FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

FINAL AGENDA
CITY COUNCIL
JANUARY 2, 2002

A meeting of the Fayetteville City Council will be held on January 2, 2002, at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain, Fayetteville, Arkansas.

AWARD PRESENTATION: Presentation of the GFOA Certificate of Achievement for Excellence in Financial Reporting.

A. CONSENT (PASSED)

1. **APPROVAL OF THE MINUTES:**

2. **CRICKET COMMUNICATIONS**: A resolution approving an agreement with Cricket Communications for the lease of tower space on the Township Water Tank. The proposed lease amount is for $1,500.00 per month.

3. **PINNACLE FOODS**: A resolution certifying local government endorsement of business to participate in the Advantage Arkansas Program, also known as the Arkansas Enterprise Zone Program.

B. OLD BUSINESS

1. **SALE OF MUNICIPALLY OWNED PROPERTY**: An ordinance amending Chapter 34, Finance and Revenue, of the Code of Fayetteville to establish a formal process for the sale of municipally owned real property. The ordinance was left on the first reading as amended at the December 18, 2001, meeting. (Passed as amended)

2. **ANX 01-5.00**: An ordinance approving annexation request ANX 01-5.00 as submitted by Raymond C. Smith on behalf of Gerald and Irene Griscom and Sylvester and Carol Guist for property located east of Double Springs Road and south of Owl Creek Subdivision. The property is in the Planning Area and contains approximately 13.61 acres. The request is to annex into the city. The ordinance was left on the second reading at the December 18, 2001, meeting.

_______ 3. **RZN 01-24.00:** An ordinance approving rezoning request RZN 01-24.00 as submitted by Raymond C. Smith on behalf of Conley and Virginia Worley, Gerald and Irene Griscom and Sylvester and Carol Guist for property located east of Double Springs Road and south of Owl Creek Subdivision. The property is zoned A-1, Agricultural and contains approximately 41.90 acres. The request is to rezone to R-1, Low Density Residential. The ordinance was left on the second reading at the December 18, 2001, meeting.

_______ 4. **RZN 01-27.00:** An ordinance approving rezoning request RZN 01-27.00 as submitted by Raymond C. Smith on behalf of Conley and Virginia Worley, Gerald and Irene Griscom and Sylvester and Carol Guist for property located east of Double Springs Road and south of Owl Creek Subdivision. The property is zoned A-1, Agricultural and contains approximately 8.74 acres. The request is to rezone to RMF-6, Low Density Multi-Family Residential. The ordinance was left on the second reading at the December 18, 2001, meeting.

_______ 5. **RZN 01-26.00:** An ordinance approving rezoning request RZN 01-26.00 as submitted by Dave Jorgensen of Jorgensen and Associates on behalf of Tom and Louise Sager and Paul and Bernice Guisinger for property located west of Shiloh Drive and and north of Porter Road. The property is zoned A-1, Agricultural and contains approximately 12.08 acres. The request is to rezone to C-2, Thoroughfare Commercial. The ordinance was left on the second reading at the December 18, 2001, meeting.

_______ 6. **RZN 01-28.00:** An ordinance approving rezoning request RZN 01-28.00 as submitted by Dave Jorgensen of Jorgensen and Associates on behalf of Tom and Louise Sager and Paul and Bernice Guisinger for property located west of Shiloh Drive and and north of Porter Road. The property is zoned A-1, Agricultural and contains approximately 11.68 acres. The request is to rezone to R-2, Medium Density Residential. The ordinance was left on the second reading at the December 18, 2001, meeting.

C. NEW BUSINESS

Left on 1st reading 1. **MOTOR VEHICULAR RACEWAYS:** An ordinance to regulate motor vehicular raceways.

Tabled (until next C.C. Mtg.) 2. **CABLE RATE INCREASE:** A resolution expressing the City Council's opposition to the proposed 75 percent rate increase for basic cable television services proposed by Cox communications, Inc.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY

LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody**, Mayor

THRU: **Heather Woodruff**, City Clerk

FROM: **Kit Williams**, City Attorney

DATE: **January 3, 2002**

RE: **Passed Ordinances and Resolutions from City Council meeting of January 2, 2002**

The following Ordinances and Resolutions were passed at the last City Council meeting.

Enclosed are:

Res. 1-02 1. **Cricket Communications:** Resolution approving agreement w/Cricket Communications for lease of tower space on Township Water Tank for $1,500/mo.

Res. 2-02 2. **Pinnacle Foods:** Resolution certifying local government endorsement of business to participate in Advantage Arkansas Program, also known as the Arkansas Enterprise Zone Program

Ord. 4358 (passed as amended) 3. **Sale of Municipally Owned Property:** Ordinance amending Chapter 34, Finance and Revenue, of the Code of

Fayetteville to establish a formal process for the sale of municipally owned property

ORD. 4359

4. **ANX 01-5.00:** Ordinance approving annexation request as submitted by Raymond C. Smith on behalf of Gerald & Irene Griscom and Sylvester and Carol Guise for property located each of Double Springs Road - request is to annex into city

ORD. 4360

5. **RZN 01-24.00:** Ordinance approving rezoning request as submitted by Raymond C. Smith on behalf of Conley and Virginia Worley, Gerald and Irene Griscom and Sylvester and Carol Guist for property located each of Double Springs Road - request is to rezone to R-1, Low Density Residential

ORD. 4361

6. **RZN 01-27.00**: Ordinance approving rezoning request as submitted by Raymond C. Smith on behalf of Conley and Virginia Worley, Gerald and Irene Griscom and Sylvester and Carol Guist for property located each of Double Springs Road - request is to rezone to RMF-6 Low Density Multi-Family Residential

ORD. 4362

7. **RZN 01-26.00:** Ordinance approving rezoning Request as submitted by Dave Jorgensen of Jorgensen and Associates on behalf of Tom and Louise Sager and Paul and Bernice Guisinger for property located west of Shiloh Drive - request is to rezone to C-2, Thoroughfare Commercial

ORD. 4363

8. **RZN 01-28.00:** Ordinance approving rezoning Request as submitted by Dave Jorgensen of Jorgensen and Associates on behalf of Tom and Louise Sager and Paul and Bernice Guisinger for property located west of Shiloh Drive - request is to rezone to R-2, Medium Density Residential.

City Council January 2, 2002

	Roll				
Thiel	✓				
Young	✓				
Zurcher	✓				
Trumbo	✓				
Davis	✓				
Santos	✓				
Jordan	✓				
Reynolds	✓				
Coody	✓				

Consent	BD KS.				
Thiel	✓				
Young	✓				
Zurcher	✓				
Trumbo	✓				
Davis	✓				
Santos	✓				
Jordan	✓				
Reynolds	✓				
Coody					

City Council January 2, 2002

Vice Mayor.	RR BT.				
Thiel	✓	BT	KS		
Young	✓	BD	BD		
Zurcher	N/	KS	KS		
Trumbo	N/	BD	BD		
Davis	✓	BD	BD	Santos.	
Santos	N/	KS	KS		
Jordan	N/	KS	KS		
Reynolds	✓	BT	BD		
Coody	abstain.		KS.		

2ND H.1 amend to add PARK. amend by city. 3RD

SALE OF PROP.	H RZ.	CY RZ.	RZ BT.	1.C RZ BD.	PASS
Thiel	✓	✓	✓	✓	✓
Young	✓	✓	✓	✓	✓
Zurcher	✓	✓	✓	✓	✓
Trumbo	✓	✓	✓	✓	✓
Davis	✓	✓	✓	✓	✓
Santos	✓	✓	✓	✓	✓
Jordan	✓	✓	✓		✓
Reynolds	✓	✓	✓	✓	✓
Coody					

City Council January 2, 2002

Anx 1-5.	KS 3RD BD.	PASS			
Thiel	✓	✓			
Young	✓	✓			
Zurcher	✓	✓			
Trumbo	✓	✓			
Davis	✓	✓			
Santos	✓	✓			
Jordan	✓	✓			
Reynolds	✓	✓			
Coody					

RZN 1-24.	H 3RD BD.	PASS			
Thiel	✓	✓			
Young	✓	✓			
Zurcher	✓	✓			
Trumbo	✓	✓			
Davis	✓	✓			
Santos	✓	✓			
Jordan	✓	✓			
Reynolds	✓	✓			
Coody					

City Council January 2, 2002

RZN 01-27.	BD 3UP RR.	PASS			
Thiel	✓	✓			
Young	✓	✓			
Zurcher	✓	✓			
Trumbo	✓	✓			
Davis	✓	✓			
Santos	✓	✓			
Jordan	✓	✓			
Reynolds	✓	✓			
Coody					

RZN 1-26.	BD 3RN H.	PASS			
Thiel	✓	✓			
Young	✓	✓			
Zurcher	✓	✓			
Trumbo	✓	✓			
Davis	✓	✓			
Santos	✓	✓			
Jordan	✓	✓			
Reynolds	✓	✓			
Coody					

City Council January 2, 2002

RZN 1-28.	#3D. 3RD	PASS			
Thiel	✓	✓			
Young	✓	✓			
Zurcher	✓	✓			
Trumbo	✓	✓			
Davis	✓	✓			
Santos	✓	✓			
Jordan	✓	✓			
Reynolds	✓	✓			
Coody					

RACE WAYS					
Thiel					
Young					
Zurcher	left on 1st reading.				
Trumbo					
Davis					
Santos					
Jordan					
Reynolds					
Coody					

City Council January 2, 2002

Cable Rate increase	RZ KS table				
Thiel	✓				
Young	✓				
Zurcher	✓				
Trumbo	✓				
Davis	✓				
Santos	✓				
Jordan	✓				
Reynolds	✓				
Coody					

Thiel					
Young					
Zurcher					
Trumbo					
Davis					
Santos					
Jordan					
Reynolds					
Coody					

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

FINAL AGENDA
CITY COUNCIL
JANUARY 2, 2002

A meeting of the Fayetteville City Council will be held on January 2, 2002, at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain, Fayetteville, Arkansas.

AWARD PRESENTATION: Presentation of the GFOA Certificate of Achievement for Excellence in Financial Reporting. Marsha Farthing present

A. CONSENT

PASS

1. **APPROVAL OF THE MINUTES:**

2. **CRICKET COMMUNICATIONS:** A resolution approving an agreement with Cricket Communications for the lease of tower space on the Township Water Tank. The proposed lease amount is for $1,500.00 per month.

3. **PINNACLE FOODS:** A resolution certifying local government endorsement of business to participate in the Advantage Arkansas Program, also known as the Arkansas Enterprise Zone Program.

B. OLD BUSINESS

— KEVIN SANTOS — VICE-MAYOR.

PASS AS AMEND

1. **SALE OF MUNICIPALLY OWNED PROPERTY:** An ordinance amending Chapter 34, Finance and Revenue, of the Code of Fayetteville to establish a formal process for the sale of municipally owned real property. The ordinance was left on the first reading as amended at the December 18, 2001, meeting.

PASS

2. **ANX 01-5.00:** An ordinance approving annexation request ANX 01-5.00 as submitted by Raymond C. Smith on behalf of Gerald and Irene Griscom and Sylvester and Carol Guist for property located east of Double Springs Road and south of Owl Creek Subdivision. The property is in the Planning Area and contains approximately 13.61 acres. The request is to annex into the city. The ordinance was left on the second reading at the December 18, 2001, meeting.

113 WEST MOUNTAIN 72701 501 521-7700
FAX 501 575-8257

PASS V/V

3. **RZN 01-24.00:** An ordinance approving rezoning request RZN 01-24.00 as submitted by Raymond C. Smith on behalf of Conley and Virginia Worley, Gerald and Irene Griscom and Sylvester and Carol Guist for property located east of Double Springs Road and south of Owl Creek Subdivision. The property is zoned A-1, Agricultural and contains approximately 41.90 acres. The request is to rezone to R-1, Low Density Residential. The ordinance was left on the second reading at the December 18, 2001, meeting.

PASS V/V

4. **RZN 01-27.00:** An ordinance approving rezoning request RZN 01-27.00 as submitted by Raymond C. Smith on behalf of Conley and Virginia Worley, Gerald and Irene Griscom and Sylvester and Carol Guist for property located east of Double Springs Road and south of Owl Creek Subdivision. The property is zoned A-1, Agricultural and contains approximately 8.74 acres. The request is to rezone to RMF-6, Low Density Multi-Family Residential. The ordinance was left on the second reading at the December 18, 2001, meeting.

PASS V/V

5. **RZN 01-26.00:** An ordinance approving rezoning request RZN 01-26.00 as submitted by Dave Jorgensen of Jorgensen and Associates on behalf of Tom and Louise Sager and Paul and Bernice Guisinger for property located west of Shiloh Drive and and north of Porter Road. The property is zoned A-1, Agricultural and contains approximately 12.08 acres. The request is to rezone to C-2, Thoroughfare Commercial. The ordinance was left on the second reading at the December 18, 2001, meeting.

PASS V/V

6. **RZN 01-28.00:** An ordinance approving rezoning request RZN 01-28.00 as submitted by Dave Jorgensen of Jorgensen and Associates on behalf of Tom and Louise Sager and Paul and Bernice Guisinger for property located west of Shiloh Drive and and north of Porter Road. The property is zoned A-1, Agricultural and contains approximately 11.68 acres. The request is to rezone to R-2, Medium Density Residential. The ordinance was left on the second reading at the December 18, 2001, meeting.

C. NEW BUSINESS

left on 1st reading.

1. **MOTOR VEHICULAR RACEWAYS:** An ordinance to regulate motor vehicular raceways. left on 1st reading.

2. **CABLE RATE INCREASE:** A resolution expressing the City Council's opposition to the proposed 75 percent rate increase for basic cable television services proposed by Cox communications, Inc.

tabled

FAYETTEVILLE

from agenda session.

THE CITY OF FAYETTEVILLE, ARKANSAS

TENTATIVE AGENDA
CITY COUNCIL
JANUARY 2, 2002

A meeting of the Fayetteville City Council will be held on January 2, 2002, at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain, Fayetteville, Arkansas.

AWARD PRESENTATION: Presentation of the GFOA Certificate of Achievement for Excellence in Financial Reporting.

A. CONSENT

1. **APPROVAL OF THE MINUTES:**

2. **CRICKET COMMUNICATIONS:** A resolution approving an agreement with Cricket Communications for the lease of tower space on the Township Water Tank. The proposed lease amount is for $1,500.00 per month.
Need amended contract - See Kit.

3. **PINNACLE FOODS:** A resolution certifying local government endorsement of business to participate in the Advantage Arkansas Program, also known as the Arkansas Enterprise Zone Program.

B. OLD BUSINESS

1. **SALE OF MUNICIPALLY OWNED PROPERTY:** An ordinance amending Chapter 34, Finance and Revenue, of the Code of Fayetteville to establish a formal process for the sale of municipally owned real property. The ordinance was left on the first reading as amended at the December 18, 2001, meeting.

2. **ANX 01-5.00:** An ordinance approving annexation request ANX 01-5.00 as submitted by Raymond C. Smith on behalf of Gerald and Irene Griscom and Sylvester and Carol Guist for property located east of Double Springs Road and south of Owl Creek Subdivision. The property is in the Planning Area and contains approximately 13.61 acres. The request is to annex into the city. The ordinance was left on the second reading at the December 18, 2001, meeting.

113 WEST MOUNTAIN 72701 501 521-7700
FAX 501 575-8257

3. RZN 01-24.00: An ordinance approving rezoning request RZN 01-24.00 as submitted by Raymond C. Smith on behalf of Conley and Virginia Worley, Gerald and Irene Griscom and Sylvester and Carol Guist for property located east of Double Springs Road and south of Owl Creek Subdivision. The property is zoned A-1, Agricultural and contains approximately 41.90 acres. The request is to rezone to R-1, Low Density Residential. The ordinance was left on the second reading at the December 18, 2001, meeting.

4. RZN 01-27.00: An ordinance approving rezoning request RZN 01-27.00 as submitted by Raymond C. Smith on behalf of Conley and Virginia Worley, Gerald and Irene Griscom and Sylvester and Carol Guist for property located east of Double Springs Road and south of Owl Creek Subdivision. The property is zoned A-1, Agricultural and contains approximately 8.74 acres. The request is to rezone to RMF-6, Low Density Multi-Family Residential. The ordinance was left on the second reading at the December 18, 2001, meeting.

5. RZN 01-26.00: An ordinance approving rezoning request RZN 01-26.00 as submitted by Dave Jorgensen of Jorgensen and Associates on behalf of Tom and Louise Sager and Paul and Bernice Guisinger for property located west of Shiloh Drive and and north of Porter Road. The property is zoned A-1, Agricultural and contains approximately 12.08 acres. The request is to rezone to C-2, Thoroughfare Commercial. The ordinance was left on the second reading at the December 18, 2001, meeting.

6. RZN 01-28.00: An ordinance approving rezoning request RZN 01-28.00 as submitted by Dave Jorgensen of Jorgensen and Associates on behalf of Tom and Louise Sager and Paul and Bernice Guisinger for property located west of Shiloh Drive and and north of Porter Road. The property is zoned A-1, Agricultural and contains approximately 11.68 acres. The request is to rezone to R-2, Medium Density Residential. The ordinance was left on the second reading at the December 18, 2001, meeting.

C. NEW BUSINESS

1. MOTOR VEHICULAR RACEWAYS: An ordinance to regulate motor vehicular raceways. Need Section 6- for Final Agenda. See: Kit.

2. CABLE RATE INCREASE: A resolution expressing the City Council's opposition to the proposed 75 percent rate increase for basic cable television services proposed by Cox communications, Inc. Revised Res w/ memo.

+ Budget adjustment 12/6/01 from Kit.
Need BA from Steve Davis.

DRAFT TENTATIVE AGENDA
CITY COUNCIL
JANUARY 2, 2002

A meeting of the Fayetteville City Council will be held on January 2, 2002 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

A. CONSENT AGENDA

1. **APPROVAL OF THE MINUTES**

2. **CRICKET COMMUNICATIONS:** Approval of an agreement with Cricket Communications for the lease of tower space on the Township Water Tank. The proposed lease amount is $1500.00 per month.

B. OLD BUSINESS

C. NEW BUSINESS

1. not ready **HANSEN TECH:** A resolution approving a contract for software and implementation services with Hansen Technology, Inc.

See Dumas Purchase not ready of trash recycling container for Downtown Dickson

See Greg Ridgeway not ready water main replacement.

MINUTES OF A MEETING
OF THE
CITY COUNCIL
DECEMBER 4, 2001

A meeting of the Fayetteville City Council will be held on December 4, 2001 at 6:30 p.m. in Room 219, of the City Administration Building, located at 113 West Mountain Street, Fayetteville, Arkansas.

PRESENT: Mayor Coody, Aldermen Jordan, Reynolds, Thiel, Young, Zurcher, Trumbo, Davis, Santos, City Attorney Kit Williams, City Clerk Heather Woodruff, Staff, Press, Audience.

CONSENT AGENDA

APPROVAL OF THE MINUTES
Removed from Agenda.

LAKE SEQUOYAH: A resolution awarding a contract to Richard Utley in the amount of $23,700 for the operation of the Lake Sequoyah boat dock.

RESOLUTION 158-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

BID 01-53: A resolution awarding Bid 01-53 to Police Supply d/b/a Cruiser Tech of Tulsa, Oklahoma, for the purchase of one hundred and fifty Smith and Wesson Model 4006TSW, less the trade-in of City owned guns; and approval of a budget adjustment.

RESOLUTION 159-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

MOTOROLA: A resolution approving a radio maintenance contract with Motorola Inc. in the amount of $21,087.43. This contract is to cover the radio equipment previously owned by the City that is not covered under the warranty of the new system.

RESOLUTION 160-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

TCA CABLE: A resolution authorizing the TCA Cable Partners to continue to operate the cable communications system.

RESOLUTION 161-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

MITCHELL OIL: A resolution approving a contract with Mitchell Oil Co., Inc., for the purchase of gasoline and diesel fuel for the City of Fayetteville vehicles and equipment and to provide a fueling facility.

RESOLUTION 162-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

BID 01-57: A resolution authorizing up to $100,000 for compactors and roll-off style compactor containers for lease or purchase by commercial and industrial customers to Best Pac, Easley S.C. and purchase up to $20,000 for open-top roll-off style containers for lease to Solid Waste customers to waste equipment-Mayfab of Beeville, TX.

REMOVED FROM THE CONSENT AGENDA.

BID 01-56: A resolution authorizing purchase up to $55,008 for 2 to 8 yard containers for the Solid Waste Division for lease and/or purchase of Multi-family and small commercial customers and approval of budget adjustment.

RESOLUTION 163-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Alderman Davis moved to approve the Consent Agenda with the removal of the minutes and Bid 01-57. Alderman Zurcher seconded the motion. Upon roll call the motion carried unanimously.

