

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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## FINAL AGENDA CITY COUNCIL AUGUST 6, 2002

A meeting of the Fayetteville City Council will be held on August 6, 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. **RAILROAD RIGHT-OF-WAY:** A resolution approving the sale of 7.68 acres of abandoned railroad right-of-way between Garland Avenue and South School Ave to the University of Arkansas for \$82,300 in conjunction with expansion of the "Genesis Center". Income from this transaction will go toward the purchase of the Meredith property on Nonamaker Street.
3. **GARLAND AVE:** A resolution approving an agreement with the Arkansas Highway and Transportation Department regarding design and funding for the replacement of the South Garland Avenue Bridge.
4. **McGOODWIN, WILLIAMS AND YATES:** A resolution awarding the engineering contract to the firm of McGoodwin, Williams and Yates for the Water Transmission and Distribution System Master Plan Study in the not-to-exceed amount of \$205,000.00 and approval of an engineering contract contingency in the amount of \$20,000.00.

### B. OLD BUSINESS

1. **RZN 02-15.00:** An ordinance approving rezoning request RZN 02-15.00 as submitted by Dave Jorgensen of behalf of Larry Garriott for property located north of Persimmon Street and west of 46<sup>th</sup> Street. The property is zoned A-1, Agricultural and contains approximately 57.82 acres. The request is to rezone to R-1, Low Density Residential; and to accept the attached Bill of Assurance. The ordinance was left on the second reading at the July 16, 2002 meeting.

2. **OUTDOOR MUSIC ESTABLISHMENT:** An ordinance adding a definition of "Outdoor Music Establishment" to Chapter 151 Definitions of the Unified Development Ordinance and adding Section 163.30 to the Unified Development Ordinance to make an Outdoor Music Establishment a Conditional Use in specified zoning districts. The ordinance was left on the second reading at the July 16, 2002 meeting.
3. **RAZE AND REMOVAL:** A resolution approving a raze and removal of house at 1200 S. Roberts as per Ordinance 3948. The item was tabled at the July 18, 2002 meeting.

#### **C. NEW BUSINESS**

1. **RZN 02-17.00:** An ordinance approving rezoning request RZN 02-17.00 as submitted by Dave Jorgensen on behalf of Bleaux Barnes and Sam Mathias for property located south of Deane Street, west of Sang Avenue and east of Porter Road. The property is zoned R-1, Low Density Residential and contains approximately 21.03 acres. The request is to rezone to RMF-6, Low Density Multi-Family Residential.
2. **S/W ADDITIONAL PERSONNEL:** A resolution authorizing an increase in Solid Waste and Recycling to permit an additional driver.
3. **MCCLELLAND ENGINEERING:** A resolution authorizing Change Order No. 1 to the engineering services agreement with McClelland Engineering allowing for additional public participation activities for the Wilson Springs Business Park extending time frames established in the contract and adding the amount of \$32,388.47.
4. **PRUNING AND TREE REMOVAL:** A resolution authorizing the mayor and staff to work with local public utility companies to seek long-term solutions to the problems arising from the pruning and removal of trees near overhead lines.

Meeting of August 6, 2002

|                  |                 |  |  |  |  |
|------------------|-----------------|--|--|--|--|
|                  | <del>Roll</del> |  |  |  |  |
| Bechard          | ✓               |  |  |  |  |
| <del>Davis</del> |                 |  |  |  |  |
| Santos           | ✓               |  |  |  |  |
| Jordan           | ✓               |  |  |  |  |
| Reynolds         | ✓               |  |  |  |  |
| Thiel            | ✓               |  |  |  |  |
| Young            | ✓               |  |  |  |  |
| Marr             | ✓               |  |  |  |  |
| Coody            | ✓               |  |  |  |  |
|                  |                 |  |  |  |  |

|                    |                |  |  |  |  |
|--------------------|----------------|--|--|--|--|
| <del>Consent</del> | <del>CFM</del> |  |  |  |  |
| Bechard            | ✓              |  |  |  |  |
| <del>Davis</del>   |                |  |  |  |  |
| Santos             | ✓              |  |  |  |  |
| Jordan             | ✓              |  |  |  |  |
| Reynolds           | ✓              |  |  |  |  |
| Thiel              | ✓              |  |  |  |  |
| Young              | ✓              |  |  |  |  |
| Marr               | ✓              |  |  |  |  |
| Coody              |                |  |  |  |  |
|                    |                |  |  |  |  |





Meeting of August 6, 2002

*RR 02-16* *LP RR to table*

|                  |   |  |  |  |  |
|------------------|---|--|--|--|--|
|                  |   |  |  |  |  |
| Bechard          | ✓ |  |  |  |  |
| <del>Davis</del> |   |  |  |  |  |
| Santos           | ✓ |  |  |  |  |
| Jordan           | ✓ |  |  |  |  |
| Reynolds         | ✓ |  |  |  |  |
| Thiel            | ✓ |  |  |  |  |
| Young            | ✓ |  |  |  |  |
| Marr             | ✓ |  |  |  |  |
| Coody            |   |  |  |  |  |
|                  |   |  |  |  |  |

*own motion* *KS 300 DM* *DM 29*

|                  |   |           |  |  |  |
|------------------|---|-----------|--|--|--|
|                  |   |           |  |  |  |
| Bechard          | ✓ | N         |  |  |  |
| <del>Davis</del> |   |           |  |  |  |
| Santos           | ✓ | ✓         |  |  |  |
| Jordan           | ✓ | ✓         |  |  |  |
| Reynolds         | ✓ | Abstained |  |  |  |
| Thiel            | ✓ | ✓         |  |  |  |
| Young            | ✓ | ✓         |  |  |  |
| Marr             | ✓ | ✓         |  |  |  |
| Coody            |   |           |  |  |  |
|                  |   | 5-1-1     |  |  |  |

Meeting of August 6, 2002 <sup>Sept 3</sup>

*Page 1 of 3*  
*BT - ER. tabled.*

|                  |   |   |  |  |  |
|------------------|---|---|--|--|--|
|                  |   |   |  |  |  |
| Bechard          | Y |   |  |  |  |
| <del>Davis</del> |   |   |  |  |  |
| Santos           | Y | ✓ |  |  |  |
| Jordan           | Y | ✓ |  |  |  |
| Reynolds         | Y | ✓ |  |  |  |
| Thiel            | Y | ✓ |  |  |  |
| Young            | Y | ✓ |  |  |  |
| Marr             | Y | ✓ |  |  |  |
| Coody            |   |   |  |  |  |
|                  |   |   |  |  |  |

*02-17*  
*LD BT*  
*2ND*  
*Reynolds*  
*Marr*

|                  |  |   |  |  |  |
|------------------|--|---|--|--|--|
|                  |  |   |  |  |  |
| Bechard          |  | ✓ |  |  |  |
| <del>Davis</del> |  |   |  |  |  |
| Santos           |  | ✓ |  |  |  |
| Jordan           |  | ✓ |  |  |  |
| Reynolds         |  | ✓ |  |  |  |
| Thiel            |  | ✓ |  |  |  |
| Young            |  | ✓ |  |  |  |
| Marr             |  | ✓ |  |  |  |
| Coody            |  |   |  |  |  |
|                  |  |   |  |  |  |

*Left on  
Second*



Meeting of August 6, 2002

*SW per [unclear]* *LS [unclear]*

|                  |   |  |  |  |  |
|------------------|---|--|--|--|--|
| Bechard          | ✓ |  |  |  |  |
| <del>Davis</del> |   |  |  |  |  |
| Santos           | ✓ |  |  |  |  |
| Jordan           | ✓ |  |  |  |  |
| Reynolds         | ✓ |  |  |  |  |
| Thiel            | ✓ |  |  |  |  |
| Young            | ✓ |  |  |  |  |
| Marr             | ✓ |  |  |  |  |
| Coody            |   |  |  |  |  |
|                  |   |  |  |  |  |

*McClendon* *DM 22 [unclear]*

|                  |     |  |  |  |  |
|------------------|-----|--|--|--|--|
| Bechard          | ✓ 1 |  |  |  |  |
| <del>Davis</del> |     |  |  |  |  |
| Santos           | ✓ 2 |  |  |  |  |
| Jordan           | ✓ 3 |  |  |  |  |
| Reynolds         | ✓ 4 |  |  |  |  |
| Thiel            | ✓ 5 |  |  |  |  |
| Young            | ✓ 6 |  |  |  |  |
| Marr             | ✓ 7 |  |  |  |  |
| Coody            |     |  |  |  |  |
|                  |     |  |  |  |  |

\* \*

Meeting of August 6, 2002

*Review of previous  
to employees*

*KS*

*KS and  
"Shut her"*

*KS TB*

|                  |   |   |   |  |  |
|------------------|---|---|---|--|--|
| Bechard          | ✓ | ✓ | ✓ |  |  |
| <del>Davis</del> |   |   |   |  |  |
| Santos           | ✓ | ✓ | ✓ |  |  |
| Jordan           | ✓ | ✓ | ✓ |  |  |
| Reynolds         | ✓ | ✓ | ✓ |  |  |
| Thiel            | ✓ | ✓ | ✓ |  |  |
| Young            | ✓ | ✓ | ✓ |  |  |
| Marr             | ✓ | ✓ | ✓ |  |  |
| Coody            |   |   |   |  |  |
|                  |   |   |   |  |  |

|                  |  |  |  |  |  |
|------------------|--|--|--|--|--|
|                  |  |  |  |  |  |
| Bechard          |  |  |  |  |  |
| <del>Davis</del> |  |  |  |  |  |
| Santos           |  |  |  |  |  |
| Jordan           |  |  |  |  |  |
| Reynolds         |  |  |  |  |  |
| Thiel            |  |  |  |  |  |
| Young            |  |  |  |  |  |
| Marr             |  |  |  |  |  |
| Coody            |  |  |  |  |  |
|                  |  |  |  |  |  |

*W. Johnson*

*9:50*



# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

## FINAL AGENDA CITY COUNCIL AUGUST 6, 2002

A meeting of the Fayetteville City Council will be held on August 6, 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 *al Canadian*

#### 2. *Res. 112-22* RAILROAD RIGHT-OF-WAY: A resolution approving the sale of 7.68 acres of abandoned railroad right-of-way between Garland Avenue and South School Ave to the University of Arkansas for \$82,300 in conjunction with expansion of the "Genesis Center". Income from this transaction will go toward the purchase of the Meredith property on Nonamaker Street.

