY OF ...
CITY CLERK'S OFFICE

STAFF REVIEW FORM

X Agenda Request
___ Contract Review
___ Grant Review

For the Fayetteville City Council meeting of August 3, 1999.

FROM:

Tim Conklin	Planning	Public Works
Name	Division	Department

ACTION REQUESTED: To approve an ordinance for vacation request VA99-8.00 submitted by Laura Kelly of Rob Sharp Architect on behalf of East Avenue Investment Group, LLC for property located between blocks 4 and 5 of Harrison's Addition. The property is zoned R-2, Medium Density Residential. The request is to vacate an unconstructed section of Fletcher Avenue between Center Street and the point where Fletcher Avenue's asphalt surface curves east from the platted right-of-way.

COST TO CITY:

$0		
Cost of this request	Category/Project Budget	Category/Project Name
Account Number	Funds used to date	Program Name
Project Number	Remaining balance	Fund

BUDGET REVIEW: ___ Budgeted Item ___ Budget Adjustment Attached

Budget Coordinator — Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: GRANTING AGENCY: ___

Accounting Manager	Date	ADA Coordinator	Date
City Attorney	Date 7-19-99	Internal Auditor	Date
Purchasing Officer	Date		

STAFF RECOMMENDATION: Staff recommended approval and the Planning Commission voted to deny the request by a vote of 7-0-1. Commissioner Shackelford abstained from voting.

Division Head	Date 7-19-99	Cross Reference
Department Director	Date 7-20-99	New Item: Yes No
Administrative Services Director	Date 20 JUL 99	Prev Ord/Res#: ___
Mayor	Date 7/21/99	Orig Contract Date: ___

REGISTERED
ROBERT SHARP, ARCHITECT
311 WEST DICKSON | STE 103
FAYETTEVILLE | AR | 72701
PHONE: 501-442-0229
FAX: 501-442-8721

July 14, 1999

City Clerk
Fayetteville Administration Building
113 West Mountain Street
Fayetteville, Arkansas 72701

To Heather Woodruff, City Clerk,

I am writing in regards to the Petition to Vacate a portion of Fletcher Avenue which was heard at the Planning Commission meeting of July 12th. The planning staff recommended approval of the vacation of the unconstructed portion of Fletcher Avenue based largely on a council resolution passed on February 20, 1996, which states "streets or roads should not be extended over Mt. Sequoyah which would...connect Highway 45 to Highway 16.... Landowners and developers of land on Mt. Sequoyah shall not be required or encouraged to build streets which would act as part of a connection over Mt. Sequoyah from college Ave. to Highway 265, nor as a part of a connection between Hwy. 16 and Hwy. 45. The Planning Commission seemingly disagreed with the intent of this resolution, and voted 8-0 to deny the vacation. I would like this issue to be heard before the City Council on August 3rd.

The Planning Commission did not seem familiar with the portion of the Fletcher right of way in question or with the fact that the grade at that point presents a grave obstacle to the construction of a connecting road. I am wondering if the council members will take a site visit to the right of way in question, or if I should bring some evidence of its condition.

I understand that by writing this letter, I may still present my case at the August 3rd meeting of the City Council.

Thank you for your time and help in this matter.

Respectfully,

Laura Kelly

Laura Kelly
architectural intern, office of Rob Sharp, Architect
cc: File
Greg House, Houses, Inc.

PC Meeting of 12 July 99

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
113 W. Mountain St.
L.L.C.
Fayetteville, AR 72701

Street Right of Way vacation
East Avenue Investment Group,

TO: Fayetteville Planning Commission Members
THRU: Tim Conklin, City Planner
FROM: Ron Petrie P.E., Staff Engineer
DATE: July 8, 1999

Project: **VA 99.00-8.00**: Street Right of Way Vacation as requested by East Avenue Investment Group, L.L.C. for an unconstructed portion of Fletcher Avenue located north of Center Street and between Block 4 and Block 5 of Harrison's Addition. The adjacent properties located to the west of this portion of Fletcher are zoned R-2, Medium Density Residential and the adjacent properties to the east are zoned R-1, Low Density Residential. Please refer to the attached drawings.

The applicant has submitted the required notification forms to the utility companies and to the City. The results are as follows:

Ozarks Electric - No objections.
Southwestern Electric Power Company - No objections provided that the abandoned portion be retained as an easement.
Arkansas Western Gas - No objections provided that the abandoned portion beretained as an easement.
SW Bell - No objections.
TCA Cable - No objections.

City of Fayetteville:
Water/Sewer - No objections provided that the abandoned portion be retained as an easement. There is a 30" waterline and other smaller water lines located within this area.
Street Department - No objections.
Solid Waste - No objections.

Recommendation: Approval of street right of way vacation provided that the portion being abandoned is retained as a utility easement.

The undeveloped street right-of-way to be vacated is located at the southern end of Fletcher Ave. directly south of where it turns to the east. The area to be vacated contains approximately 10,977.27 sf. This right of way adjoins existing undeveloped right-of-way for Center Street and Fletcher Ave.

The City Council passed a resolution February 20, 1996 that states "streets or roads should not be extended over Mt. Sequoyah which would ...connect Highway 45 to Highway 16. ...Landowners and developers of land on Mt. Sequoyah shall not be required or encouraged to build streets which would act as part of a connection over Mt. Sequoyah from College Ave. to Highway 265, nor as a part of a connection between Hwy. 16 and Hwy. 45.

PLANNING COMMISSION ACTION: __yes__ **Required**
_____ **Approved** _____ **Denied**

Date: ___/___/___

Comments:

____

____

____

CITY COUNCIL ACTION: __yes__ **Required**
_____ **Approved** _____ **Denied**

Date: ___/___/___

REGISTERED
ROBERT SHARP, ARCHITECT
311 WEST DICKSON STE 103
FAYETTEVILLE AR 72701
PHONE: 501-442-0229
FAX: 501-442-8721

P.O. Box 3494
Fayetteville, AR 72702
1 April, 1999

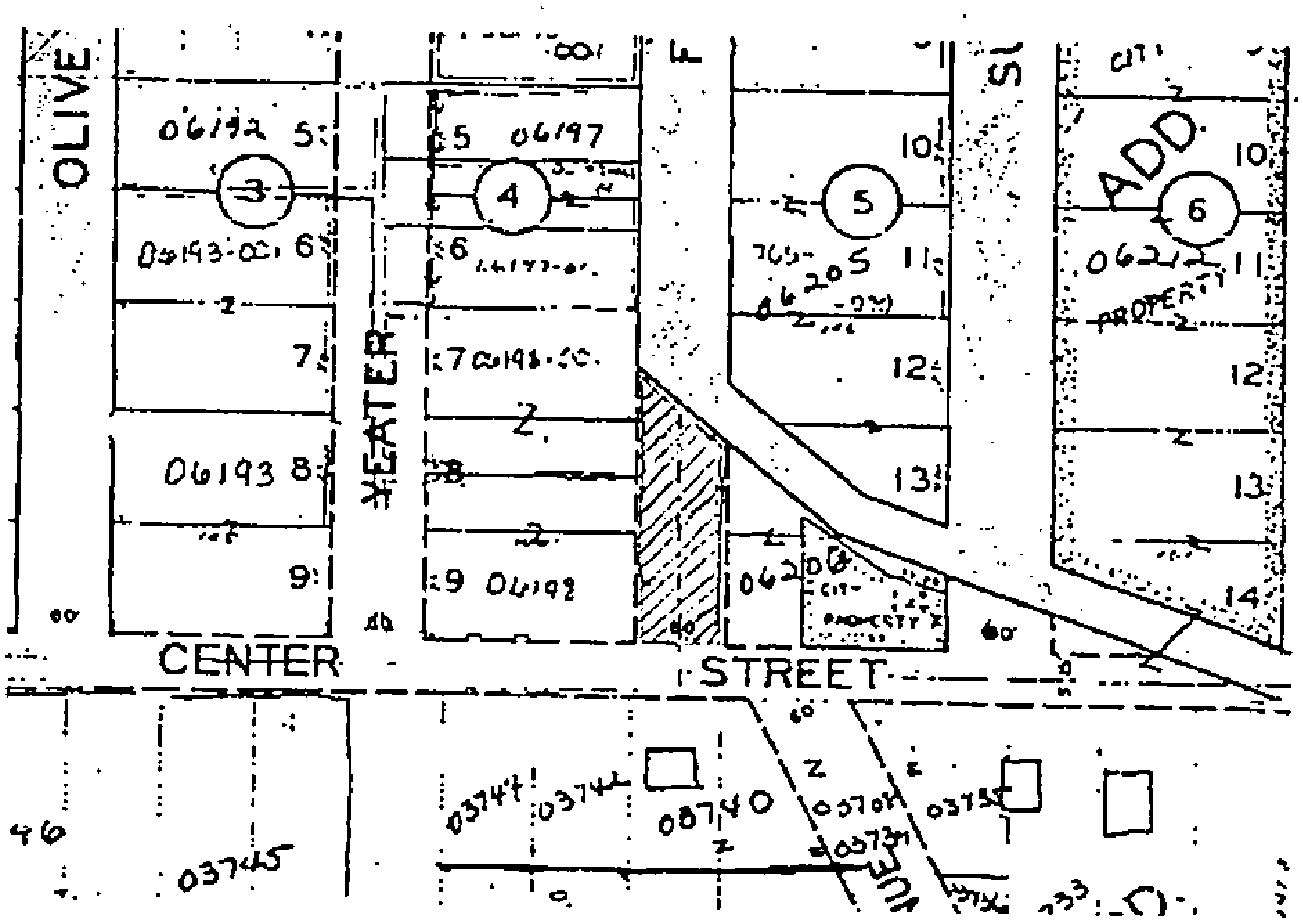
Fayetteville Planning commission
113 West Mountain Street
Fayetteville, AR 72701