BID #01-57: A resolution authorizing up to $100,000 for compactors and roll-off style compactor containers for lease or purchase by commercial and industrial customers to Best Pac, Easley S.C. and purchase up to $20,000 for open-top roll-off style containers for lease to Solid Waste customers to waste equipment-Mayfab of Beeville, TX.

Alderman Trumbo stated he had requested this item to be pulled because of an ordinance that the city had which required commercial haulers to obtain the city consent to operate within the city limits. The ordinance had not been enforced in the past. A lot of companies had three and six year contracts with other haulers which they could not break. He asked how they were going to gear up to get into this higher profit margin business when all the other companies had three and six year contracts. They would be going head to head with some well capitalized companies that have been doing this for a long time.

Mr. Dumas, Utility Services Director, stated in their evaluation of their solid waste services and their consideration of providing expanded services, there had to be some way to increase revenue. Recycling was necessary, but it was expensive and they had to find a way to cover those expenses. They currently served a limited part of the market, both in the small commercial containers and their residential service. The commercial activities that they currently had fund approximately thirty-three percent of the residential program. The twenty-two commercial accounts that they had subsidized the residential services by about a million dollars per year. Given the fact that they have established this kind of history of the rate structure, if they were going to expand those recycling options they needed to find other ways to expand the revenue base outside of what they were doing now. The only part of the market that they were not into was the large container services, roll-off style, either open top for construction activity or roll-off containers for typical industrial trash. As they began to research this, they found an ordinance which had not been enforced. There was a way, given the ordinance, that would have allowed them legislatively mandate that they were just going to take over that market sector. He thought that would be a mistake for a couple of reasons. The city would not be able to ramp up to provide that service overnight, like that would require them to do. Second, it would be very disruptive to those large commercial and industrial customers that have that service now. Thirdly, the actual cost of operation to provide this service, what a reasonable return would be, that they could provide the service at a very competitive rate to those customers that were now being served by the private sector and provide as good or better service than is being provided. They could wait the existing contracts out. He thought they could on a competitive basis compete with the other haulers in the community, if they can't, then they would know that fairly quickly. They were asking for one hundred and twenty thousand dollars for roll-off containers and compactors. They would not be buying those until they had a customer where they could place the container.

In response to questions, Mr. Dumas stated they had two trucks to deliver and haul. At some point, when they entered this market there will be a need for additional equipment, when they got enough customers, and additional personnel to operate that equipment, which will be covered by the revenue that is being produced by the activity.

Alderman Trumbo stated it had been brought to his attention that with the size and scope and capital of this type of business with Waste Management, Allied Waste and Roll-Off, that because this was an enterprise fund that the city would have to be doing this below cost in order to compete with them.

Mr. Dumas stated it was not going to be done at less than cost. If they did not get any contracts, then they won't be buying any of the equipment. They will probably buy some of the open top roll off because they do have some customers with that right now. They have been providing that on a very limited bases.

Alderman Trumbo stated the recycling permit Roll-Off had received from the State on on-site construction site was that they recycle. That was the whole idea that they would recycle to keep it out of the land fill. He asked if they were going to be doing the same thing.

Mr. Dumas stated he did not see any reason why they could not enter that market sector also.

Alderman Thiel stated she did not believe they could implement the ordinance right now, but thought that they could enforce it in the future.

Mr. Dumas stated he did not know if they would want to enforce it in the future. He would be hesitant to enter into the market that quickly because they could not provide the service that fast. It might take them three or four years.

Ms. Cheryl Zotti, Roll-Off, stated the most challenging thing for the city right now was going to be these existing contracts. They were at least three years out. They had done their research, because they were the newest of the three. They have been to every industry that had these types of containers. They know the exact date that they would expire. What few they did have in Fayetteville had a three year contract with a three year renewal. That would be challenging for them. In general, municipalities did not provide their own waste service. It was not a normal thing for a city to be doing what they were doing anyway. Industrial accounts, she did not agree that the profit margin was as great as it has been presented. It was more expensive to get into. The trucks were more expensive, the containers were more expensive. Capital wise, it would be expensive for a city to break into that. Her company had an open construction and demolition debris recycling facility. They placed over twelve hundred construction boxes per month through out northwest Arkansas and the four county area.

Alderman Santos stated the city attorney had sent a memo and the way he read it was that the existing contract were not valid because of this ordinance.

Mr. Williams stated they could be considered invalid or unenforceable. The normal rule was that if a contract was in violation of the law, then it was not enforceable. They had not been actively enforcing this ordinance, but that did not mean that it was not the law. He thought the solid waste division was not seeking to apply the ordinance. It would not be something that the city would do. It would be the customer. The litigation would be between the trash hauler and their customer.

Alderman Santos moved to approve the resolution. Alderman Jordan seconded the motion. Upon roll call the motion carried unanimously.

RESOLUTION 164-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

OLD BUSINESS

RZN 01-17.00: An ordinance approving rezoning request RZN 01-17.00 as submitted by Cynthia Beard and Williams M. Center for property located on the southeast corner of 15th Street and Beechwood Avenue. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 12.13 acres. The request is rezone to R-2, Medium Density Residential. The ordinance was left on the first reading at the October 16, 2001, meeting left on the second reading then tabled at the November 6, 2001 meeting.

Alderman Santos moved to bring the item off the table. Alderman Trumbo seconded the motion. Upon roll call the motion carried unanimously.

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

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

Alderman Jordan stated there had been a petition brought before the city council. The council had supported a meeting between the developers and the neighbors. The meeting had been very positive and well attended. Some of the issues that had been brought to his attention were the flooding, traffic, and the size of the what was going to be put in there. He asked how they would plan to keep the property from flooding?

Mr. Chris Parton, Crafton Tull and Assocates, presented a map illustrating the proposed detention basins. The purpose of the detention basins was to keep down stream property from flooding. The water would run into the detention basin, then allowed to run off at a very slow rate. Equal to or less than the amount that was leaving the site before it was developed.

Alderman Jordan asked when they would do a traffic study.

Mr. Tim Conklin, Planning Director, stated if they were going to do a traffic study to determine what off site improvements were going to be needed, the developer would hire a consultant and pay for that consultant to do the traffic study. What the city would do was run some numbers from the software and come up with some numbers of the traffic that would be generated. With regard to recommendation, the developer would then pay for that recommended improvement.

Alderman Jordan asked if they would be responsible for the public trails and the amenities along the creek corridor.

Mr. McClard stated that had been discussed during the meeting. If they buy the property, they have agreed to develop a trail and plaque area. They thought it was important from a marketing point for the project. They would put up some picnic tables and maintain it. They had offered to develop the trail and to provide the land for the park. There were some financing issues. Their hope was that it could be dedicated to the city, if the city wanted it. The city can then maintain it. They could work those issues out at large scale. They would have to clean up some along the trail, but their intention was to leave the buffer zone.

Alderman Jordan asked if they bought the property would they be willing to offer a bill of assurance that they would do that.

Mr. McClard replied, he thought so. Once they owned the property, then they could sit down and go through these issues before they went into large scale development. That way they could just build it into the project.

Ms. Donna Bawling, Eighteenth Street, asked how the trails and ponds were going to be maintained. There was currently a very bad odor coming from the detention pond a the University.

Mayor Coody stated if it was city owned it would be maintained by the city. If it was privately owned it would be maintained privately.

Mr. Chris Parton stated that was correct. The detention ponds were constructed such that a concrete channel was installed in the bottom so no standing water remains within the pond. They empty out within a matter of hours after the storm.

Alderman Thiel noted the detention ponds would be maintained by the property owner and not the city.

Alderman Trumbo stated he was going to abstain because they work for the same company, but it was a separate corporation and his firm would not profit from this, so he was going to go ahead and vote.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed by a vote of 7-1-0, Zurcher voting nay.

ORDINANCE 4351 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZN 01-18.00: An ordinance approving rezoning request RZN 01-18.00 as submitted by Bill McClard of Lindsey and Associates on behalf of Cynthia Beard and William M. Center for property located on the Southwest corner of 15th Street and Beechwood Avenue. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 19.39 acres. The request is to rezone to R-2, Medium Density Residential. The ordinance was left on the first reading at the October 16, 2001, meeting and tabled at the November 6, 2001 meeting.

Alderman Young moved to bring the item off the table. Alderman Trumbo seconded the motion. Upon roll call the motion carried unanimously.

Alderman Trumbo moved to suspend the rules and move to the second reading. Alderman Davis seconded the motion. Upon roll call the motion carried 6-2-0. Jordan and Zurcher voting nay.

Mr. Williams read the ordinance.

Alderman Santos moved to suspend the rules and move to the third and final reading. Alderman Jordan seconded. Upon roll call the motion carried 7-1-0. Zurcher voting nay.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed by a vote

of 7-1-0, Zurcher voting nay.

ORDINANCE 4352 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZN 01-19.00: An ordinance approving rezoning request RZN 01-19.00 as submitted by Bill McClard of Lindsey and Associates on behalf of Cynthia Beard and William M. Center for property located south of 15th Street between Beechwood Avenue and Razorback Road. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 9.86 acres. The request is to rezone to C-2, Thoroughfare Commercial. The ordinance was left on the first reading at the October 16, 2001, meeting and tabled at the November 6, 2001 meeting.

Alderman Young moved to take the item off the table. Alderman Davis seconded the motion. Upon roll call the motion carried unanimously.

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

Mr. Williams read the ordinance.

Alderman Davis moved to suspend the rules and go to the third and final reading. Alderman Jordan seconded. Upon roll call the motion carried by a vote of 7-1-0. Zurcher voting nay.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the motion carried by a vote of 7-1-0, Zurcher voting nay.

ORDINANCE 4353 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

ANX 01-4.00: An ordinance approving annexation request ANX 01-4.00 as submitted by Dave Jorgensen of Jorgensen and Associates on behalf of Mark Foster for property owned by Eugene Nottenkamper and Anthony Turchi and located north of Wedington Drive on the east side of 51st Street. The request is to annex into the city approximately 30.99 acres located in the Planning Area. The ordinance was left on the first reading at the November 20, 2001 meeting.

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

Mr. Williams read the ordinance for the second time.

Alderman Jordan stated he was concerned about the fire protection out west. People were concerned that fire protection was not as good as it should be out west. He asked if a new station was needed out west.

Chief Bosh stated he had only been there a couple of weeks. One of the things that they were going to do in the Fire Department was to step back and pull some response information and housing permit information as well as development information. They will then be able to identify, by using data as their decision making tool, where those stations are going to be needed. He was inclined to believe that they needed a station out west. There was a lot of development out there. One thing that he wanted to make sure that they did was to utilize the data and information gathered to back their decision. They were wanting to use this information to get a head of the growth. The station will then serve as a community anchor and will help to bring people to that area and to encourage more growth in that area. If they were able to get ahead of the development then they would be able to place a station where the land is not as expensive at the time and then let the growth catch up to them.

Mr. Earnest, Urban Development Director, stated they were assisting in collecting some very basic research about anticipating the growth area and siting a fire station where they thought it would serve the growth area.

In response to concerns, Alderman Davis stated the subject property was between two subdivisions already annexed into the city.

Chief Bosh stated they were working on a station out there. He would encourage the annexation out there. He did not believe it would be a problem to serve.

Ms. Barbara Moorman, an area resident, questioned if the dense development they had just approved near the center of town was considered smart growth, she wanted to know what this was. Developing on the fringes and going way out.

Mr. Earnest stated this was not leap frog development. It was connecting to existing water and sewer and existing street systems. By that definition it was not considered sprawl. They were reducing their density further west.

ORDINANCE WAS LEFT ON SECOND READING.

RZN 01-22.00: An ordinance approving rezoning request RZN 01-22.00 as submitted by Dave Jorgensen of Jorgensen and Associates on behalf of Mark Foster for property owned by Eugene Nottenkamper and Anthoney Turchi and located north of Wedington Drive on the east side of 51st Street. The property is zoned A-1, Agricultural, and contains approximately 30.99 acres. The request is to rezone to R-1, Low Density Residential. The ordinance was left on the first reading at the November 20, 2001 meeting.

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

Mr. Williams read the ordinance.

ORDINANCE WAS LEFT ON THE SECOND READING.

CIP: A resolution approving the CIP for 2002-2006.

Mr. Davis stated during the last ice storm and power outage, the intersection lights could have run off a battery pack for a number of hours. That project has been submitted as part of this CIP. If and when they adopted the CIP, if they would adopt it as amended it would include this project.

Alderman Santos moved to approve the resolution. Alderman Reynolds seconded the motion. Upon roll call the motion carried unanimously.

RESOLUTION 165-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

NEW BUSINESS

VAC 01-8.00: An ordinance approving vacation request VAC 01-8.00 as submitted by Dave Fulton on behalf of Gerald Tomlinson for property located at 2522 S. College (lot 12 of Taylor Estates). The property is zoned R-1, Low Density Residential and contains approximately 0.10 acres. The request is to vacate an existing utility easement.

Mr. Williams read the ordinance for the first time.

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

Mr. Williams read the ordinance for the second time.

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

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

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

ORDINANCE 4354 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

OFFER AND ACCEPTANCE: A resolution approving the offer and acceptance contract between the City of Fayetteville and the Board of Trustees of the University of Arkansas for the sale of 4.05 acres of land on South School Street (Genesis Site) for the price of $459,000, less associated closing costs.

Alderman Trumbo stated he thought this made a lot of sense. This was an asset the city had to sell to the University to enhance their development.

Mayor Coody stated the city had roughly about a $300,000 contribution in this. They would be giving a road that the city owned and maintained and giving it to the State.

Alderman Davis asked if it was correct that they had invested $683,070 to this. They were selling it for $459,000? They were going to take a loss of $224,000?

Mr. Ed Connell, Land Agent for the City, stated this was the city's contribution to the whole program down there.

Alderman Davis stated he believed it was the right thing to do, however, he was not in favor of the city being in the land business. To him this was not a wise use of tax payer dollars, when they were having that kind of a loss.

Mr. Connell stated it was basically a development in the area, and the city would benefit in the future.

Mayor Coody stated they had an opportunity to build the State's first real research and technology based park down there with the University. They had some cutting edge stuff going on. They had to start someplace and the best place to start was not that property. They needed to do what they could to get that started.

Mr. Boettcher, Public Works Director, stated he and Mr. Connell had both evaluated their investment as a city in that property. What they had looked at was the cost of the road, prorated between the benefits to the current tracks that were already occupied and the tracks that they were selling that were undeveloped. When they did an analysis of that and what they would call base investment in the current property, that was basically an equable transaction where the city was neither losing or gaining on that transaction.

Mr. Williams stated this was an investment the city made years ago to help Genesis expand at that point in time. They never assumed that they would get any money back from that. They built the road. They cleared out some slum property down there and in exchange they bought more property and expanded Genesis dramatically. This had been done as an economic development sort of project for the south part of Fayetteville. He had been on the council at that time. He never assumed that they would get any money back for that. He thought that it had been a very good investment for the city.

Alderman Davis stated he was glad that they were selling it to the University, but he did not believe the city needed to be in the land business. They had not had very good success in it.

Mr. Steve Davis, Budget Manager, stated when they first got this property, the city getting the property and cleaning it up was tied to the University getting a three million dollar grant. The University got the grant and was able to expand their site. They should have left money on the table to make sure that their part of the grant stayed in place.

Alderman Davis moved to pass the resolution. Alderman Santos seconded the motion. Upon roll call the motion passed unanimously.

RESOLUTION 166-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

OFFER AND ACCEPTANCE: A resolution approving the offer and acceptance contract between the City of Fayetteville and Bryan Walker III, dated August 13, 2001, for the purchase of 32.91 acres of land on the east side of South School Street (across from Genesis Site) for a price of $360,000, plus associated closing costs where applicable and the approval of a budget adjustment.

Mayor Coody stated they were selling the previous item to the University so that they could continue their expansion. This item would basically take that money and buy thirty-three acres across the street from Genesis. The University would like to use the land around Genesis for a specific need, research and development of small businesses. They did not want manufacturing there. They wanted to keep manufacturing off site. That was what they hoped to deal with on this site. They were wanting to use this for research and technology related businesses.

Alderman Davis stated they were paying approximately $10,938.92 per acre for this land. He asked who would be responsible for building the infrastructure. They still had the I-540 site that they had promoted to be a research and technology park for years, but they still had not put infrastructure in there. They also had parcels in the Industrial Park that was ready to be purchased. He had a real problem with the city trying to purchase more land. He hated for them to store property for them for a number of years before they were ready to purchase it. If their intention was to sell to the University some point in time. He hoped that they would not go in and do any infrastructure to increase their cost.

Alderman Santos stated he would like to see it developing by private developers who would provide the infrastructure just like they did for other private development. He thought the need for this was that all of these baby businesses that the Genesis Center nurtured, as soon as they started selling and become a real business they could not use the University property any more.

Mr. John Maguire, Economic Development, stated the University was about to add six million dollars to their project. They were also in the process of establishing a foundation to do as Kevin suggested, to own property near by. They were in the process of trying to buy Dash Golf's property. Because of the old electroplating plant, there had been some soil samples made on the site.

Mr. Boettcher stated where the old manufacturing site was, they took one sample on the north boundary and the east boundary nearest the previous manufacturing operation. They also took some back ground samples lower on the site. The samples all checked. There was no evidence of higher levels of any metals.

In response to questions from Alderman Young, Mr. Maguire stated they had been talking with someone who was looking for about a ninety to one hundred thousand square foot building. They would need approximately four or five acres.

Alderman Young asked if they were to buy this property were they going to at least get an engineer to draw up a preliminary plat so they would know where the lots are and where the streets were going to be.

Mayor Coody stated they could do that, but they had a Landscape Architect on staff now that could help them design it.

Alderman Young stated he was worried about not having a plan in place prior to having someone purchase some of the property.

Mr. Maguire stated part of this property was on a hillside and would lend itself to six to twelve thousand square foot building. There were probably no more than two locations for large buildings. One along the road.

Alderman Young stated he did not want them to sell four or five acres and then have all the rest of it landlocked or where they could not utilize it. He thought they should draw up the lots and put a price on them.

Alderman Trumbo asked what fund the money would go into on the sale of the property and what could that money be used for?

Mr. Steve Davis stated the property was in general fund as a general fund asset. It could be used for what ever general funds could be used for. They had to be careful on what they spent general fund money on because of a court ruling on the Town Center Lawsuit which prohibited them from using general fund money for brick and mortar project. Part of them wanting to purchase the thirty two acres at the same time they were selling the four acres, was that they would have a direct linkage between the two transactions and they were not contaminating the fund with their normal general fund money. It would protect the ninety-nine thousand dollar differential and it would go into the general fund for city services.

Alderman Davis stated it was his understanding that they were not going to do anything to the infrastructure at this time.

Mayor Coody stated they did not have any plans on developing this right now.

Alderman Santos moved to pass the resolution. Alderman Jordan seconded the motion. Upon roll call the motion carried unanimously.

RESOLUTION 167-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

BC/BS: Approval of a contract with Blue Cross and Blue Shield of Arkansas for the policy year January 1, 2002 through December 31, 2002.

Alderman Davis state there were insurance companies leaving the State very day. He hoped that next year they would go out and let other people quote on this.

Mayor Coody stated one of the reasons they were leaving Arkansas was because we had the worst health in the country. He thought Arkansas was the only state where the smoking rates were increasing. Which decreased the health of the people in the state. When that happened their cost go up.

Alderman Jordan stated the Well-ness plan concerned him the most. It was a benefit to the employees. It did not cost them anything to have a physical. Now their lower paid employees will be a lot less likely to have those physicals and they were the people who needed it the most.

Mr. Ted Webber, Administrative Services Director, stated it was a very low number of employees that used the well-ness benefit. Blue Cross was not making the option available to them.

In response to questions, Mr. Williams stated the deductible was five hundred dollars.

Alderman Trumbo moved to approve the resolution. Alderman Davis seconded the motion. Upon roll call the motion carried unanimously.

RESOLUTION 168-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

PAY PLAN: Discussion and approval of amendments to the City's pay plan.

Alderman Thiel stated since there had been some discussion about salaries over fifty thousand. She thought the majority of them thought that the people under fifty thousand the hundred percent was acceptable. They did not want to go into the reserves anymore than necessary. This pay amount was tied to this at one hundred percent. She wondered if they should hold off on this.

Alderman Trumbo stated he wanted to go ahead and approve this. He thought it would be good for the city to approve this because they have had so much discussion and public input. They needed to clear the air on going forward. With the decreases in the health benefit he thought it was in the best interest of the city employees.

Alderman Santos stated he believed they should fund it at one hundred percent of the Hay Plan recommendation. All this would do would be to get them up to average.

Alderman Reynolds stated they needed to approve this tonight to let the employees know that they were behind them.

Alderman Trumbo stated that had they not had 10.25 million in reserves and another four million in another account they would not have the option to do these kind of pay increases.