#### 3. *Res. 112-22* GARLAND AVE: A resolution approving an agreement with the Arkansas Highway and Transportation Department regarding design and funding for the replacement of the South Garland Avenue Bridge.

#### 4. *Res. 112-22* McGOODWIN, WILLIAMS AND YATES: A resolution awarding the engineering contract to the firm of McGoodwin, Williams and Yates for the Water Transmission and Distribution System Master Plan Study in the not-to-exceed amount of \$205,000.00 and approval of an engineering contract contingency in the amount of \$20,000.00.

### B. OLD BUSINESS

#### 1. *Added until next meeting* RZN 02-15.00: An ordinance approving rezoning request RZN 02-15.00 as submitted by Dave Jorgensen of behalf of Larry Garriott for property located north of Persimmon Street and west of 46<sup>th</sup> Street. The property is zoned A-1, Agricultural and contains approximately 57.82 acres. The request is to rezone to R-1, Low Density Residential; and to accept the attached Bill of Assurance. The ordinance was left on the second reading at the July 16, 2002 meeting.

2. ~~✓~~ **OUTDOOR MUSIC ESTABLISHMENT:** An ordinance adding a definition of "Outdoor Music Establishment" to Chapter 151 Definitions of the Unified Development Ordinance and adding Section 163.30 to the Unified Development Ordinance to make an Outdoor Music Establishment a Conditional Use in specified zoning districts. The ordinance was left on the second reading at the July 16, 2002 meeting.

3. **RAZE AND REMOVAL:** A resolution approving a raze and removal of house at 1200 S. Roberts as per Ordinance 3948. The item was tabled at the July 18, 2002 meeting.

### C. NEW BUSINESS

1. ~~RZN 02-17.00~~ **RZN 02-17.00:** An ordinance approving rezoning request RZN 02-17.00 as submitted by Dave Jorgensen on behalf of Bleaux Barnes and Sam Mathias for property located south of Deane Street, west of Sang Avenue and east of Porter Road. The property is zoned R-1, Low Density Residential and contains approximately 21.03 acres. The request is to rezone to RMF-6, Low Density Multi-Family Residential.

2. **S/W ADDITIONAL PERSONNEL:** A resolution authorizing an increase in Solid Waste and Recycling to permit an additional driver.

3. **MCCLELLAND ENGINEERING:** A resolution authorizing Change Order No. 1 to the engineering services agreement with McClelland Engineering allowing for additional public participation activities for the Wilson Springs Business Park extending time frames established in the contract and adding the amount of \$32,388.47. ~~amended~~ amended.

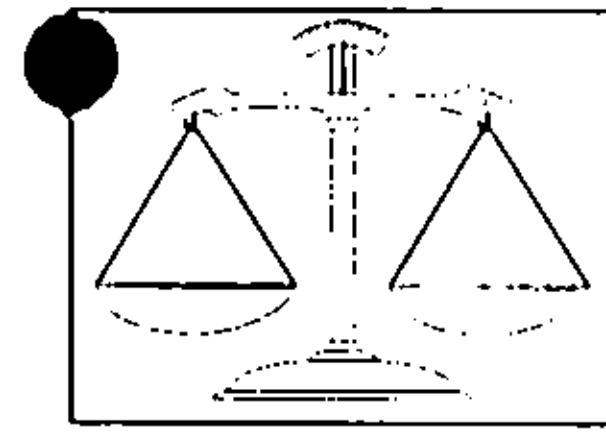
4. **PRUNING AND TREE REMOVAL:** A resolution authorizing the mayor and staff to work with local public utility companies to seek long-term solutions to the problems arising from the pruning and removal of trees near overhead lines.

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY

DAVID WHITAKER, ASST. CITY ATTORNEY



LEGAL DEPARTMENT

## DEPARTMENTAL CORRESPONDENCE

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TO: Dan Coody, Mayor

THRU: Heather Woodruff, City Clerk

FROM: Kit Williams, City Attorney

DATE: August 7, 2002

RE: Passed Ordinances and Resolutions from City Council  
meeting of August 6, 2002

The following Ordinances and Resolutions were passed at the last City Council meeting and are ready for the mayor's signature.

Enclosed are:

RES. 118-021. **Railroad Right-of-Way:** Resolution approving sale of 7.68 acres of abandoned railroad right-of-way between Garland Avenue and South School Ave. to the University of Arkansas for \$82,300.00 in conjunction with expansion of "Genesis Center". Income from this transaction will go toward purchase of Meredith property on Nonamaker Street.

RES. 119-022. **Garland Avenue:** Resolution approving an agreement with the Arkansas Highway and Transportation Department regarding design and funding for replacement of South Garland Avenue Bridge.



RES. 120-023. **McGoodwin, Williams & Yates:** Resolution awarding engineering contract to firm of McGoodwin, Williams & Yates for Water transmission and Distribution System Master Plan Study in not-to-exceed amount of \$205,000.00 and approval of contingency in amount of \$20,000.00.

ORD. 4409 4. **Outdoor Music Establishment:** Ordinance adding definition of "Outdoor Music Establishment" to Chapter 151 Definitions of the Unified Development Ordinance and adding Section 163.30 to the Unified Development Ordinance to make an Outdoor Music Establishment a Conditional Use in specified zoning districts.

RES. 121-025. **S/W Additional Personnel:** Resolution authorizing increase in Solid Waste and Recycling to permit an additional driver.

RES. 122-026. **McClelland Engineering:** Resolution authorizing Change Order No. 1 to engineering services agreement with McClelland Engineering allowing for additional public participation activities for Wilson Springs Business Park extending time frames established in contract and adding the amount of \$16,927.47.

RES. 123-027. **Pruning & Tree Removal:** Resolution encouraging Mayor and Staff to work with local public utility companies to seek short term and long term solutions to problems arising from pruning and removal of trees near overhead lines.

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#### 1. APPROVAL OF THE MINUTES *with correction*

#### 2. RAILROAD RIGHT-OF-WAY: A resolution approving the sale of 7.68 acres of abandoned railroad right-of-way between Garland Avenue and South School Ave to the University of Arkansas for \$82,300 in conjunction with expansion of the "Genesis Center". Income from this transaction will go toward the purchase of the Meredith property on Nonamaker Street.

#### 3. GARLAND AVE: A resolution approving an agreement with the Arkansas Highway and Transportation Department regarding design and funding for the replacement of the South Garland Avenue Bridge.

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- Added  
until last  
meeting*
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*Press*  
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*Tabled 9-30-02*  
3. **RAZE AND REMOVAL:** A resolution approving a raze and removal of house at 1200 S. Roberts as per Ordinance 3948. The item was tabled at the July 18, 2002 meeting.

**C. NEW BUSINESS**

*Left on 9-30-02*  
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*RES. 12.2-02*  
2. **S/W ADDITIONAL PERSONNEL:** A resolution authorizing an increase in Solid Waste and Recycling to permit an additional driver.

*RES. 12.2-02*  
3. **MCCLELLAND ENGINEERING:** A resolution authorizing Change Order No. 1 to the engineering services agreement with McClelland Engineering allowing for additional public participation activities for the Wilson Springs Business Park extending time frames established in the contract and adding the amount of \$32,388.47. *amended*

*RES. 12.3-02*  
4. **PRUNING AND TREE REMOVAL:** A resolution authorizing the mayor and staff to work with local public utility companies to seek long-term solutions to the problems arising from the pruning and removal of trees near overhead lines.  
*Press as amended*

*Wilson Springs  
Meeting*

*inf. ref.  
9-5-02*



# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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4. **PRUNING AND TREE REMOVAL:** A resolution authorizing the mayor and staff to work with local public utility companies to seek long-term solutions to the problems arising from the pruning and removal of trees near overhead lines.

To: Fayetteville City Council  
From: McClelland Consulting Engineers, Inc. (MCE)  
Date: August 2, 2002  
Re: Wilson Spring Business Technology Park Project

When MCE was asked to give a Proposal for this project, it was our understanding that our role in the Public Participation portion of the project was to be minimal and that EGIS would have the "lead" role.

Considerable time was spent by MCE on the preparation for the first two Public Meetings at the Town Center. This included the preparation of colored drawings and maps (both which required substantial AUTOCAD technician time), as well as, the preparation of PowerPoint slides and images. Also included was attendance by the Principal and Project Engineers at team meetings that were required to prepare for the Public Meetings. Additionally, each Public Meeting lasted approximately three hours and attendance by the engineers was required at each of the meetings.

In response to the direction given to us by the City Council at the March 19, 2002, City Council Meeting, we attended meetings with the environmental activists and prepared three development options with cost estimates. More specifically, our work included the following:

- Attendance at five additional Team Meetings (with Gary Dumas and/or EGIS);
- Attendance at three additional meetings with environmental activists (two at MCE's office and one on the project site);

Attendees at the first meeting in MCE's office were Mayor Dan Coody, Director Gary Dumas, Alderman Cyrus Young, Fran Alexander, Jeff Erf and Tom McKinney. The meeting lasted approximately two hours, and the Principal and Project Engineers attended the meeting.

Attendees at the second meeting in MCE's office were Director Gary Dumas, Don Bunch (Planning Commission), Andrea Radwell and Tom McKinney. The meeting lasted approximately two hours, and the Principal and Project Engineers attended the meeting.

- Preparation of drawings, maps and other items, as required, for additional meetings;
- Preparation of multiple development options leading to the selection of three final options; and
- Preparation of cost estimates for the three final options.