To: The Fayetteville City Planning Commission
and The Fayetteville City Council

We, the undersigned, being the owners of all the real estate abutting the portion of Fletcher Avenue hereinafter sought to be abandoned and vacated lying between Blocks 4 and 5, Harrison's Addition to the City of Fayetteville, Arkansas, a municipal corporation, petition to vacate the portion of which is described as follows:

A part of Fletcher Avenue between Block 4 and Block 5 of Harrison's Addition to the City of Fayetteville, Arkansas, as per plat of said addition on file in the office of the circuit clerk and ex-officio recorder of Washington County, Arkansas, and being the unconstructed section between Center Street and the point where Fletcher Avenue's asphalt surface curves east from the platted right-of-way.

The above described part being more particularly described as follows:
Commencing at the Northeast corner of Lot 7 of Block 4 of Harrison's Addition to the City ofFayetteville, Arkansas;
Thence due East 6.3' to a point 30' perpendicularly distant from the centerline of the paved Fletcher Avenue;
Thence following this 187.5' radius curve which is 30' equidistant from the paved Fletcher Avenue centerline in a Southeasterly direction 113.1';
Thence S 0d 6' 19" W along the east edge of the platted right-of way for Fletcher Avenue 127.4' to the north line of the platted Center Street right-of-way;
Thence N 89d 53' 41" W along the north line of said platted Center Street right-of-way 60' to the eastern line of the platted Fletcher Ave. right-of way;
Thence N 0d 6' 19",E along the east line of the platted right-of-way for Fletcher Avenue 225' to the point of beginning.



Petitioners state that the above described real estate is not open, and has never been used by the public, and that the public interest and welfare would not be adversely affected by the abandonment of the portion of the above described alley.

This petition conveys the request that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate subject, however, to the utility easements and sewer easements as required, and that the above described real estate be used for their respective benefit and purpose as now approved by law.

The petitioners further pray that the above described real estate be vested in the abutting property owners as provided by law.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to said utility and sewer easements, and that title to said real estate sought to be abandoned be vested in the abutting property owners as provided by law, and as to that particular land the owners be free from the easements of the public use of said right-of-way.

Dated this ~~29~~ 30th day of March, 1999

X Velma Block — Velma Block

printed name — signature

printed name — signature

RESOLUTION NO. 19-96

A RESOLUTION REITERATING A POLICY OF NOT EXTENDING STREETS OR ROADS OVER MT. SEQUOYAH; NOT REQUIRING OR ENCOURAGING LANDOWNERS AND DEVELOPERS TO BUILD SUCH STREETS OR ROADS; REQUIRING CITY COUNCIL APPROVAL FOR ANY SUCH STREETS OR ROADS; AND ALLOWING TRAIL ACCESS IN UNDEVELOPED LAND OWNED BY THE METHODIST ASSEMBLY CENTER.

WHEREAS, after numerous public hearings in 1994 with extensive citizen participation, the Planning Commission established a policy not to connect streets over Mt. Sequoyah (sometimes referred to as East Mountain), but rather endorsed a loop concept in which traffic would be directed along established highways and major thoroughfares shown on the Master Street Plan rather than on local streets through established neighborhoods; and

WHEREAS, the City Council Street Committee after hearings endorsed and supported the Planning Commission's recommendations concerning these policies as shown on the Master Street Plan; and

WHEREAS, the Fayetteville City Council formally adopted and passed the Master Street Plan in 1995 and has continued to expend substantial City revenues on Highway 265, Cliffs Boulevard, Happy Hollow and Joyce Street (in furtherance of the loop concept); and

WHEREAS, it would not be in the best interests of the City to connect College Avenue or Mission Boulevard over Mt. Sequoyah on its narrow, winding and congested streets to Manor Drive, Highway 265, Cliff Boulevard or Happy Hollow Road, nor to connect Highways 45 and 16 East over Mt. Sequoyah.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City reiterates its policy that streets or roads should not be extended over Mt. Sequoyah which would connect College Avenue to Manor Drive, Highway 265, Happy Hollow or Cliffs Boulevard, or which would connect Highway 45 to Highway 16.

Section 2. That landowners and developers of land on Mt. Sequoyah shall not be required nor encouraged to build streets which would act as part of a connection over Mt. Sequoyah from College Avenue to Highway 265, nor as part of a connection between Highway 16 and 45.

Section 3. That prior to approval by the Planning Commission or City staff of a street that would act as a connection over Mt. Sequoyah, a resolution to approve such request must be presented and approved by the City Council after opportunity for public comment.

Section 4. That roads accessing or through undeveloped land owned by the Methodist Assembly Center on the east side of Mt. Sequoyah should not be required nor encouraged, but access by trails should be provided if agreed to by the Methodist Assembly.

PASSED AND APPROVED this 20th day of February, 1996.

APPROVED:

By: Fred Hanna
Fred Hanna, Mayor

ATTEST:

By: Traci Paul
Traci Paul, City Clerk

February 6, 1996

OTHER BUSINESS.

Alderman Williams - Statement Re: Mt. Sequoyah

Mayor Hanna announced that Alderman Williams had a statement to make.

Alderman Williams thanked the Mayor for this opportunity. He stated he would like to set the record straight and clear up misunderstandings concerning his interest in preserving Mt. Sequoyah. After first noting that he is the only alderman living on Mt. Sequoyah, he made the following statement:

> "I live on the south side of the shoulder of the mountain, at the end of a dead end private road. For most of their adult lives, my parents spent the majority of their earnings, first, to buy the old family home where I grew up and now live with my family and, later, my parents purchased the woods area around our home to protect us from encroaching development. Because of my parents' sacrifice and foresight, forty acres of woods surrounds our home and protects us from the noise and hazard a connecting road over Mt. Sequoyah would bring.
>
> Unfortunately, many of my neighbors and constituents that live on Mr. Sequoyah do not have a buffer of 40 acres of woods that my family enjoys. If landowners and developers Mr. and Mrs. Coody are forced by City staff and the Planning Commission to dedicate a street connection down the mountain toward Happy Hollow, it will probably only be a matter of time before the residents of the Cliffs subdivision will be driving over the mountain and along Rogers Drive and Fletcher Street, through the established neighborhoods on Mt. Sequoyah, for a shortcut to College Avenue. That is why I oppose pushing streets over Mt. Sequoyah, to protect my constituents.
>
> I regret that an alderman chose to speculate to a newspaper reporter about whether I could have a conflict of interest, alleging a street connection could be close to my home. If that alderman had asked me during a City Council meeting, that alderman would have known that my house is well over a hundred yards from Rogers Drive. Yet I oppose extending Rogers Drive over the mountain just as I oppose extending Manor into Rockwood over the mountain.

February 6, 1996

I know that we aldermen are hamstrung by the Freedom of Information Act and are prevented from obtaining information from one another outside regular meetings. But before we speculate on each other's integrity to the press, I believe we should get the facts. The fact is that there is no chance that a developer could connect a road near my home. The fact is that I have no conflict of interest in trying to preserve the integrity of Mt. Sequoyah from through traffic over Mt. Sequoyah.

Fayetteville has long suffered divisiveness, which was reflected and possibly even encouraged by the disrespect between some previous Board members, until that government was repudiated by the voters and replaced by this City Council. We, instead, now should be a unifying force for Fayetteville. We should set the example for fairness, not only to our citizens but to each other; and we usually do. I hope we remain a positive, courteous, and fair-minded City Council. I will do everything I can to bring credit on this City Council and to follow the Golden Rule, which seems too much ignored in public life today. Thank you for letting me make this statement."

Alderman Daniel apologized.

Friends for Fayetteville - Support Hwy 265 Widening

Connie Cramer, Friends for Fayetteville, stepped up to say she was nominated by this organization to appear before the Council to say they are very much in support of the resolution passed regarding Highway 265. They think it is a step in the right direction and addresses the issues of both safety and civic duty and hope this will be the beginning of public input on this issue. They appreciate the effort that the Council made in developing this resolution and moving this project forward.

Mayor Hanna adjourned the meeting at 8:25.

February 20, 1996

OLD BUSINESS

Mayor Hanna introduced consideration of items that have been brought before the Council but were tabled or no decision made to allow further information to be presented.

A. **MT. SEQUOYAH: A resolution limiting roads across Mt. Sequoyah as proposed by Alderman Parker.**

Noting that Alderman Williams also had a resolution regarding this issue to consider, Mayor Hanna opened the discussion for the Council to decide which one would be brought forward first.