In response to questions, Mayor Coody stated they planned to have the Hay Group to facilitate a wage study with management and the chiefs of the fire and police departments and representatives from the non-uniformed employees of the city. They would then determine the criteria for the cities that they wanted to compare themselves to. They wanted to eliminate two points of contention. One was what cities were they going to use for comparisons. The second point was that when they get the information back, where did they want to fit within the range. Did they want to be a median or above. Once they established those factors, then they would send the request out to the other cities. Then it was a matter of the Hay Plan bringing back the information.

Alderman Jordan stated when they selected the committee they needed to bring police and fire and hourly workers. Everyone needed to able to have some input.

Alderman Davis stated they had discussed having someone from every department come in.

Spokes person for the Fraternal Order of Police, stated there was still more needed to get them where they belonged. They were not looking of extra, they were looking for what the original plan set out for. He agreed with them that they were short and they were behind, but it sounded like the council was willing to step up to the plate and address the problem for them. Their one major concern was that they could not get a definition of what their goal was. Was it average? Was it median? Was competitive? They went where others were afraid to go. They wanted to know that they had the support of the people that they work for. When they didn't, it made it hard for them to do their job.

In 1989 the Hay Group pointed out that employee pay increases should not be a swing item in the city's budget. Employees were the city's contact with the public.

Alderman Trumbo stated he believed that their goal was to get everyone on the upper range.

Mr. Tim Franklin, Police Officer, stated there was going to be committee formed. Will they allow a member of the Fraternal Order of Police and the Firemen's Association to be on the committee?

Mayor Coody stated yes.

Alderman Young moved to amend the resolution.

Mr. Davis stated January 1 occurred during the middle of a pay period. They could not calculate pay roll on two pay rates. They had a pay period that started January 7. If they could make it affective on January 7 it would make it a lot easier on the pay roll staff.

Alderman Santos stated the intent of the resolution was to implement the Hay Plan recommendation at one hundred percent affective January 7.

Alderman Young moved to amend the resolution at an expedited review or new Hay Plan be implemented to commence immediately. Alderman Zurcher seconded the motion.

Alderman Young stated he was requesting that they start the contract procedure.

Mr. Davis stated the Hay Group had indicated that the cost of this work would be approximately twenty-five thousand dollars. If they wanted to approve a budget adjustment to set that money aside it could be appropriated at this time.

Alderman Davis asked if they could use some of the proceeds from the land sale tonight to pay for that. He asked if they needed a resolution for that.

Upon roll call the motion carried unanimously.

Alderman Trumbo moved to approve the pay plan. Alderman Jordan seconded the motion. Upon roll call the motion carried unanimously.

Alderman Trumbo moved to suspend the rules and place the budget adjustment on the agenda. Alderman Davis seconded the motion. Upon roll call the motion carried unanimously.

Alderman Trumbo moved to approve a budget adjustment in the amount of $25,000 for contract services. Alderman Davis seconded the motion. Upon roll call the motion carried

unanimously.

RESOLUTION 169-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

BUDGET: A resolution approving the 2002 Operating Budget.

Mr. Steve Davis stated the 2002 Budget was $136,301,103 compared to last years adopted budget of $85,877,479 the major difference was two capital projects. The library construction for $20,417.00 and the first installment of the Wastewater System Improvement at twenty five million dollars. The original general fund budget showed use of reserves of approximately two million dollars. City staff went back and reduced spending 1.3 million dollars in general fund so that they could fit in the group benefit plan adjustment and the Hay Plan adjustments. In doing so they had a proposed use of fund balance of approximately 1.8 million dollars for next year. It would leave them with a projected fund balance or reserve account at the end of 2002 of six million dollars.

Alderman Zurcher stated the Youth Advocacy Budget had not been brought back to 2002 budget, it was cut completely. He stated he would like to put some money back into that budget.

Mayor Coody stated there were some committees that have not had corium for four or five meetings. Some of the committees were not very productive.

Alderman Thiel stated this budget has taken money from a lot of non-profit groups and organizations that they have funded in the past. They had asked Steve to look at the city survey to see what people thought were important.

Alderman Young stated he had been anticipating this budget in November, but that did not happen. He asked Mayor Coody if this was his proposed budget.

Mayor Coody replied yes.

Alderman Young stated in the past election, one of the major issues was communications and opening up and changing the way they did things. He was disappointed in this budget. This was not a real budget. It was a Readers Digest condensed version of the budget. If they really thought that they could know what was going on with the budget, they were mistaken. There was no break down in any of this stuff. They did not know what the money was being spent for in this document.

Mr. Davis stated more information had been provided this year than in the pervious eight or nine years.

Alderman Young questioned what "services and charges" were. They did not know what that money was going for. There was no break down. This budget was not any different than the previous administration.

Mr. Davis stated "services and charges' covered everything from public notification to motor pool replacement charges. Things that they bought that they would contract for. Their budget was established as a program performance budget. In a program performance budget the city council looks at the program description and the resources available and the outcome or results. They were a policy setting body. They were not a line manager body. They were to tell them what their policies were and they would try and implement them through the appropriations that they provided them. This was the level of detail the council had seen since 1992.

Alderman Young stated that he was going to propose that they approve the budget in February 2002 because in the past any new alderman did not have a say in the budget. He would like to change that. He would like for everyone to be accountable to that budget when they first entered office.

Alderman Thiel stated that would change their accounting year.

Mr. Davis stated they had a State mandate that all cities and counties fiscal year runs the calendar year. January 1 was a new funding year for them. They could not write any checks unless they had a spending authorization. The budget was the vehicle to do that. Even if they did not approve the budget until February 1, which was the deadline in State Law, they would still have to pass a continuing funding resolution affective January 1. It would be a portion of the last years adopted budget, so that they could write pay roll checks and pay light bills. Otherwise they would not be able to write any checks.

Alderman Young state he was looking for accountability.

Alderman Thiel stated she thought some of the new member of the council did have some input on some of the last minute changes that were made.

Alderman Zurcher moved to table the item. Alderman Jordan seconded the motion. Upon roll call the motion carried unanimously.

THE ITEM WAS TABLED UNTIL THE NEXT MEETING.

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS
KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY

LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody**, Mayor
City Council Members

FROM: **Kit Williams**, City Attorney

DATE: **December 27, 2001**

RE: **Organization of the City Council**

Attached is A.C.A. §14-43-501 Organization of City Council. As you see it requires that you "shall annually, at the first council meeting in January, assemble and organize the city council." A.C.A. §14-43-501(a)(1).

Subsection (b)(2) states: "In the absence of the mayor, the council shall elect a president pro tempore." This appears to be a position similar or identical to what we have referred to as "Vice-Mayor." I could find no mention in the statutes of a "Vice-Mayor."

As you see, you are granted the power to organize yourselves as the City Council with the mayor being the "ex-officio president of the council (who) shall preside at its meetings." "The mayor shall have a vote when his vote is needed to pass any ordinance, by-law, resolution, order or motion." A.C.A. §14-43-502(b)(1)(B).

I believe you may elect a "president pro tempore" either at your first meeting to preside at any future council meetings not attended by Mayor Coody, or you can wait for Mayor Coody's absence at any meeting and elect one of yourselves "president pro tempore" to preside at that meeting.

Even though not expressly referred to by state statute, I believe you can also designate one of your members "Vice-Mayor" as part of your general powers to annually organize yourselves. A "Vice-Mayor" could have no greater power than a "president pro tempore" which is to conduct City Council meetings in the Mayor's absence.

14-43-501. Organization of city council.

(a)(1) The aldermen elected for each city shall annually, at the first council meeting in January, assemble and organize the city council.

(2)(A) A majority of the whole number of aldermen shall be necessary to constitute a quorum for the transaction of business.

(B) They shall be judges of the election returns and of the qualifications of their own members.

(C) They shall determine the rules of their proceedings and keep a journal thereof, which shall be open to the inspection and examination of any citizen. They may also compel the attendance of absent members in such manner and under such penalties as they shall think fit to prescribe.

(b)(1)(A) The mayor shall be ex officio president of the city council and shall preside at its meetings.

(B) The mayor shall have a vote to establish a quorum of the city council at any regular meeting of the city council and when his vote is needed to pass any ordinance, bylaw, resolution, order, or motion.

(2) In the absence of the mayor, the city council shall elect a president pro tempore.

History. Acts 1875, No. 1, § 51, p. 1; C. & M. Dig., §§ 7738-7741; Pope's Dig., §§ 9934-9937; Acts 1981, No. 345, § 1; A.S.A. 1947, § 19-1010; Acts 2001, No. 354, § 1.

Amendments. The 2001 amendment substituted "city council" for "council" throughout (b) and inserted "to establish a quorum of the city council at any regular meeting of the city council and" in (b)(1)(B).

14-43-502. Powers of council generally.

(a) The city council shall possess all the legislative powers granted by this subtitle and other corporate powers of the city not prohibited in it or by some ordinance of the city council made in pursuance of the provisions of this subtitle and conferred on some officer of the city.

(b)(1) The council shall have the management and control of finances, and of all the real and personal property belonging to the corporation.

(2)(A) The council shall provide the times and places of holding its meetings, which shall at all times be open to the public.

(B) The mayor or any three (3) aldermen of any city or town, regardless of size or classification, may call special meetings in the manner as may be provided by ordinance.

(3) The council shall appoint, or provide by ordinance, that the qualified voters of the city, of the wards, or districts as the case may require, shall elect all such city officers as shall be necessary for the good government of the city and for the due exercise of its corporate powers, and which shall have been provided by ordinance, as to whose appointment or election provision is not made in this subtitle and not provided by any general law of the state in reference to cities of the first class.

AGENDA REQUEST FORM

Council Meeting of January 2, 2002 **Mayor's Approval** ____

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

ACTION REQUIRED Approval of an agreement with Cricket Communications for the lease of tower space on the Township Water Tank. The proposed lease amount is $1500.00 per month.

COST TO CITY

$ -0- Cost of this Request	$ -0- Category/Project Budget	Category/Project Name
Account Number	Funds Used to Date	Program Name
Project Number	$ Funds Remaining	Fund Category

BUDGET/CONTRACT REVIEW N/A Budgeted Item ____ Budget Adj. Attached

Budget Coordinator	Date	Admin Services Director	Date
Accounting Manager	Date 12/11/01	ADA Coordinator	Date
City Attorney	Date 12/11/01	Internal Auditor	Date 12/11/01
Purchasing Officer	Date 12/11/01		

STAFF RECOMMENDATION It is the recommendation of the staff that the Council approve the lease agreement with Cricket Communications for cellular antennae located on the Township Water Tank. Lease amount: $1500.00 per month.

Ass't Public Works Director	Date 6 Dec. 2001
Department Director	Date 12-12-01
Admin Services Director	Date 12/14/01
Mayor	Date 12/14/01

Cross Reference

New Item: Yes No

Prev Ord/Res # ____

Orig. Contract # ____

Orig. Contract Date ____

Orig. Contract Number ____

Cricket
A. 2.

COMMENT SHEET

Project: Cellular Antennas, Lease Agreement, Township Tank
Engineer/Contractor: Cricket Communications
Notes to Reviewers: This Agreement is scheduled to go to the City Council for review and approval on **January 2, 2002.**

WATER TANK ATTACHMENT
COMMUNICATION SITE LEASE AGREEMENT
(Township Tank Site)

This Water Tank Attachment Communication Site Agreement ("Agreement) is entered into this

_____ day of January, 2002, by and between the City of Fayetteville, hereinafter known as the "Owner" and Cricket Communications, hereinafter known as the "Tenant".

GENERAL TERMS AND CONDITIONS:

1. Grant. Subject to the terms and conditions contained within this Agreement, Owner hereby grants to Tenant the nonexclusive right to install, maintain, operate and remove radio communications equipment and appurtenances on the Owner's Township Water Tank (the "Water Tank") located on the property described in Exhibit A (the "Premises"), and leases to Tenant a portion of the Premises for construction and occupancy of an equipment shelter or building to house Tenants equipment on the Premises as more particularly described in Exhibit A. Owner shall continue to have the right to occupy the Premises and operate the Water Tank and to grant others rights to occupy or utilize the Premises and the Water Tank at Owner's sole discretion.

Owner also grants to Tenant a non-exclusive easement during the term of this Agreement for ingress, egress and regress and for the installation and transmission of utilities on property described on attached Exhibit ("Easement"). tenant may install equipment, personal property, improvements, alterations or fixtures as listed on Exhibit C (the Equipment), or an Owner may otherwise approve in writing, such approval not to be unreasonably withheld, conditioned or denied. Any personal property owned by Tenant, whether or not fixed or attached to the Premises or Water Tank, shall remain the property of Tenant without regard to whether it appears on Exhibit C.

2. Use. Tenant shall use the Equipment and Premises for the purpose of constructing, installing, maintaining, improving and operating, at Tenant's expense, a communications facility, including antennae, equipment shelter or building, platforms, cable runs and incidental uses as described in this Agreement. Tenant shall be solely responsible for securing any and all building permits and approvals, zoning changes or approvals, variances, use permits, and other governmental permits from applicable governmental authorities, including any Federal Aviation Administration approval (collectively, Permits) prior to any construction on the Premises. Owner agrees to reasonable cooperate with Tenant in obtaining the Permits, and copies of the Permits shall be provided to Owner upon request. Tenant shall promptly pay all costs and expenses and shall not cause or permit any lien to be created against the Premises.

3. Initial Term. The Initial Term of this Agreement shall be **five (5) years**, commencing the earlier of (i) commencement of installation or (ii) one hundred eighty (180) days after the full execution of the Agreement, (the "Commencement Date") and terminating at midnight five years thereafter.

4. Renewal Term(s). Tenant shall have the right to extend this Agreement for one (1) additional term of five (5) years (First Renewal Term) on the same terms and conditions as set forth in this Agreement except that the Rent shall be increased as determined by the City at the time of renewal. Failure of the City to immediately increase the rent at the time of or after renewal shall not limit the right of the City to increase the rent later during the renewal term. This renewal shall be automatic unless Tenant notifies Owner of Tenants intention not to renew.

City of Fayetteville DEPARTMENTAL CORRESPONDENCE

To: Fayetteville City Council

From: Don Bunn, Assistant Public Works Director Don Bunn

Thru: Greg Boettcher, Public Works Director
Mayor Dan Coody

Subject: Lease Agreement, Cricket Communications
Township Tank

Date: December 11, 2001

Attached for your review and consideration is a proposed lease agreement with Cricket Communications for lease of tower and ground space at the Township Tank on Township Road. The lease is for the purpose of installing and maintaining cellular antennas. The Agreement calls for a monthly rental fee of $1500.00, or $18,000.00 per year.

You will note that there are several Exhibits that are a part of this Agreement. Not all of them have been filled in as of this date. The Agreement, after it is approved and signed by Cricket and the City, gives Cricket 180 days to get final City approval of the detailed plans for installation, FAA approvals, interference tests, and other tests required by the Agreement. If, for whatever reason, Cricket cannot or chooses not perform within the 180 days, the Agreement becomes void.

The City Planning Division may, under City Ordinances, approve this installation administratively upon proper application by Cricket.

It is the recommendation of the Staff that the Agreement with Cricket Communications be approved.

Note: Other similar monthly revenues to W&S fund include:
$1000 per month - ALLTELL
$1250 per month - Southwest PCS
$500 per month - TeleCorp.
GHWebber

WATER TANK ATTACHMENT
COMMUNICATION SITE LEASE AGREEMENT
(Township Tank Site)

This Water Tank Attachment Communication Site Agreement ("Agreement") is entered into this ______ day of ______________ , 20 ___, by and between the City of Fayetteville, hereinafter known as the "Owner" and Cricket Communications, hereinafter known as the "Tenant".

GENERAL TERMS AND CONDITIONS:

1. Grant. Subject to the terms and conditions contained within this Agreement, Owner hereby grants to Tenant the nonexclusive right to install, maintain, operate and remove radio communications equipment and appurtenances on the Owner's Township Water Tank (the "Water Tank") located on the property described in Exhibit A (the "Premises"), and leases to Tenant a portion of the Premises for construction and occupancy of an equipment shelter or building to house Tenants equipment on the Premises as more particularly described in Exhibit A. Owner shall continue to have the right to occupy the Premises and operate the Water Tank and to grant others rights to occupy or utilize the Premises and the Water Tank at Owner's sole discretion.

Owner also grants to Tenant a non-exclusive easement during the term of this Agreement for ingress, egress and regress and for the installation and transmission of utilities on property described on attached Exhibit ("Easement"). Tenant may install equipment, personal property, improvements, alterations or fixtures as listed on Exhibit C (the Equipment), or as Owner may otherwise approve in writing, such approval not to be unreasonably withheld, conditioned or denied. Any personal property owned by Tenant, whether or not fixed or attached to the Premises or Water Tank, shall remain the property of Tenant without regard to whether it appears on Exhibit C.

2. Use. Tenant shall use the Equipment and Premises for the purpose of constructing, installing, maintaining, improving and operating, at Tenant's expense, a communications facility, including antennae, equipment shelter or building, platforms, cable runs and incidental uses as described in this Agreement. Tenant shall be solely responsible for securing any and all building permits and approvals, zoning changes or approvals, variances, use permits, and other governmental permits from applicable governmental authorities, including any Federal Aviation Administration approval (collectively, Permits) prior to any construction on the Premises. Owner agrees to reasonably cooperate with Tenant in obtaining the Permits, and copies of the Permits shall be provided to Owner upon request. Tenant shall promptly pay all costs and expenses and shall not cause or permit any lien to be created against the Premises.

3. Initial Term. The Initial Term of this Agreement shall be five (5) years, commencing the earlier of (i) commencement of installation or (ii) one hundred eighty (180) days after the full execution of the Agreement, (the "Commencement Date") and terminating at midnight five years thereafter.

4. Renewal Term(s). Tenant shall have the right to extend this Agreement for one (1) additional term of five (5) years (First Renewal Term) on the same terms and conditions as set forth in this Agreement except that the Rent shall be increased as may be specified in the Special Terms and Conditions. This renewal shall be automatic unless Tenant notifies Owner of Tenants intention not to renew.

Upon expiration of the First Renewal Term [ten (10) years and one hundred eighty (180) days from the date of this agreement] the Owner shall have the right to terminate this Agreement for any reason, provided the Tenant shall have been notified in writing one hundred and eighty (180) days prior to the expiration date. In the event Owner chooses not to terminate the Agreement, the Tenant shall have the right to extend the Agreement for one (1) additional five (5) year term. However, both parties shall have the right to ask for a renegotiation of the terms and conditions of the Agreement at that time, provided a written notice of the desire to renegotiate terms and conditions is given the other party at least ninety (90) days prior to the Agreement termination date. Notice shall contain an explanation of the items and/or issues to be renegotiated. Owner and Tenant shall have the same rights of termination/negotiation at the end of each successive five (5) year term.

5. Rent. The rental amount for the initial term and subsequent renewal terms shall be as specified in the Special Terms and Conditions of this Agreement. Rental payments shall begin on the Commencement Date and shall be made monthly in advance on the first day of the month and shall be prorated for any partial month at the commencement or termination of this Agreement, based on the number of days in that month. Tenant will receive a monthly statement from Owner and payment shall be sent to the address contained in the monthly statement. Any past due amount shall be shown as such on the following months billing statement, and shall constitute sufficient notice to the Tenant of the need to bring the account current. Failure to do so within thirty (30) calendar days of the receipt of such notice shall be deemed a default. In the event the Agreement is terminated due to any reason except Tenant's default, Owner shall promptly refund any prepaid rents to Tenant.

6. Maintenance. The costs of maintaining the Water Tank, including painting of the exterior and finishing or painting the interior of the Water Tank, shall be borne by Owner. In the event damage is caused to Tenants equipment or personal property by Owners agents, or employees, the cost of repairing such damage shall be borne by Owner who shall, upon due notice and proof of loss provided by Tenant, timely reimburse Tenant the cost of repairing such damage.

Tenant shall maintain its antennas, transmission lines, equipment and equipment shelter in good operating condition. In the event damage is caused to the Water Tank by Tenant or Tenants agents, employees, contractors or subcontractors, either during the initial installation of the equipment or subsequent operational, construction, or maintenance activities, the cost of repairing such damage shall be borne by Tenant. The cost of repair may include, but would not be limited to the cost of lost water, disinfections, public notifications, and re-painting. Should Tenant fail to timely make repairs required by this Agreement, Owner may, at Owners option, make such repairs and Tenant shall promptly reimburse Owner for its costs and expenses incurred in such repair. Upon termination or expiration of this Lease Agreement, Tenant shall remove, within ninety (90) days thereof, its Equipment from the Water Tank and repair damage, if any, to the Water Tank caused by the removal of Tenants Equipment, normal wear and tear and damage due to casualty excepted. Tenants activities and operations and the Equipment shall not interfere with Owners maintenance, repair and operation of the Water Tank and its lighting system. Tenant shall be responsible for any damages it may cause to existing or future telecommunications equipment. Tenant shall be obligated to remove all permanent structures down to ground level unless Owner specifically approves of such structure or structures remaining in place. Underground or at grade items, such as slabs on grade, gravel, and vegetation shall not require removal. No underground items shall require removal.