It should be noted that preliminary designs and layouts were required in order to accurately prepare the cost estimates for the three final options. These layouts and estimates required an excess of fifty hours each for the Principal and Project Engineers.

More detailed information will be provided at Tuesday's City Council Meeting.

# ESTIMATION OF HOURS

| TASK DESCRIPTION                                       | HOURS | RATE                 | TOTAL        |
|--------------------------------------------------------|-------|----------------------|--------------|
| Preparation for first two Public Meetings:             |       |                      |              |
| Principal Engineer                                     | 2.00  | \$96.00/hr           | \$192.00     |
| Project Engineer                                       | 62.0  | \$58.00/hr           | \$3,596.00   |
| Computer Technician                                    | 7.50  | \$53.00/hr           | \$397.50     |
| CADD Technician II                                     | 0.50  | \$47.00/hr           | \$23.50      |
| CADD Technician I                                      | 21.0  | \$30.00/hr           | \$630.00     |
| Attendance at first two Public Meetings:               |       |                      |              |
| Project Director                                       | 1.00  | \$104.00/hr          | \$104.00     |
| Principal Engineer                                     | 6.00  | \$96.00/hr           | \$576.00     |
| Project Engineer                                       | 6.00  | \$58.00/hr           | \$348.00     |
|                                                        |       | Subtotal             | \$5,867.00   |
| Preparation for three additional meetings:             |       |                      |              |
| Principal Engineer                                     | 11.25 | \$96.00/hr           | \$1,080.00   |
| Project Engineer                                       | 33.50 | \$58.00/hr           | \$1,943.00   |
| Computer Technician                                    | 0.250 | \$53.00/hr           | \$13.25      |
| CADD Technician I                                      | 24.50 | \$30.00/hr           | \$735.00     |
| Miscellaneous Expenses                                 |       |                      | \$22.22      |
| Attendance at three additional meetings:               |       |                      |              |
| Project Director                                       | 0.75  | \$104.00/hr          | \$78.00      |
| Principal Engineer                                     | 4.50  | \$96.00/hr           | \$432.00     |
| Project Engineer                                       | 8.00  | \$58.00/hr           | \$464.00     |
|                                                        |       | Subtotal             | \$4,767.47   |
| Preparation of three final options and cost estimates: |       |                      |              |
| Project Director                                       | 0.75  | \$104.00/hr          | \$78.00      |
| Principal Engineer                                     | 64.50 | \$96.00/hr           | \$6,192.00   |
| Project Engineer                                       | 58.00 | \$58.00/hr           | \$3,364.00   |
| Computer Technician                                    | 5.00  | \$53.00/hr           | \$265.00     |
| CADD Technician I                                      | 28.50 | \$30.00/hr           | \$855.00     |
|                                                        |       | Subtotal             | \$10,754.00  |
|                                                        |       | Total                | \$21,388.47  |
|                                                        |       | Less Contract Amount | - \$4,461.00 |
| Total Request for Work Already Performed               |       |                      | \$16,927.47  |



**PRELIMINARY COST ESTIMATE**  
**I-540 BUSINESS TECHNOLOGY PARK**  
**No Impact Option**  
**FY022108**  
**14-May-02**

| <u>Item</u>                      | <u>Quantity</u> | <u>Unit</u> | <u>Unit Price</u> | <u>Extended</u>       |
|----------------------------------|-----------------|-------------|-------------------|-----------------------|
| <b>General:</b>                  |                 |             |                   |                       |
| Mobilization                     | 1               | LS          | \$5,000.00        | \$5,000.00            |
| Trenching and Safety             | 1               | LS          | \$500.00          | \$500.00              |
| Erosion Control                  | 1               | LS          | \$100,000.00      | \$100,000.00          |
| Clearing and Grubbing            | 1               | LS          | \$3,500.00        | \$3,500.00            |
|                                  |                 |             | Subtotal          | \$109,000.00          |
| <b>Street Construction:</b>      |                 |             |                   |                       |
| 33' Collector Street             | 3040            | LF          | \$291.00          | \$884,640.00          |
| 25' Local Street                 | 3440            | LF          | \$243.00          | \$835,920.00          |
| 24" CMP                          | 840             | LF          | \$31.00           | \$26,040.00           |
| Headwalls                        | 14              | EA          | \$1,000.00        | \$14,000.00           |
| Street Lighting                  | 22              | EA          | \$2,500.00        | \$55,000.00           |
| Electrical Service               | 1               | LS          | \$4,000.00        | \$4,000.00            |
| Street Striping - 4" white edges | 12960           | LF          | \$3.50            | \$45,360.00           |
| Signage                          | 1               | LS          | \$2,500.00        | \$2,500.00            |
| Retaining Wall                   | 1               | LS          | \$84,000.00       | \$84,000.00           |
| Boulevard Entrance off Shiloh    | 200             | LF          | \$400.00          | \$80,000.00           |
|                                  |                 |             | Subtotal          | \$2,031,460.00        |
| <b>Sidewalks:</b>                |                 |             |                   |                       |
| Compacted Hillside/ Embankment   | 500             | CY          | \$15.00           | \$7,500.00            |
| Concrete Sidewalk (10' x 6")     | 6400            | LF          | \$30.50           | \$195,200.00          |
| Earthwork for Swale Crossings    | 9               | EA          | \$1,500.00        | \$13,500.00           |
| 24" CMP                          | 360             | LF          | \$31.00           | \$11,160.00           |
|                                  |                 |             | Subtotal          | \$227,360.00          |
| <b>Sewer:</b>                    |                 |             |                   | \$1,163,200.00        |
| <b>Water:</b>                    |                 |             |                   | \$708,000.00          |
|                                  |                 |             | Total             | \$4,965,940.00        |
|                                  |                 |             | Contingency (20%) | \$993,188.00          |
|                                  |                 |             | <b>Total</b>      | <b>\$5,959,128.00</b> |

**PRELIMINARY COST ESTIMATE**  
**I-540 BUSINESS TECHNOLOGY PARK**  
**0.5-Acre Impact Option**  
**CITY OF FAYETTEVILLE**  
**FY022108**  
**14-May-02**

| <u>Item</u>                                                | <u>Quantity</u> | <u>Unit</u> | <u>Unit Price</u> | <u>Extended</u>       |
|------------------------------------------------------------|-----------------|-------------|-------------------|-----------------------|
| <b>General:</b>                                            |                 |             |                   |                       |
| Mobilization                                               | 1               | LS          | \$5,000.00        | \$5,000.00            |
| Trenching and Safety                                       | 1               | LS          | \$500.00          | \$500.00              |
| Erosion Control                                            | 1               | LS          | \$100,000.00      | \$100,000.00          |
| Clearing and Grubbing                                      | 1               | LS          | \$5,000.00        | \$5,000.00            |
|                                                            |                 |             | Subtotal          | \$110,500.00          |
| <b>Street Construction:</b>                                |                 |             |                   |                       |
| 33' Collector Street                                       | 5360            | LF          | \$291.00          | \$1,559,760.00        |
| 25' Local Street                                           | 6080            | LF          | \$243.00          | \$1,477,440.00        |
| 24" CMP                                                    | 1860            | LF          | \$31.00           | \$57,660.00           |
| Headwalls                                                  | 31              | EA          | \$1,000.00        | \$31,000.00           |
| Street Lighting                                            | 39              | EA          | \$2,500.00        | \$97,500.00           |
| Electrical Service                                         | 1               | LS          | \$5,000.00        | \$5,000.00            |
| Street Striping - 4" white edges                           | 22880           | LF          | \$3.50            | \$80,080.00           |
| Signage                                                    | 1               | LS          | \$5,000.00        | \$5,000.00            |
| Retaining Wall                                             | 1               | LS          | \$84,000.00       | \$84,000.00           |
| Boulevard Entrance off Shiloh                              | 200             | LF          | \$400.00          | \$80,000.00           |
|                                                            |                 |             | Subtotal          | \$3,477,440.00        |
| <b>Bridges:</b>                                            |                 |             |                   |                       |
| 100' Clear Span - 13' wide<br>with 8' sidewalk on one side | 2100            | SF          | \$70.00           | \$147,000.00          |
| 50' Clear Span - 33' wide<br>with 8' sidewalk on one side  | 2050            | SF          | \$85.00           | \$174,250.00          |
|                                                            |                 |             | Subtotal          | \$321,250.00          |
| <b>Sidewalks:</b>                                          |                 |             |                   |                       |
| Compacted Hillside/ Embankment                             | 700             | CY          | \$15.00           | \$10,500.00           |
| Concrete Sidewalk (10' x 6")                               | 11200           | LF          | \$30.50           | \$341,600.00          |
| Earthwork for Swale Crossings                              | 12              | EA          | \$1,500.00        | \$18,000.00           |
| 18" CMP                                                    | 120             | LF          | \$25.00           | \$3,000.00            |
| 24" CMP                                                    | 440             | LF          | \$31.00           | \$13,640.00           |
|                                                            |                 |             | Subtotal          | \$386,740.00          |
| <b>Sewer:</b>                                              |                 |             |                   | \$1,153,000.00        |
| <b>Water:</b>                                              |                 |             |                   | \$1,224,000.00        |
|                                                            |                 |             | Total             | \$6,672,930.00        |
|                                                            |                 |             | Contingency (20%) | \$1,334,586.00        |
|                                                            |                 |             | <b>Total</b>      | <b>\$8,007,516.00</b> |