Alderman Williams commended Alderman Parker for the work done on his resolution. Stating Parker's resolution was a good one, but believing the Council should deal in broad policy statements, Williams tendered his resolution for discussion as it is a policy statement rather than a concrete line drawn on a map.

Alderman Parker suggested introducing his resolution at this time for the benefit of all who were not yet familiar with it. He showed maps of the area and alternative solutions to this issue.

Parker stated the issue is who makes the decision on roads through these neighborhoods which might connect to Highway 265 and pour traffic through the neighborhoods. Now the decisions are being made by the Planning Commission and City staff. The Council has ultimate control if someone happens to bring the issue up for an appeal, but it usually doesn't reach the Council. The product of this is that the express wishes of the Council can be disregarded.

Parker commented on the operative language of Alderman Williams' proposed resolution. First, it does not say where Mt. Sequoyah is. Parker stated that the Mayor and his staff have told him Rogers Drive is not part of Mt. Sequoyah. City staff or the Planning Commission should not interpret where Mt. Sequoyah is. A line is geographically specific.

Second, while William's resolution states that landowners and developers shall not be required nor encouraged to build streets over Mt. Sequoyah, it does not say they are not allowed to do this. The proposed line might be changed, but a resolution should be passed that says roads cannot be built over the mountain.

Third, Williams' resolution says prior to approval by the Planning Commission or City staff of a street that would act as a connection over Mt. Sequoyah, a resolution to approve such request must be presented and approved by the City Council after opportunity for public comment. Parker's resolution does not allow the Planning Commission or staff to consider it.

February 20, 1996

Finally, Parker stated, Williams' resolution could allow a scenario he described earlier where the legalities of the resolution were met but not the intent and a connection over the mountain would be accomplished.

Acknowledging a valid criticism made earlier by Alderman Hill, Parker stated a map with a more defined line could be prepared by the City's planning department.

Alderman Williams stated the primary difference between his approach and Alderman Parker's was one of trust. The Planning Commission did not have any roads going over Mt. Sequoyah. When it came to the Street Committee, which he chairs, there was nothing on the map regarding Mt. Sequoyah that they had to address.

There has been discussion in the Planning Commission about the loop concept and not infringing on neighborhoods. However, there was never a policy in resolution form stating that there would be no roads over Mt. Sequoyah. Once the Council enunciates a clear policy statement, the planning staff and Planning Commission will follow the stated policy.

Williams proposed his resolution because it is a broad policy statement. He feels it is the Council's job to set policy, not micro-manage the government. If the Council were to adopt his resolution, which he believes is a crystal-clear statement, no roads will connect over Mt. Sequoyah. It is clear to him where Mt. Sequoyah is. He does not believe this is an issue. His resolutions reiterates a policy which he feels has been established but not written that roads should not cross over the mountain. Even though it does not prohibit roads over the mountain, if someone proposes such a road, they have to come to the City Council. There will be a public hearing, the citizen's of Fayetteville will get notice and an opportunity to be heard.

Alderman Williams agreed with Parker and the general policy that there should not be roads over Mt. Sequoyah and if there is an exception it must come to the City Council. He stated that he does respect the honor and trustworthiness of the Planning Commission and all the citizen commissions and the planning staff and the Mayor's office. He sees no problems with them if this resolution passes. It would have to be brought to another Council before anything unwanted now would ever come about.

In response to a comment from Alderman Hill, Williams stated there were no substantive changes in the draft presented tonight from the rough given out earlier.

February 20, 1996

Alderman Hill asked if there was a problem with putting this forward at the next agenda session and giving citizens opportunity to see the resolution. The Council has not had much chance to look at this resolution.

Alderman Bassett stated the issue needed to be resolved and could be done this night. Both resolutions have the same goal and the Council has an obligation to end it now if possible.

Alderman Daniel disagreed as she has not had time to study this new resolution and needed more information. She asked the staff if they had had time to look at Alderman Williams' proposal.

Alett Little, Planning Director, stated she had just received it.

Alderman Williams noted that there had been a meeting of the community on Mt. Sequoyah with all aldermen present where he had handed out copies of his proposal. He stated that not one resident of Mt. Sequoyah has endorsed the idea of roads connecting over the mountain. He agreed with Alderman Bassett that this issue needs to be resolved now.

Alderman Parker agreed that the public in attendance needed to leave with this issue resolved.

Alderman Schaper also agreed that enough time has been spent on this. The language in both resolutions is clear. His one concern was to make sure that no one would be inadvertently landlocked.

Alderman Parker stated that problem would be solved in either resolution because if there is a need to do so, the Council can waive this. Both resolutions have an out clause.

Alderman Daniel stated she has received comments from citizens in the area of Mt. Sequoyah but not on the mountain. Traffic in the area needs to be dispersed and there is an uncharitable attitude of isolation on the part of residents of Mt. Sequoyah.

Alderman Williams responded that it is through-traffic the residents are concerned about, not neighborly traffic. It is not ungenerous to not want connecting roads. A study done several years ago by the City found it did not make sense. It is time to have a clear policy statement about this.

Alderman Miller stated that both resolutions say what he wants to see in a resolution concerning this issue, there will not be connection over Mt. Sequoyah and if one is ever considered, it would come before the Council complete with public hearing. Either resolution will work. One should be passed and we should move on.

February 20, 1996

Mayor Hanna read from both proposed resolutions, showing where one differed from the other. He quoted Section 3 of Alderman Williams' proposed resolution which says, "Prior to approval by Planning Commission or City Staff of a street that would act as a connection over Mt. Sequoyah, a resolution to approve such request must be presented and approved by the City Council after opportunity for public comment." He then read from Section 2 of Alderman Parker's resolution, "It shall be the stated policy of the City of Fayetteville, its staff, administration, employees, boards, and commissions, that no paved road or roads be designed, constructed, maintained, or developed which would cross the north-south line set forth in Section 1 above." The Mayor went on to say that Section 3 states, "Any waiver or exception to the policy will be allowed only by the express approval of the Fayetteville City Council upon a showing that such is in the best interest of health, safety, and welfare of the citizens of Fayetteville" and this would be done at a public meeting like all City business. The Mayor then called for public comment.

Tom Wilkerson, a resident of Dogwood Lane, spoke to support choosing Alderman Parker's resolution as it is specific and leaves no doubt as to the intention of the Council. Parker's proposal is the more emphatic and precise resolution.

Larry Snodgrass, Ridgeway Drive, urged the Council to pass Alderman Parker's resolution as it is the most restrictive resolution, restrictive in a positive sense. It will tell developers and homeowners that this is what the City expects and wants. If someone is landlocked, there is an appeal process and the resolution would not address that in a restrictive manner.

Nan Lawler, Skyline Drive, agreed with Alderman Williams position that this should be a broad policy decision, but disagreed with his willingness to trust the Planning Commission. She felt Parker's resolution was very precise, which is important as she has witnessed a single-minded determination on the part of the Planning Commission to build roads all over the mountain. In response to Alderman Daniel's comments, Lawler stated she has no objection to people, only to traffic. There is a lot of wildlife that needs to be protected. She urged the Council to pass Alderman Parker's resolution.

Dan Coody, Rogers Drive, voiced again that Parker's resolution is the stronger, believing that the 335 people who attended the neighborhood meeting would support choosing the stronger measure. The people of Mt. Sequoyah are not against neighborhood connectivity. The fear is the connection of major thoroughfares. He urged the council to vote for the stronger resolution. Though both are good and have the same intent, the more clear the picture is now, the fewer the problems down the road.

February 20, 1996

David Dubbell, Rockwood Trail, expressed appreciation for all who have worked on this issue and those who have shown concern by attending meetings and voicing opinions. Stating it was the Council's job to make the wise decision, he hoped it would be done now at this meeting.

There were no further comments from the audience.

Alderman Miller stated that before the Mt. Sequoyah meeting of Thursday night, the Water & Sewer Committee met. Something important happened at that meeting but there were no citizens and no press. The Water & Sewer Committee reviewed a pretreatment code that will do a lot to keep heavy metals and toxic chemicals out of our water, something we are having trouble with in this area. He expressed disappointment that this was not recognized and wanted all to know that other important issues are also being dealt with by the City.

Alderman Daniel addressed a comment made by Dan Coody regarding there being no resistance to the connection of neighborhoods. She has not found this to be so. Park Place did not want to connect to the subdivision to the east of them. Where there was originally to be three streets there is now just one. She fears this idea will snowball and has already heard of one nearby neighborhood that wants to block off a road.

Anthony DePalma, a resident of this community for 60 years who has held property of approximately 120 acres for 45 years, has seen insidious encroachment and desecration beginning. For the sake of brevity, he did not go into detail, but offered for archival purposes a copy of the agenda and notes taken of the Mt. Sequoyah meeting. He then read a short letter he'd written to the editor of the Northwest Arkansas Times on April 22, 1986, which referred to the study commissioned by the City whose recommendations were not accepted by the Planning Commission. It commended the then Board of Directors for their vote rejecting the proposed project.

There being no further comments from the audience, Mayor Hanna closed the public discussion.

Alderman Bassett stated he regrets this controversy has arisen as he thought it had been dealt with when the Master Street Plan was adopted in 1995. The decision was made then that there would be no through streets over Mt. Sequoyah. He supported that principle on the Street Committee and on this Council and still feels the same way.