7. Due Diligence Period. Tenants obligation to perform under this Agreement shall be subject to and conditioned upon:

(a) Tenants securing appropriate approvals for Tenants intended use of its Equipment on the Premises from the Federal Communications Commission, the Federal Aviation Administrator, and any other federal, state or local regulatory agency having jurisdiction over Tenants proposed use of the Equipment;

(b) Tenants obtaining, at its option, a title report or commitment for a leasehold title policy from a title insurance company of Tenants choice which must show no defects or restrictions of title or any liens or encumbrances which may adversely affect Tenants use of the Premises or Tenants ability to obtain financing;

(c) Tenants obtaining, at its option, a survey and analysis tests which must show no defects which, in the opinion of the Tenant may adversely affect Tenants use of the Premises;

(d) Tenants approval of the condition of the Premises, which may be subject to, at Tenants option, an environmental audit of the Premises performed by an environmental consulting firm of Tenants choice; and

(e) Tenants determination that the Water Tank is structurally appropriate for Tenant needs.

Tenant shall act with due diligence within ninety (180) days of the date of execution hereof to satisfy all conditions set forth above and to provide of the information required in the various exhibits. In the event that Tenant determines during the due diligence period that the Water Tank and the Premises are, in Tenants opinion, unacceptable to Tenant, then this Agreement shall terminate and be of no further force or effect.

8. Interference. Tenant agrees to install Equipment of types and generating frequencies which will not cause interference to transmissions or signals from users of the Water Tank as may be already in place on the Water Tank or on the Premises, and who are operating in full compliance with all FCC requirements. At Owners request, Tenant shall provide a detailed interference analysis showing potential conflicts between Tenants frequencies and those of the other users already in place on the Water Tank. If, upon installation and start-up of the Equipment, the Equipment causes such interference, Tenant will take all steps necessary to correct and eliminate the interference. If the interference cannot be eliminated within 48 hours after receipt of written notice from Owner to Tenant, Tenant shall temporarily disconnect the electric power and shut down the Equipment (except for intermittent operation for the purpose of testing, after performing maintenance, repair, modification, replacement, or other action taken for the purpose of correcting such interference) and if such interference is not corrected within 30 days after receipt of the written notice, Tenant agrees to remove the Equipment from the Water Tank and the Premises and this Agreement shall terminate as if by expiration.

9. Subsequent Tenants. Owner will require any proposed new co-locating tenant to develop the proper documentation showing that its proposed installation and the use thereof will not interfere with the existing tenant(s) equipment and use of the Tank prior to the execution of an agreement to allow such co-location. The existing tenant(s) shall review and approve such documentation, but shall not unreasonably nor arbitrarily withhold such review and approval.

The Owner will require any Agreement with a subsequent co-locating tenant to contain language which holds the new tenant liable for any and all damages to Tenants existing equipment and use thereof which may occur as a result of the installation and operation of their equipment. In the event of such interference by a subsequent tenant, Tenant shall have the right to enjoin such interference and if the interference is not remedied within thirty (30) days, Tenant shall have the right to terminate this Agreement immediately.

10. Utilities and Access. Tenant shall have the right to install utilities, to be separately metered at Tenants expense, and to improve present utilities on the Premises, including but not limited to the installation of emergency power generators. Tenant shall have the right to place utilities, (and all sleeves, conduits and cables necessary thereto), on a formal utility easement specifically given by Owner for that purpose in order to service the Equipment throughout the Initial Term or any Renewal Term of this Agreement. All utilities servicing Tenants equipment and facilities shall be placed underground. Tenant shall be responsible for all utility connection charges, and all utility use charges, for electricity or any other utility used by Tenant.

Tenant shall have access to the Premises and the Equipment at all times, 24 hours each day, through the Owners access drive. Owner shall maintain the access drive in good condition throughout the Initial Term of this Agreement and throughout any Renewal Term(s).

11. Termination. This Agreement may be terminated by either party in accordance with the provisions of Paragraph 4. This Agreement may be terminated on thirty (30) days prior written notice by either party upon a default of any covenant or term thereof by the other party, which default is not cured within sixty (60) days of receipt of written notice of such default. Any default which cannot be cured in sixty (60) days shall not be considered a default so long as the defaulting party has identified a cure which is satisfactory to the other party and is diligently pursuing such cure. Additionally, this Agreement may be terminated by the Tenant at any time for any reason or for no reason.

Upon termination of this Agreement Tenant shall immediately cease its operation, and shall have ninety (90) days from the termination date to remove all of Tenants Equipment from the Premises and shall make whatever repairs to the Water Tank and grounds that might be necessary to leave the Premises in a good, clean, and neat condition. Such repairs shall but not be limited to, physical repair and painting of damaged areas of the Water Tank caused by the operation or removal of the antennae and other equipment, and repair to the grounds (seeding, mulching, etc) on and around building removal areas.

12. Structural Analysis. Tenant shall be solely responsible to ensure that Tenants installation of the Equipment shall not significantly effect the structural integrity of the Water Tank, and that no damage results to the Water Tank due to installation of the Equipment. Owner agrees to furnish Tenant, promptly upon Tenant s request, true and accurate copies of all analyses performed on the Water Tank within the two years preceding the request and Tenant s attachment of antennas or Equipment on the Water Tank.

In the absence of such an analysis or if the most recent analyses are insufficient for Tenants needs, or if requested to do so by the Owner, Tenant shall be responsible for obtaining a new analysis by a structural engineer licensed to do business in the State of Arkansas. Tenant shall furnish a copy of the analysis to Owner. The cost of the new analysis shall be paid solely by Tenant. If reinforcements to the Water Tank are required for Tenants use, Tenant shall submit plans to the Owner, prepared by an engineer registered to do business in the State of Arkansas, for such reinforcements. Upon approval by the Owner, Tenant shall proceed with such reinforcements at Tenants sole cost after review and approval of the plans by the Owner.

Subsequent tenants may be required to perform an analysis on the Water Tank by a licensed structural engineer indicating that attachment of the Additional Antennas to the Water Tank does not impair the structural integrity of the Water Tank and will not materially diminish the Water Tanks function or useful life. All such Tank analyses shall be in compliance with current industry standards.

13. Taxes. Tenant shall pay any personal property taxes assessed on, or any portion of such taxes attributable to, Tenants Equipment. Tenant shall not pay real property taxes or other fees and assessments attributable to the Water Tank or the Premises.

14. Environmental Matters. Owner represents that, to Owners best knowledge, no Hazardous Materials are presently located on the Premises or Easement, and Owner agrees that it will provide, at no cost or expense to Tenant, for the removal of any Hazardous Materials if Hazardous Materials are present on the Premises or the Easement prior to the date of this Agreement or if Hazardous Materials are brought onto the Premises or Easement by Owner, its agents, servants, employees, licensees, invitees or contractors. If after Tenant takes possession of the Premises Hazardous Materials are discovered to exist on, under or beneath the Premises, Tenant may terminate this Agreement and Tenant shall owe no further duties, obligations or liability to Owner.

Tenant shall comply with all laws, ordinances, rules, orders or regulations applicable to Hazardous Materials. Tenant shall not use the Premises or the Easement for treatment, storage, transportation to or from, use or disposal of Hazardous Materials (other than petroleum products necessary for the operation of an emergency electrical generator to serve the Equipment). Tenant shall be responsible for any expense incident to the abatement or compliance with the requirements of any federal, state or local statutory or regulatory requirements caused, directly or indirectly, by the activities of the Tenant or Tenant's agents, employees or contractors.

As used in this Agreement, "Hazardous Materials" shall mean any and all polychlorinated biphenyls, petroleum products, asbestos, urea formaldehyde and other hazardous or toxic materials, wastes or substances, any pollutants, and/or contaminants, or any other similar substances or materials which are defined or identified as such in or regulated by any federal, state or local laws, rules or regulations (whether now existing or hereinafter enacted) pertaining to environmental regulations, contamination, cleanup or any judicial or administrative interpretation of such laws, rules or regulations or any substance that after release into the environment and upon exposure, ingestion, inhalation or assimilation, either directly from the environment or directly through food chains will or may reasonably be anticipated to cause death, disease, behavior abnormalities, cancer or genetic abnormalities.

15. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered, mailed by certified mail, return receipt requested, or by overnight service having a record of receipt to the addresses as given in the Special Terms and Conditions of this Agreement.

16. Title and Quiet Enjoyment. Owner represents and warrants that it has the full right, power and authority to execute and enter into this Agreement. Owner further warrants that Tenant shall have the quiet enjoyment of the Premises during the term of this Agreement. In the event the Premises is encumbered by a mortgage or deed of trust, Owner agrees, upon request of Tenant, to obtain and furnish to Tenant a non-disturbance and attornment agreement for each such mortgage or deed of trust, in a form reasonably acceptable to Tenant. Tenant may obtain title insurance on its interest in the Premises. Owner agrees to execute such documents as the title company may require in connection therewith.

17. **Representations and Warranties.** Tenant acknowledges that the primary use of the Tank is that of a municipal Water Tank. Owner makes no representations or warranties concerning the suitability of the Premises for Tenant's intended use as a site for the transmission and receipt of wireless communication signals.

18. **Assignment.** Tenant may not assign its interest in this Agreement without prior written approval by Owner, not to be unreasonably withheld, except that Tenant may assign its rights and obligations under this Agreement to an Affiliate. Additionally, Tenant may, upon notice to Owner, mortgage or grant a security interest in this Agreement and the Equipment, and may assign this Agreement and the Equipment to any mortgagees or holders of security interests, including their successors or assigns (collectively "Mortgagees"), provided such Mortgagee's interests in this Agreement are subject to all of the terms and provisions of this Agreement. In such event, Owner shall execute such consent to leasehold financing as may reasonably be required by Mortgagees. Owner agrees to notify Tenant and Tenants Mortgagees simultaneously of any default by Tenant and to give Mortgagees the same right to cure any default as Tenant or to remove any property of Tenant or Mortgagees located on the Premises, except that the cure period for any Mortgagees shall not be less than thirty (30) days after its receipt of the default notice, as provided in this Agreement. All such notices to Mortgagees shall be sent to Mortgagee's at the address specified by Tenant. Failure by Owner to give Mortgagees such notice shall not diminish Owner's rights against Tenant, but shall preserve all rights of Mortgagees to cure any default and to remove any property of Tenant or Mortgagees located on the Premises as provided in this Agreement. Owner hereby waives any and all lien rights it may have, statutory or otherwise concerning the Equipment or any portion thereof which shall be deemed personal property for the purposes of this Agreement, whether or not the same is deemed real or personal property under applicable laws, and Owner gives Tenant and Mortgagees the right to remove all or any portion of the same from time to time, whether before or after a default under this Agreement, in Tenants and/or Mortgagee's sole discretion and without Owner's consent.

19. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the parties, their respective heirs, successors, personal representatives and assigns.

20. **Compliance with Laws.** All installations and operations in connection with this Agreement by either party shall be conducted in accordance with all applicable rules and regulations of the Federal Communications Commission, Federal Aviation Agency, and any other applicable federal, state and local laws, codes and regulations. Tenant is solely responsible for the licensing, operation and maintenance of Tenants Equipment, including, without limitation, compliance with any terms of its Federal Communications Commission license with respect to Tank light observation and any notification to the Federal Aviation Administration in that regard.

Tenants Equipment, transmission lines, and any related devises, and the installation, maintenance and operation thereof, shall not damage the Water Tank or any property or properties adjoining, or interfere with the use of the Water Tank and the remainder of the Premises, by Owner or others, and Tenant shall defend, indemnify and hold harmless Owner from any such damage.

21. **General Liability Insurance.** Tenant will provide General Liability Insurance in an aggregate amount of $1,000,000.00 and name Owner as an additional insured on policy or policies. Tenant may satisfy this requirement by obtaining appropriate endorsement to any master policy of liability insurance Tenant may maintain. Owner and Tenant shall look initially to insurance for loss due to any peril that is covered by insurance and neither party's insurance company shall be subrogated to a claim against the other party, provided that nothing herein shall be construed to alter, limit or otherwise compromise that immunity afforded the City of Fayetteville under the Constitution and Statutes of the State of Arkansas. Tenant may satisfy the insurance requirements herein by obtaining the appropriate endorsement to any master policy of liability insurance that Tenant maintains.

22. The Exhibits. It is understood that not all of the exhibits referenced in these General Terms and Conditions may be necessary for a given Agreement, and that exhibits in addition to those referenced may be needed to fully describe the facilities and equipment installation.

23. Miscellaneous. This Agreement constitutes the entire agreement and understanding of Owner and Tenant and supersedes all offers, negotiations and other agreements. Any amendments to this Agreement must be in writing and executed by Owner and Tenant.

If either Owner or Tenant is represented by a real estate broker or agent in this transaction, that party shall be fully responsible for any fees or commission due such broker or agent and shall hold the other party harmless from any such claims arising from execution of this Agreement.

This Agreement shall be construed in accordance with the laws of the State of Arkansas.

If any term of this Agreement is found to be void or invalid, such invalidity shall not affect the remaining terms of this Agreement, which shall continue in full force and effect.

Each of the undersigned warrants that he or she has the full right, power and authority to execute this Agreement on behalf of the party indicated for the purposes herein contained.

In the event of casualty damage to the Premises or the Equipment, Tenant shall have the right to terminate if in Tenant's judgment the damage hinders its effective use. In the event of condemnation, Tenant shall have the right to any award specifically designated as compensation for Tenant's interest, value of equipment and cost of removal.

24. Memorandum of Agreement. Owner agrees to cooperate with Tenant in executing a Memorandum of Agreement if requested by the Tenant. Tenant may file or record the Memorandum of Agreement, or the entire Agreement, as is normal and customary in order to protect its interest in regard to any Mortgagees. Any Memorandum of Agreement shall have the form as given in Exhibit F.

SPECIAL CONDITIONS TO THIS AGREEMENT

1. **Rental Amounts.** The initial rental amount shall be $1500.00 per month.

2. **Notice Addresses.**

Owner:	Office of the Mayor City of Fayetteville 113 West Mountain Street Fayetteville, Arkansas 72701
Tenant:	Cricket Communications

3. **Exhibits.** The exhibits pertaining to this Agreement are:

Exhibit A. A description of the property upon which the Water Tank is located. (the Premises), and a description of the specific area within the Premises being leased.

Exhibit B. A description of any easement required for the installation of utilities. (the Easement).

Exhibit C. A list of all equipment, personal property, alterations, buildings, antennas, and all other improvements by Tenant to the Premises (the Equipment) .

Exhibit D. A form of the Notification of Commencement of Installation of Equipment.

Exhibit E. Plans for the installation, including a Plot Plan showing the location of any buildings to be placed on the Premises, details of the antennae attachment, easement location, leased area, a rendering of the appearance of the antennae on the Water Tank, and other items as may be necessary to fully describe the installation.

Exhibit F. The Memorandum of Agreement (a form of which is attached).

4. **Operational Frequency.** The frequency range for Tenants Equipment is ____________.

IN WITNESS WHEREOF, Owner and Tenant have executed Agreement as of the date and year first written above.

TENANT: CRICKET COMMUNICATIONS

By: ______________________________

ATTEST:

By: ______________________________

Title: ____________________________

OWNER: CITY OF FAYETTEVILLE

By: ______________________________
DAN COODY, Mayor

ATTEST:

____
HEATHER WOODRUFF, City Clerk

ACKNOWLEDGMENTS

State of ARKANSAS,
County of WASHINGTON

OWNER:

I, ______________________, a Notary Public of the County and State aforesaid, certify that ________________________ personally appeared before me this day and acknowledged that he/she is MAYOR of the CITY OF FAYETTEVILLE, a municipal corporation, and that by authority duly given and as the act of the said municipal corporation, the foregoing instrument was signed in its name.

WITNESS my hand and seal this ___ day of ___________, 20__.

(SEAL)

____
Notary Public

My Commission Expires:______________

TENANT:

I, ________________, a Notary Public of the County and State aforesaid, certify that ______ _________________________personally appeared before me this day and acknowledged that he/she is _____________ of ______________________, a registered corporation in the State of ________________, and that by authority duly given and as the act of the said corporation, the foregoing instrument was signed in its name.

WITNESS my hand and seal this _____ Day of __________, 20__.

____
Notary Public

(SEAL)

My Commission Expires:______________

FORM OF MEMORANDUM OF AGREEMENT

This **MEMORANDUM OF AGREEMENT** is entered into on this ___ day of __________, 20___, by and between the City of Fayetteville and Cricket Communications.

1. Owner and Tenant entered into a Communications Site Lease Agreement ('Agreement) on the _____ day of ___________, 20___, for the purpose of installing, operating and maintaining a radio communications facility and other improvements at the Township Water Tank. All of the foregoing are set forth in the Agreement

2. The Land which is the subject of the Agreement is described in Exhibit A annexed hereto. The portion of the Land being leased to Tenant is described in Exhibit annexed hereto.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Agreement as of the day and year first above written.

OWNER: CITY OF FAYETTEVILLE

By: ________________________________

DAN COODY, Mayor

ATTEST:

____

HEATHER WOODRUFF, City Clerk

TENANT: CRICKET COMMUNICATIONS

By:______________________________

Title: ____________________________

ATTEST:

By: ______________________________

Title: ____________________________

ACKNOWLEDGMENTS

State of ARKANSAS,
County of WASHINGTON

OWNER:

I, _________________ , a Notary Public of the County and State aforesaid, certify that ____________ ____________ personally appeared before me this day and acknowledged that he/she is MAYOR of the CITY OF FAYETTEVILLE, a municipal corporation, and that by authority duly given and as the act of the said municipal corporation, the foregoing instrument was signed in its name.

WITNESS my hand and seal this ___ day of ____________, 20___.

(SEAL)

____
Notary Public

My Commission Expires:_______________

TENANT:

I, _________________ , a Notary Public of the County and State aforesaid, certify that _____________ _________________personally appeared before me this day and acknowledged that he/she is ______________ of ________________________, a registered corporation in the State of __________________, and that by authority duly given and as the act of the said corporation, the foregoing instrument was signed in its name.

WITNESS my hand and seal this _____ Day of ___________, 20___.

(SEAL)

____
Notary Public

My Commission Expires:_______________

EXHIBIT A

(Property Description of Township Tank Site)

A part of the Southeast Quarter of the Southeast Quarter of Section 35, Township 17 North, Range 30 West, more particularly described as follows: Beginning at a point which is 594 feet East and 300 feet North of the Southwest corner of said 40 acre tract; thence East 101 feet; thence North 525 feet; thence West 101 feet; thence South 525 feet to the point of beginning, containing 1.22 acres, more or less.

EXHIBIT B
(The Easement)

A description of any easement that might be required for utility installation.

EXHIBIT C
(The Equipment)

A list of all of Tenant's equipment on the site.

EXHIBIT D
(Form of Notification of Commencement of Installation of Equipment)

To: Office of the Mayor
City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

Dear Mayor ________________:

This letter is to give you notice of our intent to begin the Installation of Equipment at the Township Tank Site in conformance with the Agreement between the City and Cricket Communications executed on the ______ Day of ______________, 200__.

Cricket Communications certifies that all Permits, Reports, Plans, and Studies required to be performed under the terms of the Agreement have been performed and approved by the appropriate authority.

Signed:

____
For Cricket Communications

____
Title

EXHIBIT E
(Plans)

Plans for the installation, including a Plot Plan showing the location of any buildings to be placed on the Premises, details of the antennae attachment, easement location, leased area, a rendering of the appearance of the antennae on the Water Tank, and other items as may be necessary to fully describe the installation.

EXHIBIT F
(Memorandum of Agreement)

FORM OF MEMORANDUM OF AGREEMENT

This **MEMORANDUM OF AGREEMENT** is entered into on this ___ day of __________, 20___, by and between the City of Fayetteville and Cricket Communications.

1. Owner and Tenant entered into a Communications Site Lease Agreement (Agreement) on the _____ day of __________, 20___, for the purpose of installing, operating and maintaining a radio communications facility and other improvements at the Township Water Tank. All of the foregoing are set forth in the Agreement

2. The Land which is the subject of the Agreement is described in Exhibit A annexed hereto. The portion of the Land being leased to Tenant is described in Exhibit annexed hereto.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Agreement as of the day and year first above written.