**ELIMINARY COST ESTIMATE**  
**I-540 BUSINESS TECHNOLOGY PARK**  
**17-Acre Impact Option**  
**CITY OF FAYETTEVILLE**  
**FY022108**  
**14-May-02**

| <u>Item</u>                                                | <u>Quantity</u> | <u>Unit</u> | <u>Unit Price</u> | <u>Extended</u>       |
|------------------------------------------------------------|-----------------|-------------|-------------------|-----------------------|
| <b>General:</b>                                            |                 |             |                   |                       |
| Mobilization                                               | 1               | LS          | \$5,000.00        | \$5,000.00            |
| Trenching and Safety                                       | 1               | LS          | \$500.00          | \$500.00              |
| Erosion Control                                            | 1               | LS          | \$100,000.00      | \$100,000.00          |
| Clearing and Grubbing                                      | 1               | LS          | \$5,000.00        | \$5,000.00            |
|                                                            |                 |             | Subtotal          | \$110,500.00          |
| <b>Street Construction:</b>                                |                 |             |                   |                       |
| 33' Collector Street                                       | 4960            | LF          | \$291.00          | \$1,443,360.00        |
| 25' Local Street                                           | 6520            | LF          | \$243.00          | \$1,584,360.00        |
| 24" CMP                                                    | 1860            | LF          | \$31.00           | \$57,660.00           |
| Headwalls                                                  | 31              | EA          | \$1,000.00        | \$31,000.00           |
| Street Lighting                                            | 39              | EA          | \$2,500.00        | \$97,500.00           |
| Electrical Service                                         | 1               | LS          | \$5,000.00        | \$5,000.00            |
| Street Striping - 4" white edges                           | 22960           | LF          | \$3.50            | \$80,360.00           |
| Signage                                                    | 1               | LS          | \$5,000.00        | \$5,000.00            |
| Retaining Wall                                             | 1               | LS          | \$84,000.00       | \$84,000.00           |
| Boulevard Entrance off Shiloh                              | 200             | LF          | \$400.00          | \$80,000.00           |
|                                                            |                 |             | Subtotal          | \$3,468,240.00        |
| <b>Bridges:</b>                                            |                 |             |                   |                       |
| 100' Clear Span - 13' wide<br>with 8' sidewalk on one side | 2100            | SF          | \$70.00           | \$147,000.00          |
| 50' Clear Span - 33' wide<br>with 8' sidewalk on one side  | 2050            | SF          | \$85.00           | \$174,250.00          |
|                                                            |                 |             | Subtotal          | \$321,250.00          |
| <b>Sidewalks:</b>                                          |                 |             |                   |                       |
| Compacted Hillside/ Embankment                             | 700             | CY          | \$15.00           | \$10,500.00           |
| Concrete Sidewalk (10' x 6")                               | 11200           | LF          | \$30.50           | \$341,600.00          |
| Earthwork for Swale Crossings                              | 12              | EA          | \$1,500.00        | \$18,000.00           |
| 18" CMP                                                    | 120             | LF          | \$25.00           | \$3,000.00            |
| 24" CMP                                                    | 440             | LF          | \$31.00           | \$13,640.00           |
|                                                            |                 |             | Subtotal          | \$386,740.00          |
| <b>Sewer:</b>                                              |                 |             |                   | \$1,153,000.00        |
| <b>Water:</b>                                              |                 |             |                   | \$1,224,000.00        |
|                                                            |                 |             | Total             | \$6,663,730.00        |
|                                                            |                 |             | Contingency (20%) | \$1,332,746.00        |
|                                                            |                 |             | <b>Total</b>      | <b>\$7,996,476.00</b> |



# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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## FINAL AGENDA CITY COUNCIL AUGUST 6, 2002

A meeting of the Fayetteville City Council will be held on August 6, 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. **RAILROAD RIGHT-OF-WAY:** A resolution approving the sale of 7.68 acres of abandoned railroad right-of-way between Garland Avenue and South School Ave to the University of Arkansas for \$82,300 in conjunction with expansion of the "Genesis Center". Income from this transaction will go toward the purchase of the Meredith property on Nonamaker Street.
3. **GARLAND AVE:** A resolution approving an agreement with the Arkansas Highway and Transportation Department regarding design and funding for the replacement of the South Garland Avenue Bridge.
4. **McGOODWIN, WILLIAMS AND YATES:** A resolution awarding the engineering contract to the firm of McGoodwin, Williams and Yates for the Water Transmission and Distribution System Master Plan Study in the not-to-exceed amount of \$205,000.00 and approval of an engineering contract contingency in the amount of \$20,000.00.

### B. OLD BUSINESS

1. **RZN 02-15.00:** An ordinance approving rezoning request RZN 02-15.00 as submitted by Dave Jorgensen of behalf of Larry Garriott for property located north of Persimmon Street and west of 46<sup>th</sup> Street. The property is zoned A-1, Agricultural and contains approximately 57.82 acres. The request is to rezone to R-1, Low Density Residential; and to accept the attached Bill of Assurance. The ordinance was left on the second reading at the July 16, 2002 meeting.



2. **OUTDOOR MUSIC ESTABLISHMENT:** An ordinance adding a definition of "Outdoor Music Establishment" to Chapter 151 Definitions of the Unified Development Ordinance and adding Section 163.30 to the Unified Development Ordinance to make an Outdoor Music Establishment a Conditional Use in specified zoning districts. The ordinance was left on the second reading at the July 16, 2002 meeting.
3. **RAZE AND REMOVAL:** A resolution approving a raze and removal of house at 1200 S. Roberts as per Ordinance 3948. The item was tabled at the July 18, 2002 meeting.

#### **C. NEW BUSINESS**

1. **RZN 02-17.00:** An ordinance approving rezoning request RZN 02-17.00 as submitted by Dave Jorgensen on behalf of Bleaux Barnes and Sam Mathias for property located south of Deane Street, west of Sang Avenue and east of Porter Road. The property is zoned R-1, Low Density Residential and contains approximately 21.03 acres. The request is to rezone to RMF-6, Low Density Multi-Family Residential.
2. **S/W ADDITIONAL PERSONNEL:** A resolution authorizing an increase in Solid Waste and Recycling to permit an additional driver.
3. **MCCLELLAND ENGINEERING:** A resolution authorizing Change Order No. 1 to the engineering services agreement with McClelland Engineering allowing for additional public participation activities for the Wilson Springs Business Park extending time frames established in the contract and adding the amount of \$32,388.47.
4. **PRUNING AND TREE REMOVAL:** A resolution authorizing the mayor and staff to work with local public utility companies to seek long-term solutions to the problems arising from the pruning and removal of trees near overhead lines.



**MINUTES OF A MEETING  
OF THE  
CITY COUNCIL  
JULY 2, 2002**

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

**PRESENT:** Mayor Coody, Aldermen Thiel, Young, Marr, Bechard, Davis, Santos, Jordan, and Reynolds, City Attorney Kit Williams, City Clerk Heather Woodruff, Staff, Press and Audience.

**NOMINATING COMMITTEE REPORT**

**AUDIT COMMITTEE**

Jackson White/One three-year Certified Public Accountant term ending 12/31/04

**BOARD OF ADJUSTMENTS AND BOARD OF SIGN APPEALS**

Sheree M. Alt/One five-year Public-at-Large term ending 03/31/07

**CIVIL SERVICE COMMISSION**

Stanley E. Adelman/One three-year term ending 03/31/05

**CONSTRUCTION BOARD OF ADJUSTMENTS AND APPEALS**

Jerry Bailey/One one-year Alternate term ending 03/31/03

**ENVIRONMENTAL CONCERNS COMMITTEE**

Jeremy Webb/One three-year Local Industry term ending 06/30/05

Marti Benedict/One three-year Science Discipline term ending 06/30/05

Steven R. Jackson/One three-year Citizen-at-Large term ending 06/30/05

Stacey Wingate/One three-year Citizen-at-Large term ending 06/30/05

Cheri Lynn Coley/One three-year Citizen-at-Large term ending 06/30/05

Linda Rupe/One three-year Citizen-at-Large term ending 06/30/05

**TELECOMMUNICATIONS BOARD**

Jon C. Lofton/One two-year term ending 06/30/04

Kenneth Myers/One two-year term ending 06/30/04

Gary Ault/One unexpired term ending 06/30/03

**TREE AND LANDSCAPE ADVISORY COMMITTEE**

John Clark Rupe/One unexpired University Representative term ending 12/31/03

**WALTON ARTS CENTER COUNCIL, INC.**

Linda A. Gaddy/One three-year term ending 06/30/05

YOUTH ADVOCACY COMMITTEE

Barbara A. Lofton/One two-year Teacher term ending 05/31/04

**Alderman Santos moved to appoint. Alderman Thiel seconded. Upon roll call the motion carried unanimously.**

Alderman Santos stated they were in a four-four tie between Steve Frankenburger and Troy Wilson for Planning Commission. It was the consensus of the Council to interview applicants for the Planning Commission again.

**CONSENT**

**APPROVAL OF THE MINUTES**

**GARVER ENGINEERS:** A resolution awarding an engineering contract to Garver Engineers in the not-to-exceed amount of \$275,000 to provide engineering services for the accelerated waterline replacement project.

*RESOLUTION 101-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*

**USINFRASTRUCTURE:** A resolution awarding the engineering contract to the firm of USInfrastructure for engineering studies and recommendations for (1) the upper Hamestring Creek Basin and (2) the Shenandoah Trailer Park area. The contract price is not-to-exceed \$93,424; and approval of an engineering contract contingency in the amount of \$10,000.

*RESOLUTION 102-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*

**AATC LEASE:** A resolution approving a lease with Northwest Arkansas Aviation Technologies Center for an executive hangar located at 4248 South School.

*RESOLUTION 103-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*

**Alderman Davis moved to approve the Consent Agenda. Alderman Santos seconded. Upon roll call the motion carried unanimously.**

**OLD BUSINESS**

**VA 02-1.00:** An ordinance approving vacation request VA 02-1.00 as submitted by Ken and Kathie Marvin for property located in Rochier Heights Subdivision. The request is to vacate the alley between Lots 8, 9, 10 and 11 of Block 5. The ordinance was left on the 1st reading at the June 18, 2002 meeting.

**Alderman Davis moved to table the item. Alderman Reynolds seconded. Upon roll call the motion carried unanimously.**

*ITEM WAS TABLED.*

## **NEW BUSINESS**

**RZN 02-15.00:** An ordinance approving rezoning request RZN 02-15.00 as submitted by Dave Jorgensen of behalf of Larry Garriott for property located north of Persimmon Street and west of 46th Street. The property is zoned A-1, Agricultural and contains approximately 57.82 acres. The request is to rezone to R-1, Low Density Residential; and to accept the attached Bill of Assurance.