Bassett stated it is not practical to build through streets over the mountain. It would unfairly interfere with established neighborhoods and do little to alleviate existing traffic problems. It would not be right to move traffic through the mountain neighborhoods and then dump it in the Historic District, a position he took when there was discussion about widening Lafayette Street.

He has held from the beginning that a person can be opposed to connecting streets over the mountain and at the same time be against passing a resolution. He does not want to do anything that would unnecessarily hamper the ability of the Planning Commission to do its job. It is also a concern that if this is done for one area of town, other neighborhoods could expect the same protection.

Weighing those thoughts and the pros and cons of having a resolution, he decided to support a resolution despite initial reservations. Alderman Williams' proposal is the one which makes the most sense to him. Something needs to be done at this meeting to end the dispute and to avoid losing the faith and confidence of citizens.

Bassett went on to say that the City has a serious traffic problem. There is a great deal being done to deal with it on a pay as you go basis, which he completely supports. However, in the months and years to come, the City will have to consider either a two-year temporary sales tax or a bond issue to raise capital for street improvements or we will fall further behind. To accomplish the loop concept, additional revenue must be raised.

Finally, Bassett defended the staff and Planning Commission saying the City has a first-class planning staff. Alett Little and the people who work for her and with her do an absolutely incredible job. The Planning Commission is the best we've ever had with good balance and diversity. Our rate of growth presents us with the continuing challenge to keep this the best place to live in Arkansas, some tribute should be paid to those who work day in and day out on this extremely difficult job. A lot more can be accomplished working together than working against each other.

Alderman Young stated that connecting streets was an issue of the last election. He attended the Mt. Sequoyah meeting which was well attended; however, others in the community have mentioned to him that it may not be a good idea to pass a resolution. They have not organized and have not appeared to speak to this issue. If one of these resolutions is passed, the Council will be setting a larger policy for the City to follow, which is why he supports Kit's resolution. Some people in Fayetteville may not have come out in opposition because it does not hit their neighborhood directly.

February 20, 1996

After checking with City Attorney Rose as to procedure, Alderman Young moved to adopt Kit William's resolution.

Alderman Parker agreed that whichever one is passed, the Council would be setting a larger policy for the City of Fayetteville, saying the Council is listening to the people. He asked for a show of hands from those in the audience who live in the Mt. Sequoyah area and support his resolution.

Mayor Hanna called Alderman Parker out of order, stating this is the Mayor's job should he chose to do it. He reminded the Council there is a motion on the floor.

Alderman Bassett seconded the motion.

Mayor Hanna stated there is a second and called for a vote by roll.

Alderman Schaper stated that procedurally, this is difficult. There are two resolutions that do the same thing. He asked Alderman Young if Alderman Parker's resolution could be voted on first as it is the more restrictive and then Alderman Williams' resolution if it is necessary. He feared that those who might prefer Alderman Parker's resolution would not want to see both resolutions turned down.

Alderman Miller brought up the point that Alderman Parker was the first to present a resolution and there might be a procedural question here.

Alderman Parker stated he did want to see his resolution voted on first as it is the one on the agenda, having been brought up through proper channels. If it did not pass, Alderman Williams' proposal could then be voted on.

Alderman Bassett offered to withdraw his second to allow Alderman Parker's resolution to be voted on first.

Alderman Young withdrew his motion.

Alderman Hill asked City Attorney Rose if he has seen both these resolutions. He questioned whether or not Alderman Parker's was legal without giving legal notification to the landowners of where this line is drawn.

City Attorney Rose replied that the Council may feel it is fair to notify the landowners but there is no legal requirement of formal notification.

February 20, 1996

Mayor Hanna expressed his opinion that this was being made far more complicated than needed. He did not wish to see it devolve into a popularity contest. He agreed that a resolution needs to be passed now. He commended Alderman Parker and Alderman Williams for the work they have done in connection with this. If the Council wished to vote on Alderman Parker's resolution first, a motion needed to be made.

Alderman Miller moved to vote on Alderman Parker's resolution. Alderman Schaper seconded the motion.

Alderman Williams stated he was dismayed at the expressions of distrust. Alderman Parker continues to question the integrity of the Planning Commission. Alderman Williams explained he would not support Alderman Parker's resolution.

Alderman Bassett echoed this. Everyone involved in this issue is well intentioned. There are honest disagreements, but politics should not get personal. With due respect to Parker, Bassett would not vote for his resolution.

Alderman Miller cautioned people not to use words that hurt, are mean, and divisive as they cannot be taken back.

Alderman Parker stated he is not trying to be divisive and apologized to Little and the Planning Commission for giving that impression. He looks at the members of his ward as he looks at his clients. He tries to give them the best and ironclad protection he can.

Alderman Daniel also commended the staff and Planning Commission for the jobs they do. She said she would not vote for either of these resolutions at this time as she does not have all the information she would like to have.

Alderman Schaper stated that whether the Council chooses the more specific resolution or the more general one, his vote should not be construed as a vote against connectivity. Connectivity is one of the principles in the land use plan. Neighborhoods should be connected. The problem is, in this case, that making a single connection across would result in establishing a collector street and there are no collector streets on the Master Street Plan in that area. Our goal is to channel the traffic around the mountain and keep it out of neighborhoods, another stated goal of the land use plan. There is fear whenever a street connection is made because the City has not been able to catch up in the road system and create roads designed to carry that through traffic. Something may have to be done to accelerate the necessary road widening in the future.

February 20, 1996

Alderman Hill stated that it was clear the Council was setting a couple of policies: one, protection of neighborhoods and, two, changing procedure in the way that neighborhood streets are handled. He hoped the Planning Commission and staff would work on this and give direction.

Mayor Hanna called for the vote.

Upon roll call, Alderman Parker's resolution was defeated on a vote of 5 to 3, with Parker, Schaper, and Miller voting in favor of it.

Mayor Hanna called for another motion.

Alderman Young made a motion to adopt Kit Williams' resolution. Alderman Williams seconded. Upon roll call, the motion passed on a vote of 7 to 1, with Alderman Daniel voting no.

RESOLUTION 19-96 AS RECORDED IN THE CITY CLERK'S OFFICE.

Mayor Hanna stated this is a very good resolution, especially the part that endorses the loop concept. The policy statement set forth in this resolution should serve Fayetteville well.

B. RAZING AND REMOVAL OF STRUCTURES: An ordinance providing for the razing and removal of buildings or houses that have become dilapidated, unsafe, unsanitary, or detrimental to the public welfare; and providing for a lien on the real property.

Mayor Hanna stated this ordinance was left on its second reading at the February 6 Council meeting.

Alderman Miller moved to suspend the rules and go to the third reading. Alderman Parker seconded. Upon roll call, the motion passed on a vote of 8 to 0.

City Attorney Rose read the ordinance for the third time.

Alderman Schaper stated that he agreed with Alderman Young's additions to this ordinance. He pointed out the need for this ordinance as there was recently another fire in an unoccupied structure on S. University which totally destroyed that structure and did serious damage to the adjoining structures. Every effort must be made to get these abandoned structures quickly removed.

Alderman Williams moved to pass this ordinance.

Mayor Hanna asked for comments from the audience.

February 20, 1996

Paula Marinoni, who lives at 617 W. Lafayette St. which is a building on the National Register of Historic Places, spoke. She noted that when this was on the first reading, the main change was not notifying the public. She expected people to express alarm at that. Her main interest in the community is historic preservation and restoration. From that standpoint this waived a red flag, buildings possibly being torn down without the public knowing about it. With notice, someone may come forward to restore the building for offices, etc.

Marinoni read Section 1 of the proposed ordinance and pointed out that she had researched what ordinances are on the books allowing for the upkeep of property and found only three ordinances. There is not now on the books an ordinance that tells people property must be kept up. If we want to tear these buildings down, a more positive action would be to put an ordinance on the books to encourage people to keep up their property. Marinoni offered her assistance to the Council in working on such an ordinance.

Alderman Schaper agreed with Marinoni's comments. His ordinance is an ordinance of last resort. He would prefer to see properties kept up and have stronger regulations about this. Unfortunately, there are times when property is left to run down. This ordinance is needed to avoid the safety hazard of these kinds of buildings.