OWNER: CITY OF FAYETTEVILLE

By: ______________________________
DAN COODY, Mayor

ATTEST:

____
HEATHER WOODRUFF, City Clerk

TENANT: CRICKET COMMUNICATIONS

By: ______________________________

Title: ______________________________

ATTEST:

By: ______________________________

Title: ______________________________

EXHIBIT F (Cont'd)

ACKNOWLEDGMENTS

State of ARKANSAS,
County of WASHINGTON

OWNER:

I, ________________ , a Notary Public of the County and State aforesaid, certify that ____________ ____________ personally appeared before me this day and acknowledged that he/she is MAYOR of the CITY OF FAYETTEVILLE, a municipal corporation, and that by authority duly given and as the act of the said municipal corporation, the foregoing instrument was signed in its name.

WITNESS my hand and seal this ___ day of ____________, 20___.

(SEAL)

____
Notary Public

My Commission Expires:______________

TENANT:

I, ________________ , a Notary Public of the County and State aforesaid, certify that _____________ _________________personally appeared before me this day and acknowledged that he/she is ______________ of ________________________, a registered corporation in the State of _________________, and that by authority duly given and as the act of the said corporation, the foregoing instrument was signed in its name.

WITNESS my hand and seal this _____ Day of ___________, 20___.

(SEAL)

____
Notary Public

My Commission Expires:______________

RESOLUTION NO. ________

RESOLUTION OF THE CITY COUNCIL OF FAYETTEVILLE CERTIFYING LOCAL GOVERNMENT ENDORSEMENT OF BUSINESS TO PARTICIPATE IN THE ADVANTAGE ARKANSAS PROGRAM (ALSO KNOWN AS THE ARKANSAS ENTERPRISE ZONE PROGRAM - ACT 947 OF 1993 as amended).

WHEREAS, the local government must endorse a business to participate in the Advantage Arkansas Program and benefit from the refunds/tax credits as provided in the Arkansas Enterprise Zone Program Regulations of 1993 as amended; and

WHEREAS, said endorsement must be made on specific form available from the Arkansas Department of Economic Development; and

WHEREAS, Pinnacle Foods Corporation located at 1100 W. 15th Street has sought to participate in the program and more specifically has requested benefits accruing from expansion of the specific facility; and

WHEREAS, Pinnacle Foods Corporation has agreed to furnish the local government all necessary information for compliance.

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

1. Pinnacle Foods Corporation be endorsed by the City of Fayetteville for benefits from the refunds/tax credits as provided in the Arkansas Enterprise Zone Program Regulations of 1993 as amended.

2. The Department of Finance and Administration be authorized to refund local sales and use taxes to Pinnacle Foods Corporation, as related to the Advantage Arkansas Program.

3. This resolution shall take effect immediately.

Pinna
A. 3.

____
Title of head of governing body

Date Passed: ______________

Attest: ______________
Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY

LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **City Council Members**

FROM: **Kit Williams,** City Attorney

DATE: **December 19, 2001**

RE: **Sale of City Owned Property**

Attached is the newly revised Ordinance for the sale of city-owned real property. All changes are on the second page in subsection H. Exemptions.

As you see we separated industrial, business and technology park land sales from sales to other public entities. We then required the sale to other public entities to meet the reduced notice requirement of sales to non-profit corporations for charitable purposes.

Please READ subsection H. and inform me suggested changes or additions **PRIOR** to our next meeting of January 2, 2002.

Sale o
B. 1.

ORDINANCE NO. ______

AN ORDINANCE AMENDING CHAPTER 34: FINANCE AND REVENUE, OF THE CODE OF FAYETTEVILLE, TO ESTABLISH A FORMAL PROCESS FOR THE SALE OF MUNICIPALLY-OWNED REAL PROPERTY.

WHEREAS, from time to time, the City of Fayetteville finds it necessary and desirable to offer for sale certain parcels of real property in its possession; and,

WHEREAS, the sale of any such municipally-owned real property is a matter of great importance and concern to the citizens of the City of Fayetteville;

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

Section 1. That Chapter 34: Finance and Revenue, Code of Fayetteville is hereby amended by inserting the following:

§34.27 Sale of municipally-owned real property.

(A) No municipally-owned real property shall be offered for sale without the express authorization, by resolution, of the City Council. The City Council shall determine whether the property should be rezoned prior to offering it for sale.

(B) Such resolutions shall contain a specific finding by the City Council that the subject real property no longer serves a municipal purpose.

(C) Two (2) simultaneous and independent appraisals of the real property shall be obtained for the Council's consideration, dated within six (6) months of the proposed sale.

(D) Public notice shall be given no less than thirty (30) calendar days before the first City Council meeting at which such resolution is introduced, by all of the following means:

(1) A conspicuous display advertisement placed in a newspaper of general circulation in the City on at least four (4) separate occasions;

(2) Certified mail, return receipt requested, to all adjacent property owners;

(3) Signs, prominently displayed, and at all approaches to the subject real property, announcing that the City Council will be considering the sale of the real

property, the date on which the sale is to be debated, as well as the telephone number of the Mayor's Office.

(E) Upon an affirmative vote of the City Council, the City shall solicit sealed bids, at a minimum price set by the City Council, from all interested parties. Bids must equal or exceed the minimum price set by the City Council and the appraised value of the property.

(F) The City shall sell the subject real property to the highest qualified bidder. In the event none of the bids from a qualified bidder equals the minimum price set by the City Council, the City shall reject all bids, and may reopen the bidding, upon City Council approval.

(G) Upon receipt of an acceptable bid, and authorization by a separate resolution of the City Council, the conveyance of the real property shall be performed by the Mayor and City Clerk.

(H) **Exemptions from the Requirements of this Ordinance.**

(1) The sale of industrial, business, and technology park lands are expressly exempt from the provisions of this ordinance.

(2) The sale of real property to other public entities or to a non-profit corporation for charitable purposes shall only require a single appraisal, a single display advertisement placed in a newspaper of general circulation in the City, the certified mail, and sign requirements set forth in subsections (D) (2) & (3). Following the setting of a minimum price by the City Council no lower than the appraised value, the public entity or non-profit corporation may purchase the property at that price, and the sale shall be exempt from the provisions of subsections (E), (F), & (G) of this ordinance.

PASSED AND APPROVED this _____ day of ________________, 2006.

APPROVED:

By: ______________________
DAN COODY, Mayor

ATTEST:

By: ______________________
HEATHER WOODRUFF, City Clerk

ORDINANCE NO. ______

AN ORDINANCE TO PREVENT INJURY OR ANNOYANCE WITHIN THE CORPORATE LIMITS OF FAYETTEVILLE BY REGULATING MOTOR VEHICLE RACING FACILITIES SO THAT THESE FACILITIES WILL NOT BE NUISANCES

WHEREAS, the City Council of Fayetteville, Arkansas recognizes the value, attraction, and history of motor vehicle racing facilities within and near the corporate limits of Fayetteville; and

WHEREAS, the City Council of Fayetteville, Arkansas recognizes and agrees with the Arkansas State Legislature that motor vehicle racing facilities cause noise, air pollution, and traffic congestion; and

WHEREAS, many citizens have petitioned the City Council to abate a motor vehicle racing facility as a nuisance because of its late hours of operation and loud noise; and

WHEREAS, previous owners and/or operators of this motor vehicle racing facility were enjoined by the Washington County Chancery Court from operating after 10:00 P.M. because the Chancellor held that the facility's "operation after 10:00 P.M. does constitute a nuisance."

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

Section 1. **Finding of Nuisance and Need for Abatement.**

The City Council of the City of Fayetteville, Arkansas determines and finds that operation of a motor vehicle racing facility is a nuisance to the citizens and city of Fayetteville, Arkansas if operated or used other than as prescribed in Section 2 and, therefore, should be abated by the reasonable regulations required by this ordinance.

Racew
C. 1.

Section 2. **Abatement of Nuisance.**

A. All motor vehicle racing facilities shall only be allowed to operate during the period of noon until 10:00 P.M. for one day per week during the racing season (which shall be only within the months of May, June, July, August, and September).

B. Up to three additional special racing events per year may be authorized by City Council Resolution.

C. The motor vehicle racing facility may also be open for once a week practice sessions of no more than three hours total duration sometime during the hours of noon to 8:00 P.M.

Section 3. **Jurisdiction of This Ordinance.**

Pursuant to A.C.A. §14-54-103(1), this ordinance to abate a nuisance shall be applicable to any and all motor vehicle racing facilities located within the corporate limits of Fayetteville and for one (1) mile beyond the city limits as prescribed in A.C.A. §14-262-102.

Section 4. **Definitions.**

A. "**Motor vehicle racing facility**" for purposes of this ordinance shall mean any facility designed or used for practicing or for competitive racing by automobiles or trucks which are modified for racing or for practice of competitive racing by motorcycles or other motor vehicles.

B. "Motor vehicle racing facility" does **NOT** include facilities such as Lokomotion which only allows its customers to operate its own low powered and quiet vehicles and operates in such a way that it is not a nuisance.

Section 5. **Penalty.**

A. Any owner, lessor or lessee of real property upon which is located a motor vehicle racing facility and any operator, manager, or promoter of such facility shall ensure such facility is operated within the limits of this ordinance and shall be guilty of a misdemeanor for any violation of the requirements of this ordinance.

B. Any driver or operator of a motor vehicle upon a motor vehicle racing facility shall be guilty of a misdemeanor if the driver or operator operates his motorized vehicle in violation of any of the terms of this ordinance.

C. Each hour or part thereof in violation of the operational hour limitations of this Ordinance shall constitute a separate violation of this ordinance and shall be punished by a fine up to $500.00.

PASSED and **APPROVED** this the _____ day of January, 2002.

APPROVED:

By: ____________________________

DAN COODY, Mayor

ATTEST:

By: ____________________________

Heather Woodruff, City Clerk

ORDINANCE NO. ______

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PASSED and **APPROVED** this the _____ day of January, 2002.

APPROVED:

By: ____________________________
DAN COODY, Mayor

ATTEST:

By: ____________________________
Heather Woodruff, City Clerk

ORDINANCE NO. ______

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B. Any driver or operator of a motor vehicle upon a motor vehicle racing facility shall be guilty of a misdemeanor if the driver or operator operates his motorized vehicle in violation of any of the terms of this ordinance.

C. Each hour or part thereof in violation of the operational hour limitations of this Ordinance shall constitute a separate violation of this ordinance and shall be punished by a fine up to $500.00.

Section 6. Nothing in this ordinance removes or reduces a property owner's right to sue or seek an injunction against any owner or operator of a motor vehicle racing facility if such facility constitutes a private or public nuisance to that property owner.

PASSED and **APPROVED** this the _____ day of January, 2002.

APPROVED:

By: ____________________________
DAN COODY, Mayor

ATTEST:

By: ____________________________
Heather Woodruff, City Clerk

RESOLUTION NO. ______

A RESOLUTION EXPRESSING THE CITY COUNCIL'S OPPOSITION TO THE PROPOSED SEVENTY-FIVE PERCENT (75%) RATE INCREASE FOR BASIC CABLE TELEVISION SERVICE PROPOSED BY COX COMMUNICATIONS, INC.

WHEREAS, the programming on the Fayetteville Government Channel and the citizens' Community Access Television is currently available only to Cox Cable subscribers; and

WHEREAS, the low and moderate income residents of the City of Fayetteville have come to rely on the availability of a reasonably priced basic cable rate plan in order to receive the programming on the Fayetteville Government Channel and the citizens' Community Access Television; and

WHEREAS, the proposed Seventy-Five percent (75%) rate increase for basic cable television service proposed by Cox Communications, Inc. would place a significant financial burden on low and moderate income residents wishing to receive said programming.

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

Section 1. That the City Council hereby expresses its opposition to the proposed Seventy-Five Percent (75%) rate increase for basic cable television service proposed by Cox Communications, Inc.

PASSED and **APPROVED** this ______ day of ____________________, 2001.

APPROVED:

By: ______________________________
DAN COODY, Mayor

ATTEST:

By: ______________________________
HEATHER WOODRUFF, City Clerk

Cable
C. 2.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: MAYOR COODY AND CITY COUNCIL MEMBERS

FROM: MARVIN HILTON, CABLE ADMINISTRATOR MH 12-26-01

SUBJECT: CABLE BASIC RATE INCREASE

DATE: DECEMBER 26, 2001

Please find attached Cox Communications' justification for the recent Basic Rate increase and a short compilation of Basic Cable Rates of other cities. Alderman Trent Trumbo requested that these be passed on to the City Council.

CC: Hugh Earnest, Urban Development Director
Kit Williams, City Attorney

Cox Communications, Inc.
1400 Lake Hearn Drive
Atlanta, Georgia 30319
(404) 843-5000

COX COMMUNICATIONS

July 10, 2001

The Honorable Dan Coody
Mayor
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Re: City of Fayetteville (AR0037) FCC Forms 1240 and 1205

Dear Mayor Coody:

Federal Communications Commission ("FCC") regulations allow TCA Cable Partners d/b/a Cox Communications ("Cox") to adjust its rates for the basic service tier ("BST") to reflect changes in programming costs, franchise-related costs, inflation, the addition of channels or services, and actual equipment and labor costs, among other things. To account for such adjustments, cable operators such as Cox may be required to file various FCC Forms, such as FCC Form 1240. Because Cox has not increased its BST rates in Fayetteville for over three years, FCC rules have not required the filing of Form 1240 during that period.

As a result of Cox's on-going rebuild of its cable system, however, Cox is consolidating its headends in Northwest Arkansas in order to deliver additional channels and new advanced services such as high-speed Internet access and digital cable to its customers. Cox's Fayetteville headend eventually will be decommissioned and our Fayetteville customers will be served from the rebuilt Springdale headend. As our customers begin to be served from the Springdale headend, they will receive a new, larger channel selection and new advanced services. Under the FCC's rules, the addition of these new channels and services justifies a rate adjustment.

Therefore, enclosed are FCC Forms 1240 and 1205 that justify rate adjustments in the rebuilt area of Cox's cable system in Fayetteville for the BST and associated equipment and installations. The selected rates for the rebuilt area are attached to Cox's FCC Form 1240 and are entitled "Proposed Rate Structure." Customer bills will reflect these changes as they migrate to the Northwest Arkansas headend. As noted above, the Fayetteville headend will no longer be in service after all customers have migrated to the Northwest Arkansas headend.

We're excited to be able to deliver this great new line-up and these advanced services, including high speed Internet access and digital cable, to the Fayetteville community. We're also proud that this transition to the enhanced Northwest Arkansas line-up represents the first adjustment to Fayetteville's Basic cable rates in over 3 years.

Please contact the undersigned at 404-843-5407 or your cable system manager, Dennis Yocum, at 510-717-3736 should you have any questions about the filing.

Sincerely,

Faye W. Eden

Faye W. Eden
Manager, Rate Regulation

Cc: Dennis Yocum
Sabrina Warr

Enclosures

Federal Communications Commission
Washington, DC 20554

Approved by OMB 3060-0685

FCC FORM 1240
UPDATING MAXIMUM PERMITTED RATES FOR REGULATED CABLE SERVICES

Cable Operator:

Name of Cable Operator		
TCA Cable Partners d/b/a Cox Communications		
Mailing Address of Cable Operator		
205 E. Johnson Street		
City	State	ZIP Code
Springdale	**AR**	**72764**

	YES	NO
1. Does this filing involve a single franchise authority and a single community unit?		X

If yes, complete the franchise authority information below and enter the associated CUID number here:

	YES	NO
2. Does this filing involve a single franchise authority but multiple community units?		X

If yes, enter the associated CUIDs below and complete the franchise authority information at the bottom of this page:

3. Does this filing involve multiple franchise authorities?

If yes, attach a separate sheet for each franchise authority and include the following franchise authority information with its associated CUID(s):

Franchise Authority Information:

Name of Local Franchising Authority
See Attached

4. For what purpose is this Form 1240 being filed? Please put an "X" in the appropriate box.

a. Original Form 1240 for Basic Tier	X
b. Amended Form 1240 for Basic Tier	
c. Original Form 1240 for CPS Tier	
d. Amended Form 1240 for CPS Tier	

		TO	
5. Indicate the one year time period for which you are setting rates (the Projected Period).	06/01/01	05/31/02	(mm/yy)
6. Indicate the time period for which you are performing a true-up.	01/01/00	12/31/00	(mm/yy)

7. Status of Previous Filing of FCC Form 1240 (enter an "x" in the appropriate box)

	YES	NO
a. Is this the first FCC Form 1240 filed in any jurisdiction?		X
b. Has an FCC Form 1240 been filed previously with the FCC?		X

If yes, enter the date of the most recent filing: (mm/dd/yy)

	YES	NO
c. Has an FCC Form 1240 been filed previously with the Franchising Authority?	X	

If yes, enter the date of the most recent filing: 02/28/00 (mm/dd/yy)

TCA Cable Partners d/b/a Cox Communications
Community Listing

AR0037	Mayor Dan Coody City of Fayetteville 113 W. Mountain Fayetteville, AR 72701
AR0058	City of Springdale 201 N. Spring Street Springdale, AR 72764

8. Status of Previous Filing of FCC Form 1210 (enter an "x" in the appropriate box)

	YES	NO
a. Has an FCC Form 1210 been previously filed with the FCC?		X
If yes, enter the date of the most recent filing: (mm/dd/yy)		
b. Has an FCC Form 1210 been previously filed with the Franchising Authority?	X	
If yes, enter the date of the most recent filing: (mm/dd/yy)	02/27/95	

9. Status of FCC Form 1200 Filing (enter an "x" in the appropriate box)

	YES	NO
a. Has an FCC Form 1200 been previously filed with the FCC?		X
If yes, enter the date filed: (mm/dd/yy)		
b. Has an FCC Form 1200 been previously filed with the Franchising Authority?	X	
If yes, enter the date filed: (mm/dd/yy)	02/26/98	

10. Cable Programming Services Complaint Status (enter an "x" in the appropriate box)

	YES	NO
a. Is this form being filed in response to an FCC Form 329 complaint?		X
If yes, enter the date of the complaint: (mm/dd/yy)		

	YES	NO
11. Is FCC Form 1205 Being Included With This Filing	X	

12. Selection of "Going Forward" Channel Addition Methodology (enter an "x" in the appropriate box)

[X] Check here if you are using the original rules [MARKUP METHOD].

[ ] Check here if you are using the new, alternative rules [CAPS METHOD].

	YES	NO
If using the CAPS METHOD, have you elected to revise recovery for channels added during the period May 15, 1994 to Dec. 31, 1994?		

13. Headend Upgrade Methodology

**NOTE: Operators must certify to the Commission their eligibility to use this upgrade methodology and attach an equipment list and depreciation schedule.*

[ ] Check here if you are a qualifying small system using the streamlined headend upgrade methodology.