*Mr. Williams read the ordinance for the first time.*

Alderman Jordan stated he had met with some of the people in that area. They were concerned about traffic congestion and drainage. This proposal had been turned down in 1998.

Alderman Young asked where the traffic congestion was that the residents were concerned about.

Alderman Jordan stated they were concerned about the traffic on 46<sup>th</sup> Street and Persimmon. They had stated they were already having trouble getting out onto Wedington as it was. They had suggested another access road coming out of this development going to Wedington.

check #  
Mr. Hugh Earnest, Urban Development Director, stated the Planning Department had prepared an aerial photo of the area and a list of all the developments in the area within the last two years. All the developments relate to a map that has been laid out over the past ten years. The staff was very close to bringing them a recommendation for a master traffic study/master street plan. What they would see in the study would be what the area would look like at build out. Wedington was classified as a principle arterial and can carry up to twenty thousand cars per day. Their current traffic count at Wedington and 46<sup>th</sup> was thirty-six thousand vehicles per day. The proposed development at build out would add a thousand trips per day on the Wedington corridor, still leaving some capacity. At some point the future the Wedington corridor will be at capacity. It was not at capacity right now.

Alderman Thiel asked where Persimmon went and what did it link them to?

Mr. Earnest stated Persimmon would tie to the Ruppel Road extension that they were building to the Boys and Girls Club. 46<sup>th</sup> Street will be built as a collector to tie into Persimmon. Over time they would begin to see a grid of road that would service the area.

Alderman Young suggested that they educate them on the number traffic lights proposed or something that would break up the traffic so people could get onto the road.



Mr. Earnest stated they were going to be getting some counts so that they could justify the placement of the traffic signal. Somewhere on the corridor they were going to have to install some signals to break up the traffic flow.

Alderman Jordan stated they were going to have to build the infrastructure to accommodate their growth. They could not continue to develop without constructing the infrastructure.

Alderman Reynolds stated Wedington was a State Highway and was not a city street. By the time they get their school and the Boys and Girls Club they would convince the Highway Department that they needed a traffic signal.

Alderman Santos stated it would take more development and more congestion out there before the situation would get bad enough that the Highway Department would allow them to up in a stop light. This was sprawl and it was costing all the citizens of Fayetteville money. They needed impact fees to help cover the costs.

Ms. Sharon Davison, an area resident, expressed the need for the city to adopt impact fees to help cover the cost of the development.

Mr. Bassam stated he lived on 46<sup>th</sup> Street. He did not oppose the development. This development had been denied by the Planning Commission and the City Council in 1998. The traffic had increased by one thousands trips in the last three years. The proposed development will generate about twenty three hundred trips per day according to the report done by the Traffic Department. The State had no plans for any improvements to Hwy 16 for the next five to six years because there was no money.

Mr. Dave Jorgensen, Jorgensen and Associates, stated the developers were paying for everything in this project, the streets, curb and gutter, the water/sewer, drainage, and the privacy fence along Persimmon and 46<sup>th</sup> street. The widening along their side of the street along Persimmon and 46<sup>th</sup> Street. The infrastructure was coming. The sewage treatment plant was being designed at this time. Water lines would be extended. This was not in the middle of nowhere. There was a lot going on in this direction. He had met with several neighbors. He would be glad to met with anyone else. They had offered a bill of assurance to prove this was going to be a good development. A maximum of 158 homes. The project that had been brought forward before it had more lots. They were allowed four lots per acre, 232 lots. They were offering a minimum of 1800 square foot homes, eighty percent brick, sodded lawns. There would be one entrance on Persimmon and two on 46<sup>th</sup> Street.

Alderman Reynolds stated he had voted against this project when he was on the Planning Commission. He had done that because it was in the middle of nowhere. That was not the story now. He thought the project looked pretty good.

*THE ORDINANCE WAS LEFT ON THE FIRST READING.*

**VA 02-4.00:** An ordinance approving vacation request VA 02-4.00 as submitted by Henry Renegar for property located at 925 Rockwood Trail. The request is to vacate a 10' wide utility easement.

*Mr. Williams read the ordinance for the first time.*

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

*Mr. Williams read the ordinance for the second time.*

**Alderman Davis moved to suspend the rules and move to the third and final reading. Alderman Reynolds 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 motion carried unanimously.**

**ORDINANCE 4405 AS RECORDED IN THE OFFICE OF THE CITY CLERK.**

**RJN GROUP:** A resolution approving an engineering contract with RJN Group for sanitary sewer rehabilitation design for Illinois River Basins 1-5, 18 and 19 and White River minisystem 27 (Industrial Park), in the amount of \$548,653, and approval of a 5% contingency of \$27,433.

Mr. Greg Beottcher, Public Works Director, stated this was part of their sewer system rehabilitation work that they had been continuing basin by basin through the city. It was approximately 3.6 million dollars in overall construction. They had an ongoing relationship with RJN, this was to correct the overflows and to deal with lines that could still be rehabilitated. This was a budgeted infrastructure rehabilitation program to correct the excess flow problems.

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

**RESOLUTION 104-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.**

**OUTDOOR MUSIC ESTABLISHMENT:** An ordinance adding a definition of "Outdoor Music Establishment" to Chapter 151 Definitions of the Unified Development Ordinance and adding Section 163.30 to the Unified Development Ordinance to make an Outdoor Music Establishment a Conditional Use in specified zoning districts.

*Mr. Williams read the ordinance.*



Alderman Reynolds stated he would be abstaining from the item.

Alderman Marr stated he had developed the ordinance in response to concerns from an area neighborhood association. They were concerned about a proposed outdoor music establishment and the fact that they had no avenue on the front end to have discussion about the things that would be discussed if it required a conditional use permit, such as the hours of operation, amplification, types of music, number of days of the week. He thought that was important because there was a very big difference between an acoustical guitar and a singer verses a Van Hanlen Band on a deck. Currently, there was nothing that regulated it either way. The On the Rock Restaurant was a single situation that highlighted why they needed this conditional use. His intent was to encourage front end dialogue so that both could be successful. The spirit of the ordinance was to allow them to coexist and not to prohibit. With a dance hall conditional use, most of the issues that they talked about we music, noise, litter, parking, and compatibility.

The proposed ordinance was to encourage discussion on the front end. They were encouraging a mutual respect of each other. He was going to recommend that they send this to Ordinance Review. There were a list of items from the Planning Staff that there needed to be discussion about.

Alderman Thiel stated there was nothing in the proposed ordinance that addressed temporary.

Alderman Marr stated some of those issues were on the list to discuss at Ordinance Review.

Alderman Young stated this would be a means to allow the neighbors to have some control when there were problems. Residents were crucial to the whole mix. Urban blight would kill Dickson Street faster than anything. They needed to set up a situation where everyone could co-exist. If this ordinance passed it would be a conditional use which would be appealable to the City Council.

Ms. Sharon Davison, an area resident, stated it was her opinion that it would kill the music scene.

Mr. Daniel Gold, an area resident, stated he lived just off Dickson Street. He was against the proposed ordinance and thought it would hurt the music scene on Dickson.

Mr. Stephen Pollard, Maple Street Apartments, stated the quality of life was impacted by these establishments. It was very hard to get prospective tenants to come when there is an increase in litter, noise from Dickson Street and illegal parking.

Mr. Richard Maynard, an area resident, stated he did not find anything wrong with the proposed ordinance. They did need to co-exist to keep the downtown area viable. He thought this was a good ordinance.

Mr. Jim Robertson, All About Town, stated he had been covering live music on Dickson for the past five years. He asked the Council not to discourage the music scene on Dickson Street.

Mr. George Weiss, an area resident, stated any ordinance that promoted upfront discussion was good.

Ms. Emily Greg Pritchard, an area resident, stated she was enthusiastic about this proposal. They have needed it for a long time. This was a solution so that things did not get out of hand.

Mr. Bob Jordan, an area resident, asked if the city police had any control over the University parties.

Chief Rick Hoyt, replied it was State owned property and they were exempt from the city's ordinances.

Mr. Wes Cooper, On the Rocks, stated the ordinance had been directed towards them. They agreed that a proactive approach would have been better, rather than discussion during his construction process. They were willing to go through a conditional use process.

Ms. Paula Marinoni, an area resident, stated her main concern was not Dickson Street. They had been lied to in the past. They wanted it in writing. It was not meant to keep anyone from opening up or to shut them down. Residents were very important. She had lived in Kansas City on their plaza for twenty years. They had a balance there. The complaint driven process did not work. All that it did was let the crowds know who to come and abuse.

Mr. Gear Gambell, musician, stated this additional restriction would be a deterrent to their ability to perform down on Dickson Street.

Mr. Cal Canfield stated they had been up front with the city sense the beginning with what they had planned to do. The roof top patios had been in their proposal since the very beginning in 1999. They were proud of what they were doing and wanted to be good neighbors.

Ms. Irene Pritchard, an area resident, stated there was a need for this conditional use permit. Residents needed an affective method of compromise. This would save a lot of conflict.

Mr. Jay Golden, an area resident, questioned the policy of the police in regards to the noise ordinance.

Chief Rick Hoyt stated that they were to take the reading at the boundary line of where the noise emanates. There also suppose to use the most restrictive.

*SENT TO ORDINANCE REVIEW COMMITTEE ON THE FIRST READING.*

Meeting adjourned at 9:40 p.m.



**MINUTES OF A MEETING  
OF THE  
CITY COUNCIL  
JULY 2, 2002**

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

**PRESENT:** Mayor Coody, Aldermen Thiel, Young, Marr, Bechard, Davis, Santos, Jordan, and Reynolds, City Attorney Kit Williams, City Clerk Heather Woodruff, Staff, Press and Audience.