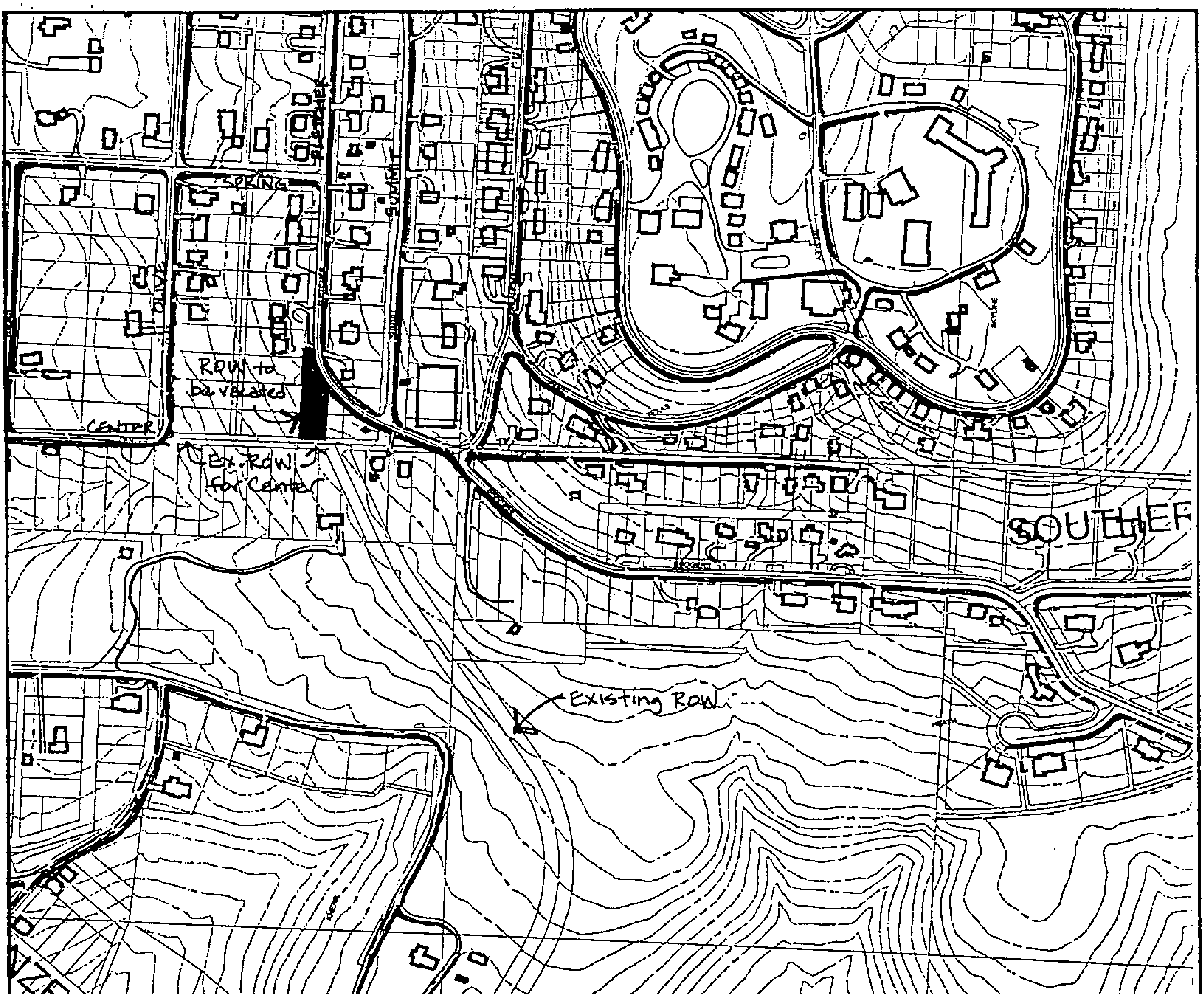
Alderman Young pointed out the changes he had made to Schaper's ordinance. One of them does exactly what Marinoni talked about. One of his main concerns was historic houses. The City's inspection department has rules and procedures in place right now which he added to this ordinance so they would have to go through such procedures before tearing down a house.

Alderman Parker noted that the ordinance did have provision for notice by certified copy to the owner or posted on the property if the owner cannot be found. Though this would not be public notice, it is notice to the owner and the City is not just coming in and rolling over the property.

Mayor Hanna brought the discussion back to the Council, reminding them a motion had been made. Mayor Hanna stated this ordinance is on its third reading so a second is not necessary.

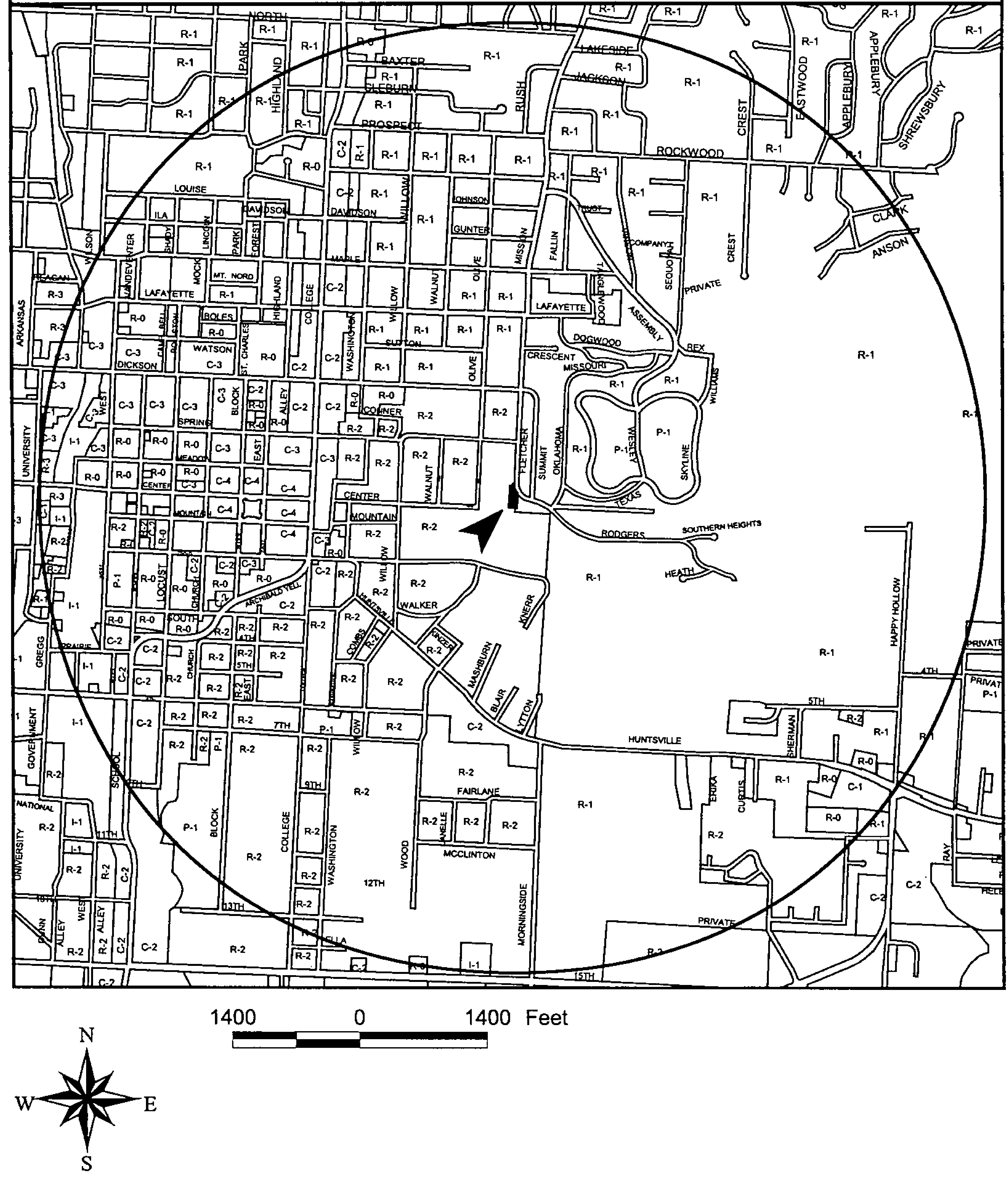
Upon roll, call the ordinance passed on a vote of 8 to 0.

ORDINANCE 3948 APPEARS ON PAGE OF ORDINANCE BOOK


SPRING
CENTER
ROW to be vacated
Ex. ROW for Center
SOUTHER
Existing ROW
HUNTSVILLE
400 0 400 Feet

VA99-8.00 - East Avenue Investment Group - Close Up

VA99-8.00 - East Avenue Investment Group - One Mile Diameter



VA99-8: VACATION
EAST AVENUE INVESTMENT GROUP, PP485

This item was submitted by Laura Kelly of Rob Sharp Architect on behalf of East Avenue Group, LLC for property located between block 4 and 5 of Harrison's Addition. The property is zoned R-2, Medium Density Residential. The request is to vacate an unconstructed section of Fletcher Avenue between Center Street and the point where Fletcher Avenue's asphalt surface curves east from the platted right of way.

Laura Kelly was present on behalf of the project.

Staff recommended approval of the street right of way vacation provided that the portion being abandoned is retained as a utility easement.

Commission Discussion

Johnson: This is essentially where Fletcher starts turning up the hill. Tim, do you have additional explanation for this proposed street right of way vacation.

Conklin: The applicant has requested to vacate that portion of Fletcher Street that would intersect with the undeveloped portion of Center Street. This is to the south and contains approximately 10,900 square feet. The reason for the vacation is for the applicant to add that additional property to property they own to the west and they intend to develop it in the near future.

Johnson: All right.