Part I: Preliminary Information

Module A: Maximum Permitted Rate From Previous Filing

Line	Line Description	a Basic	b Tier 2	c Tier 3	d Tier 4	e Tier 5
A1	Current Maximum Permitted Rate	$15.0342				

Module B: Subscribership

Line	Line Description	a Basic	b Tier 2	c Tier 3	d Tier 4	e Tier 5
B1	Average Subscribership For True-Up Period 1	65,638				
B2	Average Subscribership For True-Up Period 2					
B3	Estimated Average Subscribership For Projected Period	67,122				

Module C: Inflation Information

Line	Line Description	
C1	Unclaimed Inflation: Operator Switching From 1210 To 1240	1.0000
C2	Unclaimed Inflation: Unregulated Operator Responding to Rate Complaint	1.0000
C3	Inflation Factor For True-Up Period 1 [Wks 1]	1.0216
C4	Inflation Factor For True-Up Period 2 [Wks 1]	
C5	Current FCC Inflation Factor	1.0162

Module D: Calculating the Base Rate

Line	Line Description	a Basic	b Tier 2	c Tier 3	d Tier 4	e Tier 5
D1	Current Headend Upgrade Segment					
D2	Current External Costs Segment	$2.2937				
D3	Current Caps Method Segment					
D4	Current Markup Method Segment	$0.0000				
D5	Current Channel Movement and Deletion Segment	$0.0000				
D6	Current True-Up Segment	$0.0089				
D7	Current Inflation Segment	$0.1310				
D8	Base Rate [A1-D1-D2-D3-D4-D5-D6-D7]	**$12.6006**				

Part II: True-Up Period

Module E: Timing Information

Line	Line Description		
E1	What Type of True-Up Is Being Performed? (Answer "1", "2", or "3". See Instructions for a description of these types.)		2
	If "1", go to Module I. If "2", answer E2 and E3. If "3", answer E2, E3, E4, and E5.		
E2	Number of Months in the True-Up Period 1		12
E3	Number of Months between the end of True-Up Period 1 and the end of the most recent Projected Period		5
E4	Number of Months in True-Up Period 2 Eligible for Interest		
E5	Number of Months True-Up Period 2 Ineligible for Interest		

Module F: Maximum Permitted Rate For True-Up Period 1

Line	Line Description	a Basic	b Tier 2	c Tier 3	d Tier 4	e Tier 5
F1	Caps Method Segment For True-Up Period 1 [Wks 2]					
F2	Markup Method Segment For True-Up Period 1 [Wks 3]					
F3	Chan Mvmnt Deletn Segment For True-Up Period 1 [Wks' 4/5]					
F4	True-Up Period 1 Rate Eligible For Inflation [D8+F1+F2+F3]	$12.6006				
F5	Inflation Segment for True-Up Period 1 [(F4*C3)-F4]	$0.2722				
F6	Headend Upgrade Segment For True-Up Period 1 [Wks 6]					
F7	External Costs Segment For True-Up Period 1 [Wks 7]	$2.1813				
F8	True-Up Segment For True-Up Period 1	$0.0089				
F9	Max Perm Rate for True-Up Period 1 [F4+F5+F6+F7+F8]	$15.0630				

Module G: Maximum Permitted Rate For True-Up Period 2

Line	Line Description	a Basic	b Tier 2	c Tier 3	d Tier 4	e Tier 5
G1	Caps Method Segment For True-Up Period 2 [Wks 2]					
G2	Markup Method Segment For True-Up Period 2 [Wks 3]					
G3	Chan Mvmnt Deletn Segment For True-Up Period 2 [Wks' 4/5]					
G4	TU Period 2 Rate Eligible For Inflation [D8+F5+G1+G2+G3]					
G5	Inflation Segment for True-Up Period 2 [(G4*C4)-G4]					
G6	Headend Upgrade Segment For True-Up Period 2 [Wks 6]					
G7	External Costs Segment For True-Up Period 2 [Wks 7]					
G8	True-Up Segment For True-Up Period 2					
G9	Max Perm Rate for True-Up Period 2 [G4+G5+G6+G7+G8]					

Module H: True-Up Adjustment Calculation

Line	Line Description	a Basic	b Tier 2	c Tier 3	d Tier 4	e Tier 5
Adjustment For True-Up Period 1						
H1	Revenue From Period 1	$11,648,178.6333				
H2	Revenue From Max Permitted Rate for Period 1	$11,864,501.2817				
H3	True-Up Period 1 Adjustment [H2-H1]	$216,322.6483				
H4	Interest on Period 1 Adjustment	$22,878.6551				
Adjustment For True-Up Period 2						
H5	Revenue From Period 2 Eligible for Interest					
H6	Revenue From Max Perm Rate for Period 2 Eligible For Interest					
H7	Period 2 Adjustment Eligible For Interest [H6-H5]					
H8	Interest on Period 2 Adjustment (See instructions for formula)					
H9	Revenue From Period 2 Ineligible for Interest					
H10	Revenue From Max Perm Rate for Period 2 Ineligible for Interest					
H11	Period 2 Adjustment Ineligible For Interest [H10-H9]					
Total True-Up Adjustment						
H12	Previous Remaining True-Up Adjustment					
H13	Total True-Up Adjustment [H3+H4+H7+H8+H11+H12]	$239,201.3034				
H14	Amount of True-Up Claimed For This Projected Period	$239,201.3034				
H15	Remaining True-Up Adjustment [H13-H14]	$0.0000				

Part III: Projected Period

Module I: New Maximum Permitted Rate

Line	Line Description	a Basic	b Tier 2	c Tier 3	d Tier 4	e Tier 5
I1	Caps Method Segment For Projected Period [Wks 2]					
I2	Markup Method Segment For Projected Period [Wks 3]					
I3	Chan Mvmnt Deletn Segment For Projected Period [Wks 4/5]					
I4	Proj. Period Rate Eligible For Inflation [D8+F5+G5+I1+I2+I3]	$12.8728				
I5	Inflation Segment for Projected Period [(I4*C5)-I4]	$0.2085				
I6	Headend Upgrade Segment For Projected Period [Wks 6]					
I7	External Costs Segment For Projected Period [Wks 7]	$2.6829				
I8	True-Up Segment For Projected Period	$0.2985				
I9	Max Permitted Rate for Projected Period [I4+I5+I6+I7+I8]	$16.0627				
I10	Operator Selected Rate For Projected Period	$15.85				

Note: The maximum permitted rate figures do not take into account any refund liability you may have. If you have previously been ordered by the Commission or your local franchising authority to make refunds, you are not relieved of your obligation to make such refunds even if the permitted rate is higher than the contested rate or your current rate.

Certification Statement

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE TITLE 18, SECTION 1001), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

I certify that the statements made in this form are true and correct to the best of my knowledge and belief, and are made in good faith.

Signature Faye W. Eden	Date July 10, 2001
Name and Title of Person Completing this Form: Faye W. Eden- Manager Rate Regulation	
Telephone number 404.843.5407	Fax Number 404.843.5845

Worksheet 1 - True-Up Period Inflation

For instructions, see Appendix A of Instructions For FCC Form 1240

Line	Period	FCC Inflation Factor
101	Jan-2000	3.00%
102	Feb-2000	3.00%
103	Mar-2000	3.00%
104	Apr-2000	2.40%
105	May-2000	2.40%
106	Jun-2000	2.40%
107	Jul-2000	1.62%
108	Aug-2000	1.62%
109	Sep-2000	1.62%
110	Oct-2000	1.62%
111	Nov-2000	1.62%
112	Dec-2000	1.62%
113	Average Inflation Factor for True-Up Period 1	1.0216
114	Jan-00	
115	Month 14	
116	Month 15	
117	Month 16	
118	Month 17	
119	Month 18	
120	Month 19	
121	Month 20	
122	Month 21	
123	Month 22	
124	Month 23	
125	Month 24	
126	Average Inflation Factor for True-Up Period 2	

Worksheet 7 - External Costs
True-Up Period

For instructions, see Appendix A of Instructions For FCC Form 1240

True-Up Period	Projected Period
X	

Question 1. For which time period are you filling out this worksheet? (Put an "X" in the appropriate box.)

Question 2. How long is the first period, in months, for which rates are being set with this worksheet? **12**

Question 3. How long is the second period, in months, for which rates are being set with this worksheet? **0**

Line	Line Description	a Basic	b Tier 2	c Tier 3	d Tier 4	e Tier 5
	Period 1					
	External Costs Eligible for Markup					
701	Cost of Programming For Channels Added Prior to 5/15/94 or After 5/15/94 Using Markup Method For Period	$1,380,729.14				
702	Retransmission Consent Fees For Period					
703	Copyright Fees For Period	$217,914.35				
704	External Costs Eligible For 7.5% Markup	$1,598,643.49				
705	Marked Up External Costs	$1,718,541.7533				
	External Costs Not Eligible for Markup					
706	Cable Specific Taxes For Period					
707	Franchise Related Costs For Period					
708	Commission Regulatory Fees For Period					
709	Total External Costs For Period	$1,718,541.7533				
710	Monthly, Per-Subscriber External Costs For Period 1	$2.1813				
	Period 2					
	External Costs Eligible for Markup					
711	Cost of Programming For Channels Added Prior to 5/15/94 or After 5/15/94 Using Markup Method For Period					
712	Retransmission Consent Fees For Period					
713	Copyright Fees For Period					
714	External Costs Eligible For 7.5% Markup					
715	Marked Up External Costs					
	External Costs Not Eligible for Markup					
716	Cable Specific Taxes For Period					
717	Franchise Related Costs For Period					
718	Commission Regulatory Fees For Period					
719	Total External Costs For Period					
720	Monthly, Per-Subscriber External Costs For Period 2					

Worksheet 7 - External Costs
Projected Period

For instructions, see Appendix A of Instructions For FCC Form 1240

	True-Up Period	Projected Period
Question 1. For which time period are you filling out this worksheet? [Put an "X" in the appropriate box.]		X
Question 2. How long is the first period, in months, for which rates are being set with this worksheet?		12
Question 3. How long is the second period, in months, for which rates are being set with this worksheet?		0

Line	Line Description	a Basic	b Tier 2	c Tier 3	d Tier 4	e Tier 5
	Period 1					
	External Costs Eligible for Markup					
701	Cost of Programming For Channels Added Prior to 5/15/94 or After 5/15/94 Using Markup Method For Period	$1,779,896.69				
702	Retransmission Consent Fees For Period					
703	Copyright Fees For Period	$230,309.84				
704	External Costs Eligible For 7.5% Markup	$2,010,206.53				
705	Marked Up External Costs	$2,160,972.0176				
	External Costs Not Eligible for Markup					
706	Cable Specific Taxes For Period					
707	Franchise Related Costs For Period					
708	Commission Regulatory Fees For Period					
709	Total External Costs For Period	$2,160,972.0176				
710	Monthly, Per-Subscriber External Costs For Period 1	$2.6829				

Approved By OMB 3060-0685

Worksheet 8 - True-Up Rate Charged

For instructions, see Appendix A of Instructions For FCC Form 1240

Question 1. How long is the True-Up Period 1, in months?	12
Question 2. How long is the True-Up Period 2, in months?	

Line	Line Description	a Basic	b Tier 2	c Tier 3	d Tier 4	e Tier 5
801	Jan-2000	$14.4500				
802	Feb-2000	$14.4500				
803	Mar-2000	$14.4500				
804	Apr-2000	$14.4500				
805	May-2000	$14.4500				
806	Jun-2000	$15.0300				
807	Jul-2000	$15.0300				
808	Aug-2000	$15.0300				
809	Sep-2000	$15.0300				
810	Oct-2000	$15.0300				
811	Nov-2000	$15.0300				
812	Dec-2000	$15.0300				
813	Period 1 Average Rate	$14.7883				

814	0					
815	Month 14					
816	Month 15					
817	Month 16					
818	Month 17					
819	Month 18					
820	Month 19					
821	Month 20					
822	Month 21					
823	Month 22					
824	Month 23					
825	Month 24					
826	Period 2 Average Rate					

TCA Cable Partners d/b/a Cox Communications

Proposed Rate Structure

Basic Service, Equipment and Installation Rate Summary

	MPR	Operator Selected
Basic Service Rates:	$ 16.06	$ 15.85
Installation and Equipment Rates:		
Installation:		
Installation of Unwired Home	53.78	38.00
Installation of Prewired Home	32.37	32.00
Installation of A/O at Time of Initial Install	23.20	15.00
Installation of A/O Requiring Separate Install	32.24	25.00
Equipment:		
Remotes	0.20	-
Addressable/Digital Converter	3.76	3.34
Non Addressable Converter	0.58	0.58
Charge for Changing Tiers (electronic)	1.99	1.99

Note: Rates exclude Franchise Fees and FCC Regulatory Fees

TCA Cable Partners d/b/a Cox Communications

True Up Period: 01/01/00 - 12/31/00
Projected Period: 06/01/01 - 05/31/02

Month	Period	Basic Subs	Basic Programming Rate	Basic Programming Cost	Basic Copyright Rate	Basic Copyright Cost
Jan-2000	True-Up1	64,418	$1.6443	$105,922.52	$0.2672	$17,214.30
Feb-2000	True-Up1	64,962	$1.6443	$106,817.02	$0.2672	$17,359.67
Mar-2000	True-Up1	65,430	$1.6443	$107,586.55	$0.2672	$17,484.74
Apr-2000	True-Up1	67,287	$1.6443	$110,640.01	$0.2672	$17,980.98
May-2000	True-Up1	64,232	$1.6443	$105,616.68	$0.2672	$17,164.60
Jun-2000	True-Up1	64,162	$1.6443	$105,501.58	$0.2672	$17,145.89
Jul-2000	True-Up1	65,207	$1.6443	$107,219.87	$0.2859	$18,644.91
Aug-2000	True-Up1	65,857	$1.9021	$125,266.60	$0.2859	$18,830.76
Sep-2000	True-Up1	66,353	$1.9021	$126,210.04	$0.2859	$18,972.59
Oct-2000	True-Up1	66,533	$1.9021	$126,552.42	$0.2859	$19,024.05
Nov-2000	True-Up1	66,532	$1.9021	$126,550.52	$0.2859	$19,023.77
Dec-2000	True-Up1	66,687	$1.9021	$126,845.34	$0.2859	$19,068.09
Jan-2001	GAP					
Feb-2001	GAP					
Mar-2001	GAP					
Apr-2001	GAP					
May-2001	GAP					
Jun-2001	Projected	66,754	$1.9368	$129,288.54	$0.2859	$19,087.16
Jul-2001	Projected	66,820	$1.9368	$129,417.83	$0.2859	$19,106.24
Aug-2001	Projected	66,887	$2.2461	$150,235.48	$0.2859	$19,125.35
Sep-2001	Projected	66,954	$2.2461	$150,385.71	$0.2859	$19,144.47
Oct-2001	Projected	67,021	$2.2461	$150,536.10	$0.2859	$19,163.62
Nov-2001	Projected	67,088	$2.2461	$150,686.63	$0.2859	$19,182.78
Dec-2001	Projected	67,155	$2.2461	$150,837.32	$0.2859	$19,201.97
Jan-2002	Projected	67,222	$2.2819	$153,394.72	$0.2859	$19,221.17
Feb-2002	Projected	67,290	$2.2819	$153,548.11	$0.2859	$19,240.39
Mar-2002	Projected	67,357	$2.2819	$153,701.66	$0.2859	$19,259.63
Apr-2002	Projected	67,424	$2.2819	$153,855.36	$0.2859	$19,278.89
May-2002	Projected	67,492	$2.2819	$154,009.22	$0.2859	$19,298.17

Period	Average Subscribers		BST Progemming Costs		Copyright Fees
True-Up1	65,638		$1,380,729.14		$217,914.35
Projected	67,122		$1,779,896.69		$230,309.84

TCA Cable Partners d/b/a Cox Communications

True Up Period: 01/01/00 - 12/31/00
Projected Period: 06/01/01 - 05/31/02

#	Channel
2	WTBS
3	ESPN
4	KARK
5	KFSM
6	CABLE MART
7	KHOG
8	K15DR
9	KFAA
10	KOLR
11	TV GUIDE CHANNEL
12	KTUL
13	KAFT
14	KSNF
15	WGN
16	KFSM 2
17	C-SPAN
18	JONES TV (LOCAL)
19	HSN
20	KWBS
21	K45E1
22	KSBN
77	Leased Access
22	Total Channels

Approved by OMB 3060-0703

FORM 1205

DETERMINING REGULATED EQUIPMENT AND INSTALLATION COSTS

"EQUIPMENT FORM"

Final

Community Unit Identifier (CUID) of cable system Cox Communications, Inc. (aggregate filing)	Date of Form Submission 08/02/00	
Name of Cable Operator Cox Communications, Inc.		
Mailing Address of Cable Operator 1400 Lake Hearn Drive		
City Atlanta	State GA	ZIP Code 30319
Name and Title of person completing this form: Sandra Sigmund, Director Rate Regulation		
Telephone number 404.843.7404	Fax Number 404.843.8645	

Name of Local Franchising Authority See attached listing		
Mailing Address of Local Franchising Authority		
City	State	ZIP Code

1. This form is being filed: (Enter an "x" in the appropriate box)

[ ] In conjunction with FCC Form 1200, FCC Form 1220, or FCC Form 1225.
Attach the completed FCC Form 1200, FCC Form 1220, or FCC Form 1225 to the front of this form.
OR
[X] In order to fulfill FCC rules requiring an annual filing of this form.
Enter the date on which you last filed this form: 08/01/99 (mm/dd/yy)
Note: This should be the date on which the rates last justified, by using either FCC Form 393 or the prior filing of this form, were in effect.

2. Enter the date on which you closed your books for the fiscal year reflected in this form: 12/31/99 (mm/dd/yy)
Note: This will indicate the end of the 12-month fiscal year for which you are filing this form.

3. Indicate the corporate status of your cable system (Enter an "x" in the correct box)

[X] C-Corporation
[ ] Subchapter S corporation
[ ] Partnership
[ ] Sole Proprietorship
[ ] Other (Please explain below)

____

SCHEDULE A: CAPITAL COSTS OF SERVICE INSTALLATION AND MAINTENANCE OF EQUIPMENT AND PLANT						
A	Equipment and Plant	Vehicles	Tools	Maintenance Facilities	Other 1. (Specify below)	Other 2. (Specify below)
B	Gross Book Value	$62,622,812.28	$4,266,731.13	$2,654,072.57	$1,168,700.72	$1,240,322.56
C	Accumulated Depreciation	$16,245,910.83	$2,049,504.87	$699,784.01	$644,492.30	$533,731.01
D	Deferred Taxes	$416,027.33	$17,092.11	-$19,265.98	$54,711.49	$58,073.32
E	Net Book Value [B-(C+D)]	$45,960,874.11	$2,200,134.15	$1,973,554.54	$469,496.94	$648,518.23
F	Rate of Return	0.1125				
G	*Calculation of Gross-up Rate*					
G1	Federal Income Tax Rate	0.35				
G2	State Income Tax Rate	0.0675				
G3	Net Total Income Tax Rate [(G1+G2)-(G1 x G2)]	0.3939				
G4	Adjustment to Reflect Interest Deductibility					
G4a	Actual Interest Amount	$309,625,541.51				
G4b	Total Net Assets	$8,026,206,904.00				
G4c	Base Return on Investment Amount [G4b x F]	$902,948,276.70				
G4d	Interest Deductibility Factor [G4a/G4c]	0.3429				
G5	Effective Tax Rate [G3 x (1-G4d)] (C-Corps skip to G7)	0.2588				
G6	Adjustment for Non-C Corporations					
G6a	Base Return on Investment Amount [G4c]	n/a				
G6b	Distributions					
G6c	Contributions (may not exceed G6b)					
G6d	Returns Subject to Income Tax [G6a-G6b+G6c]	n/a				
G6e	Returns Percentage Subject to Income Tax [G6d/G6a]	n/a				
G7	Gross-Up Rate [C-Corps: 1/(1-G5) Other: 1/(1-(G5 x G6e))]	1.3492				
H	Grossed-Up Rate of Return [F x G7]	0.1518				
I	Return on Investment Grossed-Up for Taxes [E x H]	$6,976,107.5052	$333,944.3089	$299,553.3572	$71,261.9412	$98,434.4403
J	Current Provision for Depreciation	$7,511,621.89	$566,347.10	$103,783.61	$138,700.23	$200,975.37
K	Annual Capital Costs [I+J]	$14,487,729.3984	$900,291.4094	$403,336.9491	$209,962.1745	$299,409.7056
L	GRAND TOTAL (sum of Line K entries)	$16,300,729.4032				
		Box 1.				

Specify: Other 1. Fleetsons

Specify: Other 2. Network controller for addressable converters

SCHEDULE B: ANNUAL OPERATING EXPENSES FOR SERVICE INSTALLATION AND MAINTENANCE OF EQUIPMENT							
		Salaries & Benefits	Supplies	Utilities	Other Taxes	Other 1. (Specify below)	Other 2. (Specify below)
A	Annual Op. Expenses for Svc. Install. and Maint. of Equip.	$50,548,126.60	$2,342,029.17	$654,639.08	$4,291,630.98	$21,052,778.82	$3,749,917.62
B	GRAND TOTAL (sum of Line A entries)	[illegible]					
		Box 2.					

Specify: Other 1. Auto Operating, Outside Labor, Facilities Rent

Specify: Other 2. R&M and Commissions Converters

Federal Communications Commission
Washington, D.C. 20554

Approved by OMB 3060-0703

SCHEDULE C: CAPITAL COSTS OF LEASED CUSTOMER EQUIPMENT

		Remote 1	Remote 2	Remote 3	Converter 1	Converter 2	Converter 3	Other Equip.
A	Equipment							
B	Total Maintenance Service Hours (Attach Explanation)	25,584			466,761	6,131		
C	Total # of Units in Service	3,478,050			3,841,884	170,311		
D	Gross Book Value	$30,813,453.00			$584,048,549.00	$9,574,935.00		
E	Accumulated Depreciation	$13,371,885.50			$274,393,347.00	$8,583,506.00		
F	Deferred Taxes	$289,453.44			$4,595,453.01	-$128,482.23		
G	Net Book Value [D-(E+F)]	$17,152,114.08	$0.00	$0.00	$307,057,548.9895	$1,119,911.2288	$0.00	$0.00
H	Grossed-Up Rate of Return [From Sched. A, Line H]	0.1519						
I	Return on Investment Grossed-Up for Taxes [G x H]	$2,603,409.83	$0.00	$0.00	$46,606,304.6075	$169,984.1719	$0.00	$0.00
J	Current Provision for Depreciation	$4,599,139.50			$95,507,220.05	$716,420.00		
K	Annual Capital Costs [I + J]	$7,202,549.33	$0.00	$0.00	$142,113,524.6575	$886,404.1719	$0.00	$0.00
L	GRAND TOTAL (sum of Line K entries)	$150,202,477.56						

Box 3.