**NOMINATING COMMITTEE REPORT**

**AUDIT COMMITTEE**

Jackson White/One three-year Certified Public Accountant term ending 12/31/04

**BOARD OF ADJUSTMENTS AND BOARD OF SIGN APPEALS**

Sheree M. Alt/One five-year Public-at-Large term ending 03/31/07

**CIVIL SERVICE COMMISSION**

Stanley E. Adelman/One three-year term ending 03/31/05

**CONSTRUCTION BOARD OF ADJUSTMENTS AND APPEALS**

Jerry Bailey/One one-year Alternate term ending 03/31/03

**ENVIRONMENTAL CONCERNS COMMITTEE**

Jeremy Webb/One three-year Local Industry term ending 06/30/05

Marti Benedict/One three-year Science Discipline term ending 06/30/05

Steven R. Jackson/One three-year Citizen-at-Large term ending 06/30/05

Stacey Wingate/One three-year Citizen-at-Large term ending 06/30/05

Cheri Lynn Coley/One three-year Citizen-at-Large term ending 06/30/05

Linda Rupe/One three-year Citizen-at-Large term ending 06/30/05

**TELECOMMUNICATIONS BOARD**

Jon C. Lofton/One two-year term ending 06/30/04

Kenneth Myers/One two-year term ending 06/30/04

Gary Ault/One unexpired term ending 06/30/03

**TREE AND LANDSCAPE ADVISORY COMMITTEE**

John Clark Rupe/One unexpired University Representative term ending 12/31/03

**WALTON ARTS CENTER COUNCIL, INC.**

Linda A. Gaddy/One three-year term ending 06/30/05

YOUTH ADVOCACY COMMITTEE

Barbara A. Lofton/One two-year Teacher term ending 05/31/04

**Alderman Santos moved to appoint. Alderman Thiel seconded. Upon roll call the motion carried unanimously.**

Alderman Santos stated they were in a four-four tie between Steve Frankenburger and Troy Wilson for Planning Commission. It was the consensus of the Council to interview applicants for the Planning Commission again.

**CONSENT**

**APPROVAL OF THE MINUTES**

**GARVER ENGINEERS:** A resolution awarding an engineering contract to Garver Engineers in the not-to-exceed amount of \$275,000 to provide engineering services for the accelerated waterline replacement project.

*RESOLUTION 101-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*

**USINFRASTRUCTURE:** A resolution awarding the engineering contract to the firm of USInfrastructure for engineering studies and recommendations for (1) the upper Hamestring Creek Basin and (2) the Shenandoah Trailer Park area. The contract price is not-to-exceed \$93,424; and approval of an engineering contract contingency in the amount of \$10,000.

*RESOLUTION 102-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*

**AATC LEASE:** A resolution approving a lease with Northwest Arkansas Aviation Technologies Center for an executive hangar located at 4248 South School.

*RESOLUTION 103-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*

**Alderman Davis moved to approve the Consent Agenda. Alderman Santos seconded. Upon roll call the motion carried unanimously.**

**OLD BUSINESS**

**VA 02-1.00:** An ordinance approving vacation request VA 02-1.00 as submitted by Ken and Kathie Marvin for property located in Rochier Heights Subdivision. The request is to vacate the alley between Lots 8, 9, 10 and 11 of Block 5. The ordinance was left on the 1st reading at the June 18, 2002 meeting.

**Alderman Davis moved to table the item. Alderman Reynolds seconded. Upon roll call the motion carried unanimously.**

*ITEM WAS TABLED.*

## **NEW BUSINESS**

**RZN 02-15.00:** An ordinance approving rezoning request RZN 02-15.00 as submitted by Dave Jorgensen of behalf of Larry Garriott for property located north of Persimmon Street and west of 46th Street. The property is zoned A-1, Agricultural and contains approximately 57.82 acres. The request is to rezone to R-1, Low Density Residential; and to accept the attached Bill of Assurance.

*Mr. Williams read the ordinance for the first time.*

Alderman Jordan stated he had met with some of the people in that area. They were concerned about traffic congestion and drainage. This proposal had been turned down in 1998.

Alderman Young asked where the traffic congestion was that the residents were concerned about.

Alderman Jordan stated they were concerned about the traffic on 46<sup>th</sup> Street and Persimmon. They had stated they were already having trouble getting out onto Wedington as it was. They had suggested another access road coming out of this development going to Wedington.

Mr. Hugh Earnest, Urban Development Director, stated the Planning Department had prepared an aerial photo of the area and a list of all the developments in the area within the last two years. All the developments relate to a map that has been laid out over the past ten years. The staff was very close to bringing them a recommendation for a master traffic study/master street plan. What they would see in the study would be what the area would look like at build out. Wedington was classified as a principle arterial and can carry up to twenty thousand cars per day. Their current traffic count at Wedington and 46<sup>th</sup> was thirty-six thousand vehicles per day. The proposed development at build out would add a thousand trips per day on the Wedington corridor, still leaving some capacity. At some point the future the Wedington corridor will be at capacity. It was not at capacity right now.

Alderman Thiel asked where Persimmon went and what did it link them to?

Mr. Earnest stated Persimmon would tie to the Ruppel Road extension that they were building to the Boys and Girls Club. 46<sup>th</sup> Street will be built as a collector to tie into Persimmon. Over time they would begin to see a grid of road that would service the area.

Alderman Young suggested that they educate them on the number traffic lights proposed or something that would break up the traffic so people could get onto the road.



Mr. Earnest stated they were going to be getting some counts so that they could justify the placement of the traffic signal. Somewhere on the corridor they were going to have to install some signals to break up the traffic flow.

Alderman Jordan stated they were going to have to build the infrastructure to accommodate their growth. They could not continue to develop without constructing the infrastructure.

Alderman Reynolds stated Wedington was a State Highway and was not a city street. By the time they get their school and the Boys and Girls Club they would convince the Highway Department that they needed a traffic signal.

Alderman Santos stated it would take more development and more congestion out there before the situation would get bad enough that the Highway Department would allow them to up in a stop light. This was sprawl and it was costing all the citizens of Fayetteville money. They needed impact fees to help cover the costs.

Ms. Sharon Davison, an area resident, expressed the need for the city to adopt impact fees to help cover the cost of the development.

Mr. Bassam stated he lived on 46<sup>th</sup> Street. He did not oppose the development. This development had been denied by the Planning Commission and the City Council in 1998. The traffic had increased by one thousands trips in the last three years. The proposed development will generate about twenty three hundred trips per day according to the report done by the Traffic Department. The State had no plans for any improvements to Hwy 16 for the next five to six years because there was no money.

Mr. Dave Jorgensen, Jorgensen and Associates, stated the developers were paying for everything in this project, the streets, curb and gutter, the water/sewer, drainage, and the privacy fence along Persimmon and 46<sup>th</sup> street. The widening along their side of the street along Persimmon and 46<sup>th</sup> Street. The infrastructure was coming. The sewage treatment plant was being designed at this time. Water lines would be extended. This was not in the middle of nowhere. There was a lot going on in this direction. He had met with several neighbors. He would be glad to met with anyone else. They had offered a bill of assurance to prove this was going to be a good development. A maximum of 158 homes. The project that had been brought forward before it had more lots. They were allowed four lots per acre, 232 lots. They were offering a minimum of 1800 square foot homes, eighty percent brick, sodded lawns. There would be one entrance on Persimmon and two on 46<sup>th</sup> Street.

Alderman Reynolds stated he had voted against this project when he was on the Planning Commission. He had done that because it was in the middle of nowhere. That was not the story now. He thought the project looked pretty good.

*THE ORDINANCE WAS LEFT ON THE FIRST READING.*

**VA 02-4.00:** An ordinance approving vacation request VA 02-4.00 as submitted by Henry Renegar for property located at 925 Rockwood Trail. The request is to vacate a 10' wide utility easement.

*Mr. Williams read the ordinance for the first time.*

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

*Mr. Williams read the ordinance for the second time.*

**Alderman Davis moved to suspend the rules and move to the third and final reading. Alderman Reynolds 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 motion carried unanimously.**

*ORDINANCE 4405 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*

**RJN GROUP:** A resolution approving an engineering contract with RJN Group for sanitary sewer rehabilitation design for Illinois River Basins 1-5, 18 and 19 and White River minisystem 27 (Industrial Park), in the amount of \$548,653, and approval of a 5% contingency of \$27,433.

Mr. Greg Beottcher, Public Works Director, stated this was part of their sewer system rehabilitation work that they had been continuing basin by basin through the city. It was approximately 3.6 million dollars in overall construction. They had an ongoing relationship with RJN, this was to correct the overflows and to deal with lines that could still be rehabilitated. This was a budgeted infrastructure rehabilitation program to correct the excess flow problems.

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

*RESOLUTION 104-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*

**OUTDOOR MUSIC ESTABLISHMENT:** An ordinance adding a definition of "Outdoor Music Establishment" to Chapter 151 Definitions of the Unified Development Ordinance and adding Section 163.30 to the Unified Development Ordinance to make an Outdoor Music Establishment a Conditional Use in specified zoning districts.

*Mr. Williams read the ordinance.*



Alderman Reynolds stated he would be abstaining from the item.

Alderman Marr stated he had developed the ordinance in response to concerns from an area neighborhood association. They were concerned about a proposed outdoor music establishment and the fact that they had no avenue on the front end to have discussion about the things that would be discussed if it required a conditional use permit, such as the hours of operation, amplification, types of music, number of days of the week. He thought that was important because there was a very big difference between an acoustical guitar and a singer verses a Van Halen Band on a deck. Currently, there was nothing that regulated it either way. The On the Rock Restaurant was a single situation that highlighted why they needed this conditional use. His intent was to encourage front end dialogue so that both could be successful. The spirit of the ordinance was to allow them to coexist and not to prohibit. With a dance hall conditional use, most of the issues that they talked about were music, noise, litter, parking, and compatibility.

The proposed ordinance was to encourage discussion on the front end. They were encouraging a mutual respect of each other. He was going to recommend that they send this to Ordinance Review. There were a list of items from the Planning Staff that there needed to be discussion about.

Alderman Thiel stated there was nothing in the proposed ordinance that addressed temporary.