Kelly: I represent Robert Sharp Architect who is doing a design for a development that is adjacent and immediately to the west of the portion of the unconstructed Fletcher Avenue that we are petitioning to get vacated. The on site visit, I'm sure, showed how the particular unconstructed portion is extremely steep and undevelopable. I have a comment from the City of Fayetteville engineering department that it was platted largely for water easement purposes as an unofficial comment and not intended to be developed. There is a finding by the city staff that points out that there is no requirement to connect Highway 16 and 45 across Mt. Sequoyah due to the nature of the residential development on Mt. Sequoyah and by vacating this area small portion of Fletcher that disallows Fletcher to continue down to Huntsville Road at any point in the future which is advantageous to the residential neighborhood.

Johnson: I didn't understand that you said there was something from one of the city offices that indicates that this -- that although this street is platted, it never was intended to be a street?

Kelly: Right. Fletcher Avenue -- the platted Fletcher Avenue continues off in a northeast direction for some distance. It follows the city's water main from the tanks on Mt. Sequoyah to the northeast.

Conklin: With regard to that comment about Fletcher not being a platted street right of way for a future street extension, I did talk with our drafting division and they did indicate that the right of way was obtained when they did obtain the easement for the waterline. So, not only did they obtain the utility easement for the waterline, they also obtained right of way for a future street extension. Apparently, that was debated and discussed in the 70's and that proposal to extend Fletcher to Huntsville Road was abandoned and they did not pursue connecting that street at that time.

Johnson: Do you have initial questions of the applicant?

Shackelford: I wanted to let you know that I will be abstaining from this vote.

Johnson: All right. I appreciate that, Loren.

Public Comment

Eva Coltreman, residing across the street from the property in question, was present in opposition to the vacation.

Further Discussion

Johnson: Is there discussion or questions?

Odom: On the map we were given on page 6.1, it looks like a phantom road going to Huntsville Road. Is that on the master street plan? I don't understand this map at all.

Conklin: That is not on the master street plan. It is platted right of way, it is my understanding, that was acquired in the 1970's.

Odom: But, it's not on our master street plan.

Conklin: It's not on the master street plan.

Estes: Do I understand that the city owns that as a right of way? Is that --

Conklin: That is correct. The city owns that portion of Fletcher and actually the entire portion of Fletcher where it heads off to the south and bends all the way down to Huntsville Road.

Estes: And that would connect Center Street with Huntsville? Am I reading this correctly?

Conklin: Yes. Center Street -- actually, if you extend Fletcher down it would go all the way down to Huntsville Road. That is correct.

Estes: When we grant the vacation request, we have made that impossible. Am I reading the map correctly?

Conklin: The only portion of right of way to be vacated is that small portion that -- let me get a map for you -- page 7.3. It potentially could connect to that portion of Fletcher Street. We're not vacating Center Street with this right of way from where Center Street currently dead ends. If you're on Center Street going up that hill, this stops at Olive Street or just south of Olive. That right of way does continue all the way up to Fletcher Street. One other bit of information, the City of Fayetteville owns the property directly east of right of way vacation. Under state law, the City of Fayetteville will be obtaining half of the right of way. The developer will only be receiving 30 feet. There is total width of 60 feet. The City of Fayetteville owns the right of way between that entire block of Fletcher.

Estes: So, looking at page 6.3, Fletcher then would connect across Center Street and extend on down to Huntsville Road.

Conklin: That is correct.

Estes: Are we giving up any City property by granting this vacation request?

Conklin: We're giving up 30 feet from centerline to the west.

Estes: For free.

Conklin: Yes, that is correct.

Estes: With no consideration.

Kelly: It remains a utility easement.

Marr: Just to make sure I'm clear on this. I have a question for staff. This platted road that doesn't exist that was done in the 70's, are we to be considering anything with that or not? Should it be here or not?

Conklin: There was a resolution the City Council passed on February 20, 1996 and that resolution states:

> "The City reiterates it's policy that streets or roads should not be extended over Mt. Sequoyah which would connect Highway 45 to 16. Owners and developers of land on Mt. Sequoyah shall not be required nor encouraged to build streets which will act as part of the connection over Mt. Sequoyah between Highways 16 and 45."

So, there is a resolution stating that developers are not required nor encouraged to make those types of connections.

Estes: Thank you.

Johnson: Which means that anytime we have a subdivision, we have to be sure that you can't go through it and get from one highway to the other.

Estes: I am troubled by us providing public property for private use without compensation.

Johnson: How troubled are you? Troubled enough to make a motion? Our action that we take this evening will not be dispositive. A vacation is something that we merely make a recommendation to the City Council on. I believe that it is not good planning to vacate right of way that theoretically could connect the city.

MOTION

Johnson: I move that we deny vacation 99-8. Is there a second to the motion?

Marr: Second.

Johnson: We have the motion by the chair and seconded by Commissioner Marr that we deny vacation 99-8. Is there discussion of the motion?

Roll Call

Upon roll call, the motion passed with a unanimous vote of 7-0-1. Commissioner Shackelford abstained.

Further Discussion

Johnson: The motion to deny the vacation carried on a vote of 7 with one abstention.

Kelly: Is this then -- the developer now will be encouraged to develop it -- or no?

Johnson: My motion was that we have not vacated this right of way. We do not recommend that the City Council vacate the right of way.

Kelly: When development occurs next to platted streets, are developers required to develop the street to code?

Conklin: That is something we will take a look at when the development goes through plat review process and we'll expect a decision at that time whether or not -- what type of streets and improvement will be necessary to serve this development.

Kelly: If it's not requested to be developed, is there another change to petition to vacate?

Conklin: Your vacation request will automatically go to the City Council. The recommendation of the Commission will be forwarded to the City Council. The City Council will make the final decision.

Kelly: Thank you.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

FINAL AGENDA
FAYETTEVILLE CITY COUNCIL
AUGUST 3, 1999

A meeting of the Fayetteville City Council will be held on August 3, 1999 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

The following items will be discussed:

A. CONSENT AGENDA

1. **APPROVAL OF MINUTES:** Approval of the minutes from the July 20, 1999 City Council meeting.

100-99

2. **TREATMENT PLANT STUDY:** A resolution authorizing the Mayor and City Clerk to execute a contract with Burns and McDonnell for a Plant Capacity Study to be done at the Noland Wastewater Treatment Plant for a not to exceed figure of $32,472.00.

PASSED 8-0

101-99

3. **DICKSON STREET SURVEYS:** A resolution approving a contract amendment with the Benham Group for property surveys along either side of Dickson Street from College Avenue to Arkansas Avenue, for the purpose of establishing the right of way, in the amount of $31,950; and abstract work for $10,000; for a total contract amendment of $41,950.

102-99

4. **HARDIN PROPERTY SETTLEMENT:** A resolution approving settlement of City v. Hardin, CIV. 99-561, and payment of just compensation for the taking of real property in the amount of $52,396.50.

B. OLD BUSINESS

4175
PASSED
5-4
tie

1. **RZ 98-22:** An ordinance approving rezoning request RZ 98-22 submitted by Richard Osborne on behalf of Littlefield Investment Company for property located at 1798 East Huntsville Road. The property is zoned C-1, Neighborhood Commercial, and contains approximately 0.788 acres. The request is to rezone the property to C-2, Thoroughfare Commercial for the purpose of installing a used car lot. Item was left on second reading at July 20, 1999 City Council meeting.

113 WEST MOUNTAIN 72701 501 521-7700
FAX 501 575-8257

103-99 PASSED 6-2

2. **TOWN CENTER:** A resolution approving a construction contract for the Fayetteville Town Center with Nabholz Construction Co. for a negotiated bid amount of $7,346,408; contingency amount of $150,000; and approval of Change Order #1 in the amount of $970,162; plus approval of a budget adjustment.

C. NEW BUSINESS

WITHDRAWN

1. **VA 99-8.00:** An ordinance approving vacation request VA 99-8.00 submitted by Laura Kelly of Rob Sharp Architect on behalf of East Avenue Investment Group, LLC for property located between blocks 4 and 5 of Harrison's Addition. The property is zoned R-2, Medium Density residential. The request is to vacate an unconstructed section of Fletcher Avenue between Center Street and the point where Fletcher Avenue's asphalt surface curves east from the platted right of way.

PASSED 8-0 4176

2. **RZA 99-1:** An ordinance approving annexation request RZA 99-1 submitted by John Burrow on behalf of Karen Hanna for property located at 3686 Wilson Hollow Road. The property is in the planning growth area and contains approximately 4.54 acres. The request is to annex the subject property into the City of Fayetteville.

104-99 PASSED 8-0

3. **AHTD REIMBURSEMENT:** A resolution approving the repayment of the Arkansas State Highway and Transportation Department federal aid enhancement funds reimbursed for the design of the St. Paul Rail Trail and Errol Street Trail since the St. Paul Trail will not be constructed and the Errol Street Trail has been changed. Also approval of a budget adjustment to fund this request.

MINUTES OF A MEETING
OF THE
FAYETTEVILLE CITY COUNCIL
JULY 20, 1999

A meeting of the Fayetteville City Council will be held on July 20, 1999 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

PRESENT: Mayor Hanna; Aldermen Reynolds, Austin, Davis, Trumbo, Daniel, Santos, Young, and Russell; City Attorney Jerry Rose; City Clerk Heather Woodruff; Staff; Press; Audience.