SCHEDULE D: AVERAGE HOURS PER INSTALLATION

A.	Average Hours per Unwired Home Installation (attach an explanation)	1.1309
B.	Average Hours per Pre-Wired Home Installation (attach an explanation)	0.6808
C.	Average Hours per Additional Connection Installation at Time of Initial Installation (attach an explanation)	0.4879
D.	Average Hours per Additional Connection Installation Requiring Separate Installation (attach an explanation)	0.6779
E.	Other Installation (by Item Type):	
	Item 3. (Specify)	
	Average Hours per Installation (attach an explanation)	

Excel 4.0 for Windows

FCC Form 1205
June 1996

WORKSHEET FOR CALCULATING PERMITTED EQUIPMENT AND INSTALLATION CHARGES	
STEP A. Hourly Service Charge	
1. Total Capital Costs of Installation and Maintenance [Schedule A, Box 1]	$16,300,729.5325
2. Total Annual Operating Expenses for Installation and Maintenance [Schedule B, Box 2]	$82,661,122.3369
3 Total Capital Costs and Operating Expenses for Installation and Maintenance [Line 1 + Line 2].	$98,961,851.8694
4. Customer Equipment and Installation Percentage (attach an explanation).	1.
5 Annual Customer Equipment Maintenance and Installation Costs, Excluding Costs of Leased Equipment [Line 3 x Line 4]	$98,961,851.8694
6. Total Labor Hours for Maintenance and Installation of Customer Equipment and Services (attach explanation)	2,080,967
7. Hourly Service Charge (HSC) (Line 5/Line 6)	$47.5557

METHOD OF BILLING FOR INSTALLATIONS (place an "x" in the appropriate box)	
	Installations billed by the hour based on the HSC calculated in Line 7.
x	Installations billed as a standard charge.

STEP B. Installation Charge		
8. Uniform HSC for all installations (From Step A, line 7)		n/a
OR		
9 Average Charge for Installation Types		
a. Unwired Home Installation		
a1. HSC [Line 7]	$47.5557	
a2. Average Hours per Unwired Home Installation (Schedule D, Line A)	1.1300	
a3. Charge per Unwired Home Installation [a1 x a2]		$53.7012
b. Pre-wired Home Installation		
b1. HSC [Line 7]	$47.5557	
b2. Average Hours per Pre-wired Home Installation (Schedule D, Line B)	0.6800	
b3. Charge per Pre-wired Home Installation [b1 x b2]		$32.3379
c. Additional Connection Installation at Time of Initial Installation		
c1. HSC [Line 7]	$47.5557	
c2. Average Hours per Additional Connection Installation at Time of Init. Install. [Schedule D, Line C]	0.4879	
c3. Charge per Additional Connection Installation at Time of Initial Installation [c1 x c2]		$23.2016
d. Additional Connection Installation Requiring Separate Installation		
d1. HSC [Line 7]	$47.5557	
d2. Avg. Hours per Additional Connection Installation Req. Sep. Install. [Schedule D, Line D]	0.6779	
d3. Charge per Additional Connection Installation Requiring Separate Installation [d1 x d2]		$32.2569
e. Other Installations (As specified in Schedule D, Line E):		
e1. HSC [Line 7]	$47.5557	
e2. Average Hours per Installation of Item 1 [Schedule D, Line E, Item 1]	0.	
e3. Charge per Installation of Item 1 [e1 x e2]		$0.00
e4. HSC [Line 7]	$47.5557	
e5. Average Hours per Installation of Item 2 [Schedule D, Line E, Item 2]	0.	
e6. Charge per Installation of Item 2 [e4 x e5]		$0.00
e7. HSC [Line 7]	$47.5557	
e8. Average Hours per Installation of Item 3 [Schedule D, Line E, Item 3]	0.	
e9. Charge per Installation of Item 3 [e7 x e8]		$0.00

STEP C. Charges for leased Remotes	a Remote 1	b Remote 2	c Remote 3
(Calculate separately for each significantly different type)	25584.3904	0.	0.
10. Total Maintenance/Service Hours [Corresponding column from Schedule C, Line B]	$47.5357	$47.5557	$47.5557
11. HSC [Line 7]	$1,216,083.7685	$0.00	$0.00
12. Total Maintenance/Service Cost [Line 10 x Line 11]	$7,202,549.3325	$0.00	$0.00
13. Annual Capital Costs [Corresponding column from Schedule C, Line K]	$6,419,233.1008	$0.00	$0.00
14. Total Cost of Remotes [Line 12 + Line 13]	347805.8	0.	0.
15. Number of Units in Service [Corresponding column from Schedule C, Line C]	$2.4207	$0.00	$0.00
16. Unit Cost [Line 14/Line 15]	$0.2017	$0.00	$0.00
17. Rate per Month [Line 16/(12)]			

STEP D. Charges for leased Converter Boxes	a Converter 1	b Converter 2	c Converter 3
(Calculate separately for each significantly different type)	466781.3729	6137.77	0.
18. Total Maintenance/Service Hours [Corresponding column from Schedule C, Line B]	$47.5357	$47.5557	$47.5557
19. HSC [Line 7]	$22,197,164.1328	$292,504.6339	$0.00
20. Total Maintenance/Service Cost [Line 18 x 19]	$142,113,824.0079	$184,404.1729	$0.00
21. Annual Capital Costs [Corresponding column from Schedule C, Line K]	$184,318,638.1980	$1,177,985.8068	$0.00
22. Total Cost of Converter [Line 20+ Line 21]	3641984.	17831.	0.
23. Number of Units in Service [Corresponding column from Schedule C, Line C]	$49.1160	$0.8167	$0.00
24. Unit Cost [Line 22/Line 23]	$1.7599	$0.5784	$0.00
25. Rate per Month [Line 24/(12)]			

STEP E. Charges for Other Leased Equipment	0.
26. Total Maintenance/Service Hours [Corresponding column from Schedule C, Line B]	$47.5557
27. HSC [Line 7]	$0.00
28. Total Maintenance/Service Cost [Line 26 x Line 27]	$0.00
29. Annual Capital Costs [Corresponding column from Schedule C, Line K]	$0.00
30. Total Cost of Equipment [Line 28+Line 29]	0.
31. Number of Units in Service [Corresponding column from Schedule C, Line C]	$0.00
32. Unit Cost [Line 30/Line 31]	$0.00
33. Rate per Month [Line 32/(12)]	

METHOD OF BILLING FOR CHANGING SERVICE TIERS OR EQUIPMENT [place an "x" in the appropriate box]

x	as a Nominal Charge (Enter the nominal charge in Line 34)
	as a Uniform Hourly Service Charge
	as an Average Charge (Enter the Average Hours for Changing Service Tiers in Line 36b.)

STEP F. Charges for Changing Ser.ice Tiers or Equipment		$1.99
34. Nominal Charge for Changing Service Tiers		
If you use an escalating scale of charges, place an "x" in the box at the right.		
OR		n/a
35. Uniform Hourly Service Charge		
OR		
36. Average Charge for Changing Service Tiers	$47.5557	
36a. HSC [Line 7]		
36b. Average Hours to Change Service Tiers		n/a
36c. Average Charge for Changing Service Tiers [Line 36a x Line 36b]		

WORKSHEET FOR CALCULATING TOTAL EQUIPMENT AND INSTALLATION COSTS		
1.	Total Capital Costs of Installation and Maintenance [Schedule A, Box 1]	$16,300,729.7326
2.	Total Annual Operating Expenses for Installation and Maintenance [Schedule B, Box 2]	$42,661,122.1368
3.	Total Annual Capital Costs of Installation and Maintenance [Line 1 + Line 2]	$58,961,851.8694
4	Customer Equipment and Installation Percentage (attach explanation)	
5.	Annual Customer Equipment Maintenance and Installation Costs, Excluding Costs of Leased Equipment [Line 3 x Line 4]	$0.00
6.	Total Capital Costs of Leased Customer Equipment [Schedule C, Box 3]	$150,202,677.9815
7.	Annual Customer Equipment and Installation Costs [Line 5 + Line 6]	$150,202,677.9815
8.	Percentage Allocation to Franchise Area (see instructions)	
9.	Allocated Annual Equipment and Installation Cost [Line 7 x Line 8]	$0.00
10.	Monthly Equipment and Installation Cost [Line 9 / (12)]	$0.00
11.	Number of Basic Subscribers in Franchise	
12.	Monthly Equipment and Installation Cost per Subscriber [Line 10 / Line 11]	#DIV/0!
13.	Inflation Adjustment Factor [See Instructions]	
14.	Adjusted Monthly Equipment and Installation Cost per Subscriber [Line 12 x Line 13]	#DIV/0!

SUMMARY SCHEDULE

Current Equipment and Installation Rates	Permitted	Prior Permitted
1 Charges for Cable Service Installations		
a. Hourly Rate [Step A, Line 7]	n/a	
b. Average Installation Charges:		
1. Installation of Unwired Homes [Step B, Line 9a3]	$53.78	$46.82
2. Installation of Prewired Homes [Step B, Line 9b3]	$32.37	$29.51
3. Installation of Additional Connections at Time of Initial Installation [Step B, Line 9c3]	$23.20	$23.90
4. Installation of Additional Connections Requiring Separate Install [Step B, Line 9d3]	$32.24	$32.51
5. Other Installations (specify) [Step B, Lines 9e3, 9e6, 9e9]		
a. Wall Fish	$0.00	
b. Trip Charge	$0.00	
c.	$0.00	
2. Monthly Charge for Lease of Remote Controls [Step C, Line 17, columns a-c]		
Remote Control Type 1:	$0.20	$0.19
Remote Control Type 2:	$0.00	
Remote Control Type 3:	$0.00	
3. Monthly Charge for Lease of Converter Boxes [Step D, Line 25, columns a-c]		
Converter Box Type 1. Addressable	$3.76	$3.53
Converter Box Type 2: Non-Addressable	$0.58	$0.41
Converter Box Type 3:	$0.00	
4. Monthly Charge for Lease of Other Equipment [Step E, Line 33]		
Other Equipment (Specify)	$0.00	
5. Charge for Changing Tiers (if any) [Step F, Line 34, 35 or 36c]	$1.99	$1.99

LABOR COST AND POLICY CHANGES

Indicate your answer to the following three questions by placing an "x" in the appropriate box

1. Have you included the labor costs associated with subscriber cable drops in your charges for initial installation?

[ ] YES
[X] NO

2. Have you capitalized the labor costs associated with subscriber cable drops?

[X] YES
[ ] NO

3. If you have filed this form before, have you changed any policy, e.g., cost accounting or cost allocation that causes an increase in the costs included in the computation of equipment and installation charges?

[ ] YES, see explanation below*
[X] NO

CERTIFICATION STATEMENT

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE TITLE 18, SECTION 1001), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503)

I certify that the statements made in this form are true and correct to the best of my knowledge and belief, and are made in good faith.

Name of the Cable Operator	Signature
Cox Communications, Inc.	
Date	**Title**
07/31/00	Sandy Sigmund, Director, Rate Regulation

FCC FORM 1205
DETERMINING REGULATED EQUIPMENT AND INSTALLATION COSTS
"EQUIPMENT FORM"

SCHEDULE C
CAPITAL COSTS OF LEASED CUSTOMER EQUIPMENT

Line B. Total Maintenance/Service Hours

Maintenance of Regulated Equipment

The reporting entity utilized an "in house" Repair Center to maintain repair of the regulated addressable boxes. In addition, a review was performed of actual service and installation calls completed by the reporting entity in 1999.

FCC FORM 1205
DETERMINING REGULATED EQUIPMENT AND INSTALLATION COSTS
"EQUIPMENT FORM"

SCHEDULE D
AVERAGE HOURS PER INSTALLATION

<u>Category</u>

A. Average hours per unwired home installation
B. Average hours per pre-wired home installation
C. Average hours per additional connection installation at time of initial installation
D. Average hours per additional connection installation requiring separate installation

<u>Explanation</u>

Actual installation activity, by task, is tracked by the reporting entity. The average hours to complete each category of install is the basis for the time used on Schedule D.

FCC FORM 1205
DETERMINING REGULATED EQUIPMENT AND INSTALLATION COSTS
"EQUIPMENT FORM"

STEP A
HOURLY SERVICE CHARGE

Line 6. Total labor hours for maintenance and installation of customer equipment and services

Total labor hours were compiled from actual jobs completed in 1999. This was accomplished by summarizing "jobs by task" from reports available from our billing system.

Cox Communications, Inc.

1205 National Workpapers Fiscal year 1999

Company#		51003	51009	51014	51015	51016	51017
[redacted]		[redacted]	[redacted]	[redacted]	Hampton	New England:CT	Humboldt
Vehicles	Gross Book	42,539	560,871	445,822	3,452,361	1,228,171	153,244
	Acc. Depr.	42,539	241,155	410,798	994,464	427,871	153,244
	Deferred Taxes Expense	6,100	115,645	89,470	419,832	119,945	
Tools & Test	Gross Book	3,070	117,807	302,620	696,496	23,100	
	Acc. Depr.	1,162	59,381	202,774	281,235	3,320	
	Deferred Taxes Expense	153	18,574	28,548	107,035	3,300	
Maintenance Fac.	Gross Book	0	76,929	385,682	0		
	Acc. Depr.	0	43,941	137,991	0		
	Deferred Taxes Expense	0	3,116	16,496	0		
Fleet Com.	Gross Book	8,223	0	38,621	123,414		
	Acc. Depr.	8,223	0	2,452	72,439		
	Deferred Taxes Expense	0	0	2,452	12,272		
Network Controllers	Gross Book	0	38,218	65,278	517,950		9,147
	Acc. Depr.	0	14,372	54,571	147,360		3,830
	Deferred Taxes Expense	0	7,352	9,158	98,404		1,829

Cox Communications, Inc.

1205 National Workpapers Fiscal year 1999

Company#		51024	51026	51031	51032	51033	51034
[illegible]	[illegible]	Middle Georgia	Louisiana	Oklahoma	Omaha	Orange County	Palos Verdes
[illegible]							
Vehicles	Gross Book	402,617	1,758,623	761,543	1,367,855	3,110,365	223,011
	Acc. Depr.	276,561	1,065,400	315,340	872,363	1,716,300	147,783
	Deferred Taxes Expense	66,523	517,357	134,672	246,957	551,165	55,598
Tools & Test	Gross Book	141,172			287,172	666,596	
	Acc. Depr.	96,681			178,621	256,561	
	Deferred Taxes Expense	16,928			43,112	117,441	
Maintenance Fac.	Gross Book	202,135		243,113			
	Acc. Depr.	105,196		57,440			
	Deferred Taxes Expense	9,953		8,185			
Fleet Com.	Gross Book		502,168	79,280		32,156	
	Acc. Depr.		119,318	79,280		18,222	
	Deferred Taxes Expense		95,675	0		6,431	
Network Controllers	Gross Book	26,408		96,700	139,631	32,156	
	Acc. Depr.	26,217		51,573	48,349	18,222	
	Deferred Taxes Expense	199		19,340	5,818	6,431	

Cox Communications, Inc.

1205 National Workpapers Fiscal year 1999

Company#		51036	51038	51039	51041	51042	51050
[illegible]		Phoenix	[illegible]	Roanoke	San Diego	Central Coast	West Texas
Vehicles	Gross Book	9,496,424	2,871,716	350,617	4,083,876	303,956	629,808
	Acc. Depr.	4,651,909	972,447	188,074	2,142,926	234,923	271,926
	Deferred Taxes Expense	2,961,590	434,269	56,546	936,235	62,167	84,708
Tools & Test	Gross Book	814,374	165,271	37,299	431,496	44,491	118,546
	Acc. Depr.	386,033	29,147	2,110	406,211	16,053	31,817
	Deferred Taxes Expense	152,730	28,648	2,110	5,241	6,596	11,457
Maintenance Fac.	Gross Book			119,939	279,321	119,749	76,226
	Acc. Depr.			49,574	89,235	49,571	31,338
	Deferred Taxes Expense			6,046	13,580	6,041	3,184
Fleet Com.	Gross Book	72,291			303,067		
	Acc. Depr.	40,701			303,067		
	Deferred Taxes Expense	21,080					
Network Controllers	Gross Book	167,016	40,587			59,066	47,320
	Acc. Depr.	104,096	27,067			11,512	26,464
	Deferred Taxes Expense	33,403	1,669			10,787	6,542

Cox Communications, Inc.

1205 National Workpapers Fiscal year 1999

Company#		51074	51075	51076	51079	51077	
		Tucson	Sierra Vista	Las Vegas	Pensacola	Nova	Totals
Vehicles	*Gross Book*	416,497	243,786	823,859	799,298	29,095,953	62,622,812
	Acc. Depr.	219,818	128,665	114,098	611,145	46,163	16,245,912
	Deferred Taxes						416,027
	Expense	219,818	128,665	92,315	165,882	46,162	7,511,621
Tools & Test	*Gross Book*	67,129	18,185		49,547	282,360	4,266,731
	Acc. Depr.	57,495	2,150		24,635	14,118	2,049,504
	Deferred Taxes						17,092
	Expense	7,082	2,150		1,122	14,120	566,347
Maintenance Fac.	*Gross Book*		49,644	187,954	53,182	880,199	2,654,073
	Acc. Depr.		10,589	100,770	18,637	5,501	699,783
	Deferred Taxes						-19,266
	Expense		10,571	19,384	1,728	5,501	103,785
Fleet Com.	*Gross Book*					9,481	1,168,701
	Acc. Depr.					790	644,492
	Deferred Taxes						54,711
	Expense					790	138,700
Network Controllers	*Gross Book*				845		1,240,322
	Acc. Depr.				98		533,731
	Deferred Taxes						58,073
	Expense				43		200,975

Cox Communications, Inc.

1205 National Workpapers Fiscal year 1999

Company#	51003	51009	51014	51015	51016	51017
	Bakersfield	Cleveland	Gainsville	Hampton	New England:CT	Humboldt
[illegible]						
Salaries	138,347	1,068,620	895,318	4,116,789	782,414	309,275
Supplies	2,948	27,353	30,617	58,288	31,725	9,298
Utilities	0	7,653	24,409	106,679	29,065	6,461
Other Taxes	13,309	88,147	81,353	38,160	15,903	15,583
Other # 1	203,541	204,031	348,318	2,740,619	514,359	115,050
Other # 2	4,362	48,525	135,345	234,929	135,481	7,184
[illegible]						
Install Unwired Home	1.4200	0.9100	0.9100	1.5000	0.9100	1.0000
Install Prewired/ Reconnect	0.8300	1.0000	0.4200	0.5000	0.6667	0.5000
A/O at Initial	0.5800	0.7500	0.1700	0.7500	0.6667	0.7500
A/O Separate Trip	0.8300	1.0000	0.2500	0.7500	0.8333	1.0000

Cox Communications, Inc.

1205 National Workpapers Fiscal year 1999

Company#	51024	51026	51031	51032	51033	51034
	Middle Georgia	Louisiana	Oklahoma	Omaha	Orange County	Palos Verdes
[redacted]						
Salaries	468,852	4,244,387	1,418,779	2,116,433	4,732,513	464,740
Supplies	7,011	178,835	81,086	79,169	190,320	12,764
Utilities	14,642	26,245	18,508	64,678	18,424	8,545
Other Taxes	111,651	438,555	128,436	21,339	299,828	18,094
Other # 1	253,966	1,698,546	532,733	840,119	1,007,432	339,102
Other # 2	36,197	190,895	40,074	96,517	247,416	48,192
[redacted]						
Install Unwired Home	1.0000	1.1600	1.2500	1.0000	0.8333	1.4100
Install Prewired/ Reconnect	0.5000	0.8300	0.7500	0.5000	0.5000	1.0000
A/O at Initial	0.5000	0.5800	0.5000	0.1667	0.5000	0.5000
A/O Separate Trip	0.5000	0.8300	0.5833	0.1667	0.7500	0.7500

Cox Communications, Inc.

1205 National Workpapers Fiscal year 1999

Company#		51036	51038	51039	51041	51042	51050
[illegible]	[illegible]	Phoenix	New England: RI	Roanoke	San Diego	Central Coast	West Texas
[illegible]	[illegible]						
	Salaries	8,544,709	3,337,073	476,803	4,599,279	797,806	987,866
	Supplies	366,722	111,109	33,138	251,715	6,913	18,815
	Utilities	50,670	105,624	6,364	61,615	17,882	13,339
	Other Taxes	706,752	1,436,013	5,834	270,063	38,240	140,949
	Other # 1	2,778,971	1,496,543	210,829	1,231,419	107,943	291,736
	Other # 2	624,143	394,989	21,133	659,442	64,604	35,049
[illegible]							
	Install Unwired Home	0.9100	1.0000	1.0000	1.2500	1.4167	1.5000
	Install Prewired/ Reconnect	0.8100	0.7500	0.5000	0.6700	0.8333	1.0000
	A/O at Initial	0.4167	0.6667	0.3300	0.5000	0.5833	0.5000
	A/O Separate Trip	0.8333	0.9167	0.6700	0.5000	0.8333	0.5000

Cox Communications, Inc.