Alderman Marr stated some of those issues were on the list to discuss at Ordinance Review.

Alderman Young stated this would be a means to allow the neighbors to have some control when there were problems. Residents were crucial to the whole mix. Urban blight would kill Dickson Street faster than anything. They needed to set up a situation where everyone could co-exist. If this ordinance passed it would be a conditional use which would be appealable to the City Council.

Ms. Sharon Davison, an area resident, stated it was her opinion that it would kill the music scene.

Mr. Daniel Gold, an area resident, stated he lived just off Dickson Street. He was against the proposed ordinance and thought it would hurt the music scene on Dickson.

Mr. Stephen Pollard, Maple Street Apartments, stated the quality of life was impacted by these establishments. It was very hard to get prospective tenants to come when there is an increase in litter, noise from Dickson Street and illegal parking.

Mr. Richard Maynard, an area resident, stated he did not find anything wrong with the proposed ordinance. They did need to co-exist to keep the downtown area viable. He thought this was a good ordinance.

Mr. Jim Robertson, All About Town, stated he had been covering live music on Dickson for the past five years. He asked the Council not to discourage the music scene on Dickson Street.

Mr. George Weiss, an area resident, stated any ordinance that promoted upfront discussion was good.

Ms. Emily Greg Pritchard, an area resident, stated she was enthusiastic about this proposal. They have needed it for a long time. This was a solution so that things did not get out of hand.

Mr. Bob Jordan, an area resident, asked if the city police had any control over the University parties.

Chief Rick Hoyt, replied it was State owned property and they were exempt from the city's ordinances.

Mr. Wes Cooper, On the Rocks, stated the ordinance had been directed towards them. They agreed that a proactive approach would have been better, rather than discussion during his construction process. They were willing to go through a conditional use process.

Ms. Paula Marinoni, an area resident, stated her main concern was not Dickson Street. They had been lied to in the past. They wanted it in writing. It was not meant to keep anyone from opening up or to shut them down. Residents were very important. She had lived in Kansas City on their plaza for twenty years. They had a balance there. The complaint driven process did not work. All that it did was let the crowds know who to come and abuse.

Mr. Gear Gambell, musician, stated this additional restriction would be a detriment to their ability to perform down on Dickson Street.

Mr. Cal Canfield stated they had been up front with the city sense the beginning with what they had planned to do. The roof top patios had been in their proposal since the very beginning in 1999. They were proud of what they were doing and wanted to be good neighbors.

Ms. Irene Pritchard, an area resident, stated there was a need for this conditional use permit. Residents needed an affective method of compromise. This would save a lot of conflict.

Mr. Jay Golden, an area resident, questioned the policy of the police in regards to the noise ordinance.



Chief Rick Hoyt stated that they were to take the reading at the boundary line of where the noise emanates. There also suppose to use the most restrictive.

*SENT TO ORDINANCE REVIEW COMMITTEE ON THE FIRST READING.*

Meeting adjourned at 9:40 p.m.

# **FAYETTEVILLE**

## **THE CITY OF FAYETTEVILLE, ARKANSAS**

### **DEPARTMENTAL CORRESPONDENCE**

To: Mayor and City Council

From: Gary Dumas

Date: July 25, 2002

Subject: Informational Memo Regarding Cart Implementation

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The following are details of the cart implementation program, if the Council has questions or concerns please contact Carrol Hill or me prior to August 7.

- Three cart sizes will be ordered, 32 gallon, 64 gallon, and 96 gallon.
- Citizens will choose their cart size by returning a choice card which will be distributed in their utility bill.
  - Several displays throughout the community will be available for citizens to view the various sizes.
  - The utility bill will include information and photos to assist in citizens making their choice.
  - Choices will need to be made by the end of September.
- The color of the cart will be gray with a gray lid.
- Unique information on the cart will include
  - “Property of the City of Fayetteville 479-575-8398”
  - and the unique serial number.
- An informational brochure will be developed working with the cart and equipment vendors and attached to each cart when it is delivered to the each resident's address.
  - The brochure will outline placement procedures, usage of the cart, timing of placing the cart at the roadside and retrieval after emptying, procedures and fees for extra trash in excess of the container, and related Solid Waste service information.
- With the cart distribution each service address will have marked at or near the roadside a proper location for cart placement for the automated pickup.

The Council will be kept informed as the implementation date nears.

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The Council will be kept informed as the implementation date nears.

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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## **TENTATIVE AGENDA CITY COUNCIL AUGUST 6, 2002**

A meeting of the Fayetteville City Council will be held on August 6, 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. **RAILROAD RIGHT-OF-WAY:** A resolution approving the sale of 7.68 acres of abandoned railroad right-of-way between Garland Avenue and South School Ave to the University of Arkansas for \$82,300 in conjunction with expansion of the "Genesis Center" and use of this corridor predominately for trail purposes. Income from this transaction will go toward the purchase of the Meredith property on Nonamaker Street.
3. **PRUNING AND TREE REMOVAL:** A resolution authorizing the mayor and staff to work with local public utility companies to seek long-term solutions to the problems arising from the pruning and removal of trees near overhead lines.
4. **GARLAND AVE:** A resolution approving an agreement with the Arkansas Highway and Transportation Department regarding design and funding for the replacement of the South Garland Avenue bridge.

### **B. OLD BUSINESS**

1. **RZN 02-15.00:** An ordinance approving rezoning request RZN 02-15.00 as submitted by Dave Jorgensen of behalf of Larry Garriott for property located north of Persimmon Street and west of 46<sup>th</sup> Street. The property is zoned A-1, Agricultural and contains approximately 57.82 acres. The request is to rezone to R-1, Low Density Residential; and to accept the attached Bill of Assurance. The ordinance was left on the second reading at the July 16, 2002 meeting.

2. **OUTDOOR MUSIC ESTABLISHMENT:** An ordinance adding a definition of "Outdoor Music Establishment" to Chapter 151 Definitions of the Unified Development Ordinance and adding Section 163.30 to the Unified Development Ordinance to make an Outdoor Music Establishment a Conditional Use in specified zoning districts. The ordinance was left on the second reading at the July 16, 2002 meeting.
3. **RAZE AND REMOVAL:** A resolution approving a raze and removal of house at 1200 S. Roberts as per Ordinance 3948. The item was tabled at the July 18, 2002 meeting.

#### **C. NEW BUSINESS**

1. **RZN 02-17.00:** An ordinance approving rezoning request RZN 02-17.00 as submitted by Dave Jorgensen on behalf of Bleaux Barnes and Sam Mathias for property located south of Deane Street, west of Sang Avenue and east of Porter Road. The property is zoned R-1, Low Density Residential and contains approximately 21.03 acres. The request is to rezone to RMF-6, Low Density Multi-Family Residential.
2. **S/W ADDITIONAL PERSONNEL:** A resolution authorizing an increase in Solid Waste and Recycling to permit an additional driver.
3. **MCCLELLAND ENGINEERING:** A resolution authorizing Change Order No.1, to the engineering services agreement with McClelland Engineering allowing for additional public participation activities for the Wilson Springs Business Park extending time frames established in the contract and adding the amount of \$32,388.47.
4. **McGOODWIN, WILLIAMS AND YATES:** A resolution awarding the engineering contract to the firm of McGoodwin, Williams and Yates for the Water Transmission and Distribution System Master Plan Study in the not-to-exceed amount of \$205,000.00 and approval of an engineering contract contingency in the amount of \$20,000.00.
5. **PAY PLAN:** Discussion and possible action regarding the Pay Plan.



STAFF REVIEW FORM

☒ AGENDA REQUEST  
☐ CONTRACT REVIEW  
☐ GRANT REVIEW

For the Fayetteville City Council meeting of August 6, 2002

FROM:

Ed Connell EC  
Name

Engineering  
Division

Public Works  
Department

**ACTION REQUIRED:** Passage of a Resolution approving the sale of 7.68 acres of abandoned railroad right of way between Garland Ave. and South School Ave. to the University of Arkansas for \$82,300 in conjunction with the expansion of the "Genesis Center" and use of this corridor predominately for trail purposes. Income from this transaction will go toward the purchase of the Meredith property on Nonnamaker Street (currently tabled pending determination of soil contaminations area). Approval is for the above amount less closing costs.

COST TO CITY:

\$ -82,300  
Cost of this Request

643,693  
Category/Project Budget  
Revenue

General Fund Revenue  
Category/Project Name

1010-0001-4881.02  
Account Number

\$ 488,038  
Funds Used To Date

Program Name

N/A  
Project Number

\$ 155,655  
Remaining Balance

General  
Fund

BUDGET REVIEW:

Budgeted Item

Budget Adjustment Attached

7-18-02  
Budget Coordinator

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

Masha Farthing 7/12/02  
Accounting Manager Date

Danny Smith 7/17/02  
Internal Auditor Date

D. White 7/18/02  
City Attorney Date

ADA Coordinator Date

J. Price 7/18/02  
Purchasing Officer Date

**STAFF RECOMMENDATION:** This railroad corridor land was originally purchased by the City in 1999 for the purpose of installing a trail from Garland to Armstrong Ave. in the Industrial Park. The trail project never materialized and it would appear that a good portion of the trail will be put in by the university on this land. There is a Water/Sewer Easement in a portion of the corridor which covers a city water line. The agreed price is \$3,300 in excess of the appraised value. Recommendation is the approval of this sale as soon as possible.