ITEMS	**ACTION TAKEN**	
Approval of the Minutes	Approved	
Bid 99-8 Wilson Park Tot Playground	Approved	Res. 95-99
Bid 99-9 Root School Playground	Approved	Res. 96-99
Airport Terminal Apron Rehabilitation	Approved	Res. 97-99
Airport Bid for Eight-bay T-Hangar	Approved	Res. 98-99
Town Center Report	No Action Taken	
RZ 98-22 1798 East Huntsville Road	Left on Second Reading	
Fire Department External Defibrillators	Passed	Ord. 4173
Cable Transfer	Passed	Ord. 4174
Internet Site Endorsement	Approved	Res. 99-99

MINUTES OF A MEETING
OF THE
FAYETTEVILLE CITY COUNCIL
JULY 20, 1999

A meeting of the Fayetteville City Council was held on July 20, 1999 at 6:30 p.m in the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

PRESENT: Mayor Hanna; Aldermen Reynolds, Austin, Davis, Trumbo, Daniel, Santos, Young, and Russell; City Attorney Jerry Rose; City Clerk Heather Woodruff; Staff; Audience, and Press.

CONSENT AGENDA

APPROVAL OF THE MINUTES
Approval of the minutes from the July 6, 1999 City Council meeting.

RFP 99-8
A resolution selecting TNT under RFP 99-8 for the Wilson Park Tot Playground in the amount of $46,179, plus a project contingency of $3,000 for a total of $49,179.

RESOLUTION 95-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RFP 99-9
A resolution selecting Midland Construction Company, Inc. under RFP 99-9 for the Root School Playground Project in the amount of $43,909.

RESOLUTION 96-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

TERMINAL APRON REHABILITATION
A resolution awarding Bid #99-57 for the Terminal Apron Rehabilitation Project to Pavement Specialists, Inc. in the amount of $281,547.83 and a project contingency of $31,552.00; and $6,000 for materials testing. And approval of a budget adjustment to cover the project contingency and increased cost over the original project estimate.

RESOLUTION 97-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK

T-HANGAR BID
A resolution awarding Bid #99-66 approving a construction contract for an eight-bay T-hangar to be awarded to Gray Construction, Inc. for a bid amount of $264,364.50; a project contingency (10%) of $26,436.00; materials testing amount of $1,000; plus approval of a budget adjustment.

RESOLUTION 98-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Alderman Daniel moved to approve the consent agenda. Alderman Davis seconded the motion. Upon roll call the motion carried unanimously.

OLD BUSINESS

TOWN CENTER REPORT

A discussion of suggested cost reduction items to reduce bid amount made by Nabholz Construction Co. for the building of the Fayetteville Town Center. Bids on this project are binding on the apparent low bidder for 90 days; therefore, August 4th is the last date to complete a contract with Nabholz. $792,541 in proposed cost reductions have been identified in the project to arrive at a current cost of $7,569,292 – leaving the bid $219,292 from the budget.

In response to questions from Alderman Young, Mr. Kevin Crosson, Administrative Services Director, explained they had prepared an outline of funding available with the staff suggestions for funding the additional cost for the Town Center. He explained the handout presented. Currently their estimated cash and investments available to spend on the Town Center was $7.629 million. The certified bid amount was $7.35 million, which had been the estimate. At this point, the projected additional investment earnings to the end of construction would be $7.629 million. They recommended that if they were going to spend additional funds that they spend approximately $386,600 from the Off-Street Parking fund, which was an appropriate use. The forty extra parking spaces and any additional expenses they recommended come out of the general fund balance.

Alderman Trumbo stated that it was his understanding that the Off-Street Parking Fund had been accumulated over time from the city's parking lots.

Mr. Crosson replied the fund had been set up from leased spaces and the off-street parking lots and meters around the square. The fund was set up to maintain parking lots and future acquisitions of lots. He thought it was an appropriate use of money. He added there was an unreserved fund balance of a little over $600,000.

Mr. Richard Alderman, Project Architect, explained the history of the project. The project had been bid on May 6, 1999. The overall bid was $8,786,650.00. At that time in the bid they took three deductive alternates as part of the bid process, which did not include the negotiated changes. Some of the items listed were: portable kitchen equipment, loading dock leveling equipment, and 40 parking spaces. The alternates reduced the bid amount to $8,361,833. Since that time they have been able to identify approximately $800,000 to $850,000 of cost reductions. He presented a summary sheet of recommended changes to the project.

Alderman Trumbo stated the bonds had been approved and sold to take advantage of the lower interest rates. He knew some people thought they were getting the cart before the horse by already issuing the bonds.

Mr. Alderman replied they had discussed the two different strategies to go forward with the project. They could have spent a lot of time on architect fees before the vote or do the best estimate that they could at the time, then bring it to a vote before they spent a half million dollars on architect fees. They had taken the initial drawings to develop the project from the original concept. Construction and inflation were more than they had thought they would be. All major construction projects had been higher than they should have been. He thought this was a normal part of the process.

Alderman Trumbo asked which items had increased so dramatically from the original estimates.

Mr. Alderman replied the original estimates had been between $6.9 million to $8.3 million. The city had chosen a budget based on the how much they wanted to put into the bonds of the $7.2 million. What had affected the construction industry in Northwest Arkansas was the fact that there was a large amount of projects and there was not enough laborers or subcontractors to fill the demand. He felt they had three very good bids for the project.

Alderman Daniel questioned what would happen to the bonds if the Council did not go along with the additional funding.

Mr. Crosson explained there was a redemption clause in their indenture that allowed to pay the bonds back plus interest to the day of the redemption call date. It would not be like a default. The cost to the city would be the accrued interest. He added the city was looking at another large project. He cautioned this kind of thing would be difficult to explain when they were trying to market $80 million in additional bonds, such as for the sewer treatment plant. It would not look good for the city.

In response to questions from aldermen, Mr. Crosson explained that, due to a recently passed state law, the city had to approve a contract which was no more than their certified amount that they put out for bid, which was $7.35 million. They had to negotiate with the low bidder down to the that amount, then award the contract, then they could add items back in by a change order.

Mr. Alderman explained the time constraints with the change orders. He explained they were considering removing two elevators, which could be installed later to save money. He explained the necessity of having two freight elevators. He explained the general changes they had worked on with the contractor to lower costs, such as work conditions, time constraints, landscaping, testing allowances, waterproofing, painting, window tinting, substituting materials, elevators, exterior items, canopies, changing precast to concrete block, an alternate brick, brick pavers, and painting of the parking deck. Interior items included: freezers for long term storage, electrical window shades, movable dividers, storage areas, service desks, fiberglass columns rather than precast, glazing on windows, mechanical items, thermostat control rather than computer control in heating and air, and removal of the heating system in the tower.

Mr. Richard Alexander, an area resident, stated that the Downtown Dickson Street Enhancement Project viewed the development on the Square as a major piece of the overall rehabilitation of the downtown area. They supported the town center. He felt it was very important for the council to go forward with the project. He expressed his support for the town center and his concern that the project might get derailed because of the budget. Since the vote on the project, business decisions had been made on the basis that the project had been approved and the city was making a commitment to the downtown area. The parking was being addressed. This had been viewed by many people to invest in the rehabilitation of the square and the downtown area. It was important from a business sense that the city not be perceived as waffling on this issue. It was a project which had been approved by the voters. In his opinion the overage was very small. He personally would like to see the city approve the project as proposed. He felt the parking was the most important thing of the project. He thought the expanded parking would attract business to the downtown area, which would increase the rehabilitation.

Mr. Jeff Erf, an area resident, questioned where the money would come from.

Alderman Trumbo explained they were proposing some money out of the Off-Street Parking Fund, then some out of the General Fund.

Mayor Hanna added the additional money would be to add additional parking and leave in the partitions and the two elevators.

Mr. Erf asked if they were going to keep the blinds.

Mr. Crosson explained there was additional money at the A&P level where they could consider some of the smaller items. What the city had presented to the council was the big ticket items. They were open for discussion on what items to fund and not to fund.

Mayor Hanna explained the city needed to award a contract for $7.3 million, then they could add additional items in later. They could add all the items back in if they wanted to, float a secondary bond issue based on the income the town center would produce, and pay it out over a period of time. He did not think they needed to do it, but it was a possibility.

Mr. Erf questioned where the money would be coming from for the additional items which would be added later.

Alderman Trumbo replied the money would come from the HMR Tax, additional funds from the

City, or the cash flow from the facility.

Mr. John Lewis of the Bank of Fayetteville encouraged the Council to proceed with the project. He thought it was important for the community. He thought the community would risk more by not preceding than by not trying to make up the difference. He thought there would be more private investments coming downtown. He thought it was an investment and a commitment to the city.

Mr. Jim Bemis, an area resident, stated he did not see a town center in the proposed project. He read a summary of concerns from a public input session and stated he did not see the request in the proposed building. He did not believe it would fulfill what was asked. He did not believe it was a town center for the community, but an exhibit hall to be run and managed by unelected officials for tourists.

In response to concerns voiced by aldermen, Mayor Hanna explained they could not use A&P funds to construct a building for individual organizations. Any organization could use the facility.

Mr. Alderman explained the law did not want the city to construct administrative spaces for non-profit people with the money. They could meet or use the building. It just could not be dedicated specifically for their use.