1205 National Workpapers Fiscal year 1999

Company#		51074	51075	51076	51079	51077	
[illegible]	[illegible]	Tucson	Sierra Vista	Las Vegas	Pensacola	Nova	Totals
[illegible]							
	Salaries	1,398,638	434,285	2,934,773	1,001,467	5,280,960	50,548,126
	Supplies	*55,791*	*12,608*	*38,108*	*47,073*	*710,622*	2,362,028
	Utilities	13,110	4,354	29,156	17,883	11,331	656,637
	Other Taxes	64,062	14,392	242,659	94,438	7,871	4,291,631
	Other # 1	589,946	75,901	1,517,328	395,041	3,559,306	21,052,779
	Other # 2	66,079	4,903	387,082	102,660	164,716	3,749,917
[illegible]							
	Install Unwired Home	1.5000	1.0000	1.0000	1.0000	1.5300	1.1309
	Install Prewired/ Reconnect	0.6667	0.7500	0.5000	0.5000	2.2460	0.6808
	A/O at Initial	0.3333	0.3300	0.3300	0.3300	1.7059	0.4879
	A/O Separate Trip	0.6667	0.7500	0.5000	0.5000	2.3260	0.6779

Cox Communications, Inc.

1205 National Workpapers Fiscal year 1999

Company#		51003	51009	51014	51015	51016	51017
		Bakersfield	Cleveland	Gainsville	Hampton	New England:CT	Humboldt
Schedule C [illegible]							
Remotes	Maintenance /Service Hrs						
	Units in Service	25,867	102,584	63,194	232,527	92,896	23,669
	Gross Book	97,783	564,044	520,317	6,923,256	716,216	215,825
	Acc. Depr.	32,166	296,228	409,342	3,324,237	456,798	161,474
	Deferred Taxes						
	Expense	16,499	92,540	59,027	1,119,772	112,447	23,856
Basic Converters	Maintenance /Service Hrs						
	Units in Service	7,111	10,677	3,215	23,370		5,241
	Gross Book	344,356	671,616	97,578	459,029		42,685
	Acc. Depr.	5,739	524,954	94,573	370,396	0	42,685
	Deferred Taxes						
	Expense	6,023	22,734	6,118	234,519	0	759
Address/Digital Converters	Maintenance /Service Hrs						
	Units in Service	22,917	46,667	63,194	289,357	98,430	18,086
	Gross Book	1,727,746	6,578,502	6,744,206	76,822,911	10,613,330	1,891,376
	Acc. Depr.	1,110,355	5,283,386	5,589,000	31,300,643	7,546,988	1,670,633
	Deferred Taxes						
	Expense	268,623	885,469	679,915	13,664,833	1,495,135	134,997

Cox Communications, Inc.

1205 National Workpapers Fiscal year 1999

Company#		51024	51026	51031	51032	51033	51034
		Middle Georgia	Louisiana	Oklahoma	Omaha	Orange County	Palos Verdes
Remotes	Maintenance /Service Hrs						
	Units in Service	68,340	301,089	81,396	106,430	214,387	30,620
	Gross Book	387,332	1,419,226	1,049,353	1,488,767	1,189,171	213,875
	Acc. Depr.	136,776	631,894	718,146	722,507	591,080	83,122
	Deferred Taxes						
	Expense	62,760	201,138	135,478	258,167	219,849	36,958
Basic Converters	Maintenance /Service Hrs						
	Units in Service	12,877	14,505	9,808	13,349		
	Gross Book	877,770	577,585	595,633	664,320		
	Acc. Depr.	842,095	577,585	564,813	601,036	0	0
	Deferred Taxes						
	Expense	22,749	0	21,266	60,448	0	0
Address/Digital Converters	Maintenance /Service Hrs						
	Units in Service	60,443	298,655	71,588	126,039	234,387	32,869
	Gross Book	14,403,467	47,623,127	16,219,921	27,412,849	48,948,735	3,075,307
	Acc. Depr.	8,547,959	34,211,461	7,901,363	12,536,063	26,287,875	2,160,062
	Deferred Taxes						
	Expense	1,738,541	4,118,148	1,893,886	5,144,333	8,207,365	430,816

Cox Communications, Inc.

1205 National Workpapers Fiscal year 1999

Company#		51036	51038	51039	51041	51042	51050
		Phoenix	New England: RI	Roanoke	San Diego	Central Coast	West Texas
Remotes	*Maintenance /Service Hrs*						
	Units in Service	381,349	362,267	40,916	303,887	52,920	84,609
	Gross Book	2,426,083	3,656,214	684,424	2,910,861	281,715	1,148,900
	Acc. Depr.	944,729	1,551,266	357,308	1,623,039	180,459	513,748
	Deferred Taxes						
	Expense	413,250	649,399	107,912	377,377	40,609	202,023
Basic Converters	*Maintenance /Service Hrs*						
	Units in Service	6,290	5,128	10,600	27,021	5,801	2,742
	Gross Book	5,080	851,789	571,633	2,411,515	344,637	535,855
	Acc. Depr.	5,080	800,232	569,870	2,410,542	344,637	503,607
	Deferred Taxes						
	Expense	0	51,557	27,609	127,128	0	9,046
Address/Digital Converters	*Maintenance /Service Hrs*						
	Units in Service	422,432	348,697	35,715	306,887	41,730	82,117
	Gross Book	50,212,774	63,428,538	5,785,837	57,015,104	1,910,193	11,819,461
	Acc. Depr.	26,461,550	30,137,866	2,971,201	28,241,393	952,862	5,955,189
	Deferred Taxes						
	Expense	9,123,017	12,532,137	995,704	6,225,550	349,783	2,051,906

Cox Communications, Inc.

1205 National Workpapers Fiscal year 1999

Company#		51074	51075	51076	51079	51077	
[illegible]	[illegible]	Tucson	Sierra Vista	Las Vegas	Pensacola	Nova	Totals
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]		
Remotes	Maintenance /Service Hrs						25,584
	Units in Service	54,240	7,701	308,679	119,124	419,359	3,478,050
	Gross Book	192,016	52,722	930,164	599,292	3,146,097	30,813,653
	Acc. Depr.	35,924	4,598	113,751	221,119	262,175	13,371,886
	Deferred Taxes						289,653
	Expense	30,965	4,598	108,485	63,856	262,175	4,599,140
Basic Converters	Maintenance /Service Hrs						6,131
	Units in Service	7,036	3,720			1,820	170,311
	Gross Book	243,915	184,258			95,681	9,574,935
	Acc. Depr.	223,589	97,247	0	0	4,826	8,583,506
	Deferred Taxes						-128,482
	Expense	24,392	97,247	0	0	4,826	716,420
Address/Digital Converters	Maintenance /Service Hrs						466,761
	Units in Service	72,212	7,463	359,300	129,124	473,575	3,641,884
	Gross Book	12,432,373	2,383,602	58,200,945	17,870,055	42,928,190	586,048,549
	Acc. Depr.	5,042,096	996,979	16,565,473	10,778,741	2,146,409	274,395,547
	Deferred Taxes						4,595,453
	Expense	4,769,419	996,979	16,500,615	1,153,640	2,146,409	95,507,220

CABLE RATES FROM OTHER CITIES, OCT. 2001

These rates went into effect in February of 2001 for AT&T in northeast Ohio (Mentor):
Basic I - $9.63 for 24 channels
Basic II - $3.21 for 4 channels
Basic III - $21.27 for 36 channels

St.Louis Park, MN. is a suburb of Minneapolis with 43,000 residents and 13,000 subs served by Time Warner Cable with a 750 MHz system that offers analog and digital services.
Basic: $9.05 for 29 channels
Standard (includes all Basic channels) $35.70 for 70 channels
Digital (includes all analog channels) $45.95 for 109 video channels and 40 music channels.

St. Tammany Parish, Louisiana

Analogue: $39.05 for 67 channels. Price increase expected within a month. Citizens screaming.

Prices for analog service in Arlington County, Virginia

Limited - 26 channels for $13.06

Preferred - (includes Limited tier) - total of 73 channels for $38.75

Currently in Colorado Springs

Basic = 14.35 for 18 channels

Standard Basic = 26.60 for Basic + 33 (51 total)

Full Basic = 37.35 for Basic + Standard + 21 (72 total)

West Allis, Wisconsin

Rates as of August 2, 2001 (reflects $2.79 increase and addition of 5 channels)

Basic Tier - $9.68 for 27 Channels

Standard Tier - $26.16 for 42 Channels

Standard Package - $35.84 (Combination Basic & Standard)

Jerry Musial

Cable Coordinator

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS
KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY

LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody**, Mayor
City Council Members

FROM: **Kit Williams**, City Attorney

DATE: **December 26, 2001**

RE: **Cable rate increase for basic tier service only**

We misunderstood Alderman Zurcher's request concerning his opposition to the increase in the lowest level of cable service (Basic tier). Alderman Zurcher called me and asked that I redraft the Resolution so that its passage would result in an actual legal challenge to the cable rate increase. I have done so, and attached hereto is the expanded Resolution.

Under federal law, the City can only challenge increases in this lowest level of service. Cable companies can charge whatever they want for cable services above this lowest level.

In light of Alderman Zurcher's new Resolution to require a legal challenge, I wanted to provide you a letter provided to me from the last person who conducted such an audit and challenge to a cable rate increase for us, Mr. Brian Grogan (our cable franchise negotiator and advisor). I wrote to Mr. Grogan about this issue and three others in

June once I found out about the proposed cable rate increase. His letter of June 26, 2001 addressing these issues is attached. Also attached is his letter of October 2, 2001 about this issue.

I shared this letter with the Telecommunications Board and spoke with them at a couple of meetings about this issue. Attached is a memo from Marvin Hilton dated December 21 in which he reports to you that the Telecommunications Board voted unanimously not to recommend to the City Council that an audit of Cox's basic tier rate be undertaken.

RESOLUTION NO. ______

A RESOLUTION EXPRESSING THE CITY COUNCIL'S OPPOSITION TO THE SEVENTY-SIX PERCENT (76%) RATE INCREASE FOR THE BASIC TIER CABLE TELEVISION SERVICE BY COX COMMUNICATIONS, INC., TO AUTHORIZE HIRING AN EXPERT TO AUDIT AND CHALLENGE THE INCREASE BEFORE THE FCC AND TO APPROVE A BUDGET ADJUSTMENT OF $6,000.00

WHEREAS, the programming on the Fayetteville Government Channel and Community Access Television is currently available only to Cox Cable subscribers; and

WHEREAS, the low and moderate income residents of the City of Fayetteville have come to rely on the availability of a reasonably priced basic cable rate plan in order to receive the programming on the Fayetteville Government Channel and Community Access Television; and

WHEREAS, the proposed Seventy-Six percent (76%) rate increase for basic cable television service proposed by Cox Communications, Inc. is not justified and would place a significant financial burden on low and moderate income residents wishing to receive said programming; and

WHEREAS, Cox Communications, Inc. submitted FCC forms 1240 and 1205 with 34 pages of complex accounting to justify its rate increase; and

WHEREAS, it will be necessary to hire an expert in the accounting procedures and rules of the FCC to analyze and challenge this basic tier rate increase.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby expresses its opposition to the proposed Seventy-Six Percent (76%) rate increase for basic cable television service proposed by Cox Communications, Inc.

Section 2. That the City Council of the City of Fayetteville, Arkansas authorizes and directs the Mayor to challenge this increase in cable rates for the basic tier, to hire a specialist to conduct an audit and examination of FCC forms

1240 and 1205 and supporting documents from Cox, and to file a complaint or challenge based upon this audit with the FCC.

Section 3. That the City Council of the City of Fayetteville, Arkansas approves a budget adjustment in the amount of Six Thousand Dollars ($6,000.00) to pay some or all of the expert's fee to audit, examine, and challenge the rate increase for the basic tier cable fee increase.

PASSED and APPROVED this _____ day of January, 2002.

APPROVED:

By: ______________________________
DAN COODY, Mayor

ATTEST:

By: ______________________________
Heather Woodruff, City Clerk

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VIA FACSIMILE AND U.S. MAIL

June 26, 2001

Kit Williams, Esq.
City Attorney
113 West Mountain, Room 302
Fayetteville, AR 72701

Re: Response to June 25, 2001 Letter

Dear Kit:

I am in receipt of your letter of June 25, 2001 which encloses a memorandum prepared by Marvin Hilton, Cable Administrator for the City of Fayetteville ("City"). Mr. Hilton's memorandum addresses the following four issues:

1. Local Spanish Language Channel;
2. Cable Rate Increase;
3. PEG Channel Signal Quality; and
4. Telecommunications Board Review of Franchise Agreement.

I will address these issues in the order in which they are presented.

1. Local Spanish Language Channel.

Recently, the City's Telecom Board listened to a presentation by a representative of a local Spanish speaking channel which is seeking carriage on Cox's cable system. While Cox carries several Spanish speaking channels none of them are local. Mr. Hilton forwarded on a copy of the requirement from the Austin, Texas franchise which requires two Spanish language channels.

Obviously, there are differences between the populations of Austin, Texas and Fayetteville, Arkansas, particularly with respect to the percentage of the population which is Hispanic. However, I see no problem with a franchising authority requiring the inclusion of certain foreign language channels to meet the needs and interests of the community. The important issue is how specific the City chooses to be in imposing such a requirement. For example, if the City seeks to impose a requirement that Cox provide a "local" Spanish speaking channel, chances are there is only one channel which will meet this criteria. This in essence is specifying a particular channel which Cox must carry on the cable system which likely presents a concern. However, if the City chose to use more generic language similar to the Austin, Texas franchise, referencing the carriage of one or two Spanish language channels this should not present a problem although it would also not be likely to change the present channel lineup which already includes one or more Spanish speaking channels.

I do not believe the City has authority to specify where on the channel lineup channels should be located nor can the City specify on which tier of service such a channel should be located. Federal law allows the City to require only a basic service tier which must include the local over the air broadcast stations as well as any PEG access channels. The cable operator has discretion to add any additional channels it chooses to the basic service tier and to otherwise rearrange and retier channels at its sole discretion.

In my experience it is generally not a good policy for the City to become involved in programming disputes because there is simply no limit to the number of channels which various segments of the Fayetteville population are interested in. City's which have previously fought for WGN seeking to provide Cubs baseball and Bulls basketball programming have later found difficulty trying to explain to a minority group or religious group why the City will not take up programming issues on their behalf. By limiting the City's involvement to include certain "broad categories of video programming" the City will be establishing a reasoned public policy without becoming embroiled in a no win situation with respect to the programming lineup. In addition, the City will avoid the inevitable battle with Cox regarding Cox's first amendment right to select the programming lineup it chooses.

2. Cable Rate Increase.

As we discussed on the telephone, Cox has the right to adjust its rates to reflect inflation, cost of living and other external costs, the addition or deletion of a specific program from a service offering, the addition or deletion of specific channels from an existing service tier, the restructuring or division of existing tiers of service or the adjustment of rates as a result of the addition, deletion or substitution of channels. 47 C.F.R. § 76.922. However, 47 C.F.R. § 76.981 also provides that such changes listed above are impermissible if they constitute a fundamental corporate change in the nature of an existing service or tier of service.

One argument which the City could set forth is that the extraordinary increase in the basic service tier and the large increase in the number of channels to be now provided over the basic service tier constitutes a "negative option." While I am not aware of any reported cases by the FCC regarding this issue it is certainly possible the City could pursue such a claim. The theory would be that individuals who subscribe to only the basic service tier are not being provided a choice and certainly have never affirmatively requested the additional channels and fees. We would need to investigate further whether a subscriber has the option of canceling their service as a result of the proposed rate increase without incurring any disconnection or downgrade fees. To the extent Cox charges disconnection or downgrade fees, subscribers are clearly placed in a no win situation.

The only tier of service which remains subject to rate regulation is the basic service tier and associated equipment and installation charges. All other tiers of service and offerings provided by Cox are free from rate regulation. In order to regulate rates the City must review FCC forms submitted by Cox which are intended to provide justification for the basic service tier rate. The form generally calculates a per channel rate which when multiplied by the total number of channels provides the overall basic service tier rate.

The main question for the City is whether the cost of reviewing the basic service tier rates and/or fighting a claim regarding a negative option violation would be worth it to the City. If only a small percentage of overall cable customers are effected, it is possible the costs of undertaking such a review and challenge could outweigh the true benefits to the City and its residents.

Finally, with respect to the $214,520 refund referenced in Mr. Hilton's materials, generally such amounts are addressed in subsequent rate filings by providing an offset from otherwise permissible rate increases. Based on the information presently before me I am unable to determine the status of this issue and therefore I have instructed my assistant to contact the FCC to obtain further clarification. As soon as we received word on this matter I will forward the results to your attention.

3. PEG Channel Signal Quality.

This issue is being addressed in the franchise negotiations although final agreement has yet to be achieved. Cox has argued that the rebuild of its cable system should result in improved picture quality both on the downstream distribution portion of the system which goes from Cox's headend to subscriber's homes as well as the associated return paths which would extend from the City's administration building and the PEG center building. In the ongoing negotiations with Cox we will continue to address the return paths referenced by Mr. Hilton to ensure improved signal quality.

4. Review of Franchise Agreement by the Telecommunications Board.

As you and I have discussed, my client is the City of Fayetteville, Arkansas and you serve as my contact for the City. I recognize you are obtaining input from both staff and elected officials and I will leave to your judgment how best to weigh input from the various groups within the City. Previously, the Telecommunications Board has served as a valuable resource to City officials although I recall there has not always been complete agreement between the Telecommunications Board, City Council, Mayor, City staff and City attorney's office. I am certainly happy to assist in addressing any proposed changes which the Telecommunications Board may suggest, however, I will continue to look to your office for the final word unless otherwise instructed.

I hope this letter is responsive to the issues presented within your June 25, 2001 correspondence. If I can provide any additional information or assistance, please feel free to contact me. Otherwise, I look forward to discussing with you a plan of strategy to move forward in the renewal process and ultimately bring a franchise agreement before your City council for review and consideration.

Very truly yours,

Brian

Brian T. Grogan

BTG/tlh

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VIA FACSIMILE AND U.S. MAIL

October 2, 2001

Kit Williams, Esq.
113 West Mountain, Room 302
Fayetteville, AR 72701

Re: Cable Television Rate Regulations – City of Fayetteville, Arkansas ("City")

Dear Kit:

Pursuant to our telephone conversation you requested that I prepare a brief letter to your attention regarding the status of the City's rate regulation efforts in 1994. At that time the City retained Moss & Barnett to review FCC forms submitted by the City's cable operator with respect to the rates for cable service. In 1994 Time Warner Cable served the City and was required by federal law to submit FCC Forms 1200, 1205 and 1215. These forms outlined the maximum permitted rates which Time Warner was authorized to charge to Fayetteville subscribers with respect to the Basic Service Tier, Cable Programming Services Tier (a/k/a Expanded Basic Cable) and the charges for remote controls, converters and installations.

Moss & Barnett submitted a report to the City on December 6, 1994 which included a recommended rate order with respect to Time Warner Cable's proposed rates. The rate form identified the maximum permitted rates to be charged. Rates charged by Time Warner Cable in excess of the maximum permitted rates were to be refunded to subscribers and/or credited in subsequent rate filings. However, it is possible Time Warner Cable's rates were at or below the maximum permitted levels and therefore no refunds or credits would be due. Our records do not include copies of Time Warner Cable's subsequent rate filings and therefore we are unable to verify whether any refunds or credits were applicable.

Since that time, franchising authorities have lost the right to regulate the rates for the Expanded Basic Tier. Therefore, the only remaining tier subject to the City's regulatory authority is the Basic Service Tier. Given that FCC regulations specify benchmark rates for the Basic Service Tier based on a per channel formula, the City has very little ability to require a reduction in Basic Service Tier rates if Cox complies with the FCC formula.

I hope this letter is responsive to the questions you have raised. If you should have any further questions or if I can provide any additional information or assistance, please feel free to contact me.

Very truly yours,

Brian T. Grogan

Brian T. Grogan

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FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: MAYOR COODY AND CITY COUNCIL MEMBERS

FROM: MARVIN HILTON, CABLE ADMINISTRATOR MH 12-21-01

SUBJECT: CABLE BASIC RATE INCREASE

DATE: DECEMBER 21, 2001

The Telecommunications Board, at their October 18, 2001 meeting, voted 4-0 to not recommend to the City Council that a an audit of Cox's Basic Rate increase be done.

In a July 10, 2001 letter, Cox included FCC forms 1240 and 1205 justifying the basic rate increase. This consists of 34 pages of complex accounting. The Telecommunications board, after discussing the rate increase at three of their meetings, decided that the several thousand dollars necessary to engage a specialist in the complex and esoteric process of auditing Cox's justification would not be money well spent.

See the attached "Basic Rate and Channel Increase"

CC: Hugh Earnest, Urban Development Director
Kit Williams, City Attorney