In response to concerns voiced by Mr. Bemis, Alderman Trumbo stated the facility would be managed by a board that would have city, Chamber of Commerce, A&P and public representation.

Mr. Kit Williams, former alderman, stated he had always supported the concept of the Town Center. He explained quality construction had been one of their primary concerns. They had cut back on some of the parking spaces and some of the other amenities. If the city built a town center it needed to be built to a high quality that would withstand the test of time with plenty of parking. He stated he would like to see a room added for non-profit organizations, but to do that they needed city money. He thought the city needed to commit two to three million dollars to the project to make the facility a landmark.

Ms. Fran Alexander, an area resident, did not believe the facility was a town center for the citizen.

In response to questions from aldermen, Mr. Rose stated he had requested an opinion from the attorney general on whether or not the city could put money in and if so how much. He had not received a reply yet, but in his opinion he thought they could use special funds for what they were intended for – parking. The general funds could be spent for any proper public purpose.

He thought the City could spend money on the facility.

No action was taken.

NEW BUSINESS

RZ 98-22

An ordinance approving rezoning request RZ 98-22 submitted by Richard Osborne on behalf of Littlefield Investment Company for property located at 1798 East Huntsville Road. The property is zoned C-1, Neighborhood Commercial, and contains approximately 0.788 acres. The request is to rezone the property to C-2, Thoroughfare Commercial for the purpose of installing a used car lot.

Mr. Rose read the ordinance.

Alderman Austin moved to suspend the rules and move to the second reading. Alderman Daniels seconded the motion. Upon roll call the motion carried by a vote of 6-2-0, Santos and Russell voting nay.

Mr. Rose read the ordinance of the second time.

The applicant was not present.

Alderman Daniel stated she was not in favor of the rezoning because there were a lot of used car lots in town. The rezoning request was not consistent with the city's 2020 land use plan, which had shown a C-1 designation.

Alderman Santos thought the rezoning was inconsistent with the land use plan and it was not recommended by the staff. He asked if it was legal to accept a bill of assurance for a rezoning.

Mr. Tim Conklin, City Planner, added there had been some discussion of a bill of assurance stating that if the property was not used as a car lot then it would revert back to the C-1 designation. He stated the property could not revert back. The most that could be offered would be to limit the use of the property to a used car lot.

Mr. Rose stated any changes would have to come back to Council for a vote.

Alderman Reynolds stated the property was in disrepair and was abandoned.

The item was left on the second reading.

EXTERNAL DEFIBRILLATORS
An ordinance approving a bid waiver and purchase of ten Lifepak 500 Automatic External Defibrillators from Med Tronic Physio-Control Corporation of Redmond, Washington.

Mr. Rose read the ordinance for the first time.

Alderman Davis moved to suspend the rules and move to the second reading. Alderman Reynolds seconded the motion. Upon roll call the motion carried unanimously.

Mr. Rose read the ordinance for the second time.

Alderman Russell moved to suspend the rules and move to the third and final reading. Alderman Reynolds seconded the motion. Upon roll call the motion carried unanimously.

Mr. Rose read the ordinance for the third and final time.

Upon roll call the motion carried unanimously.

ORDINANCE 4173 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

CABLE TRANSFER
A public hearing and consideration of an ordinance approving the application for Franchise Authority consent to assignment or transfer of control of Cable Television Franchise submitted by TCA Cable Television, Inc. and Cox Classic Cable, Inc.

Mr. Rose read the ordinance for the first time.

Mr. Rose stated the Cable Board had approved the transfer at their last meeting.

Mr. Dennis Yocum, TCA Cable, explained the mergers were not complete and he was not sure of their future plans. He did not know their future plans for upgrades.

Mr. Rose stated the city was in the process of negotiating the new cable franchise. As part of that franchise there would be upgrade provisions in it. If the contract was signed by TCA, Cox would still be held legally responsible for the standards of the new franchise. If Cox had taken over by then they would sign the contract.

Alderman Santos moved to suspend the rules and move to the second reading. Alderman Russell seconded the motion. Upon roll call the motion carried unanimously.

Mr. Rose read the ordinance for the second time.

Alderman Trumbo moved to suspend the rules and move to the third and final reading. Alderman Santos seconded the motion. Upon roll call the motion carried by a vote of 7-0-0, Reynolds voting nay.

Mr. Rose read the ordinance for the third and final time.

Upon roll call the motion carried by a vote of 7-0-0, Reynolds voting nay.

ORDINANCE 4174 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

INTERNET SITE
A resolution endorsing the creation of Fayetteville.com, an internet site by Interface Computer Center. Interface Computer is the first company to commit to locate in the Arkansas Research and Technology Park and the internet site is a private commercial venture which will link to the City's and Chamber of Commerce's internet sites.

Mr. Tate Wolf, Interface Computer Co. Project Manager, gave a presentation of their site along with their goals and objectives. Packets were provided to give overview of the site.

Alderman Austin expressed concern about liquor sponsors and questioned how often children would pull up a liquor ad.

Mr. Wolf replied one in ten will see a liquor ad. He explained they were an independent commercial operation. It would be a completely commercial site. He reassured the Council that they had nothing to do with pornography. They did not have a single pornography site on any of their servers.

Mr. Jeff Erf stated he would like the same information for his web site. He asked if they would also have to fill out FOI request forms.

Ms. Alett Little, Economic Development Coordinator, stated the site would provide a service to the citizens by offering the information. She noted the convenience of having a city map on the internet and having it immediately updated.

Mayor Hanna stated they needed to consider tonight whether or not to endorse the site and to allow the staff to work out the details of the data exchange.

Alderman Trumbo moved to approve the resolution. Alderman Santos seconded the motion. Upon roll call the motion carried by a vote of 6-2-0, Austin and Reynolds voting nay.

RESOLUTION 99-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Meeting adjourned at 9:30 p.m.

CITY OF FAYETTEVILLE CITY COUNCIL FINAL AGENDA

FAYETTEVILLE CITY COUNCIL AUGUST 3, 1999

A meeting of the Fayetteville City Council will be held on Aug. 3, 1999 at 6:30 p.m. in Room 219 of the City Administration Building, 113 West Mountain Street, Fayetteville, Arkansas.

The following items will be considered:

A. CONSENT AGENDA

1. **APPROVAL OF MINUTES:** Approval of minutes from July 20, 1999 City Council meeting.
2. **TREATMENT PLANT STUDY:** A resolution authorizing the Mayor and City Clerk to execute a contract with Burns and McDonnell for a Plant Capacity Study to be done at the Noland Wastewater Treatment Plant for a not to exceed figure of $32,472.00.
3. **DICKSON STREET SURVEYS:** A resolution approving a contract amendment woth the Benham Group for property surveys along either side of Dickson Street from College Avenue to Arkansas Avenue, for the purpose of establishing the right of way, in the amount of $31,950; and abstract work for $10,000; for a total contract amendment of $41, 950.
4. **HARDIN PROPERTY SETTLEMENT:** A resolution approving settlement of City v. Hardin, CIV. 99-561, and payment of just compensation for the taking of real property in the amount of $52,396.50.

B. OLD BUSINESS

1. **RZ 98-22:** An ordinance approving rezoning request RZ 98-22 submitted by Richard Osborne on behalf of Littlefield Investment Company for property located at 1798 East Huntsville Road. The property is zoned C-1, Neighborhood Commercial, and contains approximately 0.788 acres. The request is to rezone the property to C-2, Thoroughfare Commercial for the purpose of installing a used car lot. Item was left on second reading at July 20, 1999 City Council meeting.
2. **TOWN CENTER:** A resolution approving a construction contract for the Fayetteville Town Center with Nabholz Construction Co. for a negotiated bid amount of $7,346,408; contingency amount of $150,000; and approval of Change Order #1 in the amount of $970,162; plus approval of a budget adjustment.

C. NEW BUSINESS

Withdrawn

1. **VA 99-8.00:** An ordinance approving vacation request VA 99-8.00 submitted by Laura Kelly of Rob Sharp Architect on behalf of East Avenue Investment Group, LLC for property located between blocks 4 and 5 of Harrison's Addition. The property is zoned R-2, Medium Density Residential. The request is to vacate an unconstructed section of Fletcher Avenue between Center Street and the point where Fletcher Avenue's asphalt surface curves east from the platted right of way.
2. **RZA 99-1:** An ordinance approving annexation request RZA 99-1 submitted by John Burrow on behalf of Karen Hanna for property located at 3686 Wilson Hollow Road. he property is in the planning growth area and contains approximately 4.54 acres. The request is to annex the subject property into the City of Fayetteville.
3. **AHTD REIMBURSEMENT:** A resolution approving the repayment of the Arkansas State Highway and Transportation Department federal aid enhancement funds reimbursed for the design of the St. Paul Rail Trail and Errol Street Trail since the St. Paul Trail will not be constructed and the Errol Street Trail has been changed. Also approval of a budget adjustment to fund this request.

Only items presented by the City Council or City Staff may be discussed during the meeting. If you have an item you wish to discuss, please contact your alderman to have it presented at the next City Council Agenda Session. For further assistance, please contact Heather Woodruff, City Clerk, at 575-8323.