Jim Beavers 07-17-02  
Division Head Date

Cross Reference

My Beavers 07-18-02  
Department Director Date

New Item: Yes X No

7/19/02  
Administrative Services Director Date

Prev Ord/Res #: \_\_\_\_\_

7/19/02  
Mayor Date

Orig Contract Date: \_\_\_\_\_

Consent ✓  
New Bus \_\_\_\_\_



STAFF REVIEW FORM

Description Sale of railroad ROW to U of A; Garland Ave. to School Ave. Meeting Date August 6, 2002

**Comments:**

**Reference Comments:**

**Budget Coordinator**

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**Accounting Manager**

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**City Attorney**

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**Purchasing Officer**

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**ADA Coordinator**

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**Internal Auditor**

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## **DEPARTMENTAL CORRESPONDENCE**

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**DATE:** July 15, 2002  
**TO:** Fayetteville City Council  
**THRU:** Dan Coody, Mayo  
**FROM:** Ed Connell, Land Agent   
**RE:** Sale of Railroad Right of Way to the University of Arkansas

In July of 1999, the City purchased 7.86 acres of abandoned railroad right of way from Burlington Northern and Santa Fe Railroad Company as part of a possible multi-purpose trail from Garland Avenue to Armstrong Ave. in the Industrial Park. Purchase of the railroad right of way was done at minimum fee cost with title conveyed limited by Quit Claim Deed. The trails project never materialized since all of the old railroad right of way (100' wide), between School and Morningside, had either been sold by the railroad to private parties or the easements reverted back to the Grantors.

The university is planning some major expansions around the "Genesis Center" in the very near future and it is their desire to acquire this 7.86 acres from the city for control purposes as they try to acquire all of the lands from Cato Springs Rd north to Town Branch. The University has offered the City a price of \$82,300 for this railroad corridor property. Attached is the Offer and Acceptance Contract signed by both parties. The above mentioned offer includes \$3,300 as the university's share of a settlement reached with the Fayetteville School District in the acquisition of right of way around Leverett School on Garland and Cleveland. The city will convey this amount, along with an equal amount, to the School District in that settlement case. The railroad corridor land was appraised for \$79,000.

At this writing, the University intends to utilize a portion of this railroad corridor for trail purposes until it crosses Cato Springs Branch, after which the trail will follow the stream embankment until it approaches School Avenue. Much of the area north of the railroad corridor is in the flood plane and the university intends to make a major portion of this into a park area. They are currently negotiating with Kenneth Easterling for the acquisition of about 25 acres that he owns on the east and north sides of the Genesis Center.

The City has a 6" water main in the railroad corridor which will be maintained by the City. Attached is a copy of a recent easement which was prepared for the purpose of this water line. A fiber optic cable system is being considered by the University that will be located in the south portion of the corridor. Their easement has been signed by the city for this purpose.

It is staff recommendation that this corridor be sold to the university, especially since their current intention meets the original intention of the City when the property was purchased. The property will be conveyed in Quick Claim Deed, however, Bronson Abstract feels confident in the title work and is willing to write title insurance on the property sale. Such title insurance will provide a degree of assurance to the university.

If you have any questions, please do not hesitate to give me a call at 444-3415.

## DEPARTMENTAL CORRESPONDENCE

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TO: Fayetteville City Council

THRU: Dan Coody, Mayor 

FROM: Ed Connell 

RE: Garland and Cleveland Streets Improvements  
Right of Way Acquisition Compromise

The Arkansas State Highway Department (AHTD) is doing a major expansion and improvement of Garland Avenue, from Maple Avenue to North Avenue. The City of Fayetteville is improving Cleveland Street at Garland to correspond with the anticipated work by the AHTD. Both of these projects are impacting Fayetteville School District Leverett Elementary School at this intersection. The school already had student drop-off problems and the Garland ROW taking by the AHTD virtually eliminated their existing drop-off on the East side of the building. Sidewalks, utility easements some additional right of way requirements on Cleveland St. make it impossible to have a drop-off on the South side of the school. These right of way requirements were (are) going to require the school to relocate their entry and drop-off point to the West side of the school building. Not only were they going to have to sacrifice some play ground area, but they were going to have to renovate the inside of the building to accommodate the change. The AHTD would not take into account this internal cost of the building renovation. The School District rejected the AHTD offer for the ROW compensation and held out for an additional \$10,000. It appeared that this entire project was going to be put on hold and the back burner if some compromise couldn't be worked out.

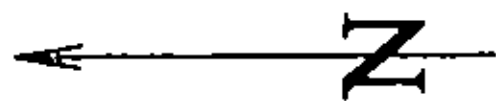
With this project about to come to a halt, Mayor Coody brought three of the four parties together and reached a compromise among the University, City and School District, each of which would share in the cost of the additional \$10,000 renovation expenses. The School District would absorb \$3,400, the University would contribute \$3,300 and the City would pay the district \$3,300 for easements required of the district on the subject piece of property. With this compromise, the school district signed the AHTD right of way acquisition documentation and this project is in the final stages before construction bid letting.

The University, with payment for the acquisition of the City's railroad right of way between Garland and School Street, will include their portion of this obligation. The total amount of that transaction will be \$82,300, or \$3,300 over the appraised amount of \$79,000. When the city acquires the easement required around Leverett School on Cleveland Street, the School District will be paid \$6,600 by the City.

If you have any questions, give me a call at 444-3415.



School Ave.



Garland Ave.

S83°30'32"W  
1321.70  
1338.44  
N83°30'32"E

S82°58'33"W  
1843.32  
1839.56  
N82°58'33"E

S02°45'29"W  
801.29

SW corner  
21-16-30 Cato Springs Rd.

| Title: Proposed Railroad Right of Way Sale to the U of A                                                         |                       | Date: 06-19-2002      |
|------------------------------------------------------------------------------------------------------------------|-----------------------|-----------------------|
| Scale: 1 inch = 400 feet                                                                                         | File: UoARRrow.des    |                       |
| Tract 1: 7.861 Acres: 342415 Sq Feet: Closure = n85.0923e 0.01 Feet: Precision = 1/669213: Perimeter = 7060 Feet |                       |                       |
| Tract 2: 0.000 Acres: 3 Sq Feet: Closure = s83.3300w 3423.26 Feet: Precision = 1/ 1: Perimeter = 3424 Feet       |                       |                       |
| Tract 3: 0.000 Acres: 0 Sq Feet: Closure = n02.4529e 801.29 Feet: Precision = 1/ 1: Perimeter = 801 Feet         |                       |                       |
| 001=S02.4529W 50.66                                                                                              | 009=S82.5833W 1843.32 | 017=N83.3032E 131.56  |
| 002=N83.3032E 1338.44                                                                                            | 010=N83.3032E 1.00    | 018=N82.5933E 1841.44 |
| 003=S83.3032W 1.00                                                                                               | 011=N83.3032E 1.00    | 019=N87.4812E 254.54  |
| 004=S83.3032W 1.00                                                                                               | 012=S83.3032W 1321.70 | 020=@1                |
| 005=N82.5833E 1839.56                                                                                            | 013=S02.4529W 50.66   | 021=S02.4529W 801.29  |
| 006=n87.4812E 240.77                                                                                             | 014=@1RR Centerline   |                       |
| 007=N10.5614E 102.69                                                                                             | 015=N83.3032E 704.68  |                       |
| 008=S87.4812W 268.31                                                                                             | 016=N83.3032E 491.83  |                       |

## OFFER AND ACCEPTANCE CONTRACT

1. That the Board of Trustees of the University of Arkansas, acting on behalf of the University of Arkansas, Fayetteville, hereinafter referred to as the Buyer, offers to buy, subject to the terms and conditions set forth herein, the following described property:

SEE ATTACHED EXHIBIT "A"  
FOR PROPERTY DESCRIPTION

from the City of Fayetteville, Arkansas, a municipal corporation, hereafter referred to as Seller.

2. **Purchase Price:** Subject to the following conditions, the Buyer shall pay for the property at closing, the total and cash only payment of \$ 82,300.
3. **Title Requirements:** If title requirements are not fulfilled to the satisfaction of the Buyer, or the Seller fails to fulfill any obligations under this contract, the Buyer may, at its option, declare this contract null and void. If the Buyer fails to close this transaction or fails to fulfill his obligations under this contract or after all conditions have been met, the Seller, at its option, may declare this contract to be null and void. Alternatively, the either party may assert legal or equitable rights which each may have because of breach of this contract.
4. Conveyance will be made to the Buyer by Quit Claim Deed and such deed shall be subject to recorded instruments and easements, if any. Such conveyance shall include any and all rights owned by the Seller.
5. The Seller shall furnish, at Sellers expense, a policy of title insurance in the amount of the purchase price from a title insurance company as selected by the Seller.
6. Seller agrees to allow Buyer, if Buyer so desires, at Buyer's expense, to survey the property. Seller does not possess a current survey of the property. Seller agrees to cure any title problems which may result from any differences between the recorded legal descriptions of the property and the survey description. Said title problems, if any, must be solved prior to closing to the satisfaction of the Buyer.
7. Taxes and special assessments due on or before closing shall be paid by the Seller. Insurance, general taxes, ad valorem taxes, special assessments and rental payments shall be prorated as of closing.
8. The closing date shall be within **thirty (30)** days after approval of this contract by the Fayetteville City Council and the Board of Trustees of the University of Arkansas, whichever occurs later. If such date of closing falls on a weekend or holiday, it will be held the following working day.



OFFER AND ACCEPTANCE CONTRACT

Page 2 of 5

9. Closing costs, except for those heretofore mentioned, shall be shared equally between Buyer and Seller.
10. Possession of the property shall be delivered to the Buyer on the date of closing.
11. Seller hereby grants permission for the Buyer or its employees or designates to enter the above described property and improvements for the purpose of inspection and/or surveying.
12. All fixtures, improvements and attached equipment are included in the purchase price.
13. Risk of loss or damage to the property by fire or other casualty occurring up to the time of closing is assumed by the Seller.
14. Seller shall disclose to Buyer any and all environmental hazards of which Seller has actual knowledge. Buyer may obtain a preliminary Phase I, or modified Phase I, environmental assessment within the specified time frame for closing. If such assessment indicates the existence of asbestos or heavy metals in quantities which could be considered as hazardous materials or environmental hazards, a more extensive assessment would be conducted by the Seller at Seller's cost to determine the extent of required remediation. Buyer may extend said closing until such hazards have been corrected by Seller, or buyer may terminate this contract. Alternatively, Seller may elect to deduct the cost of such remediation from the purchase price.
15. This agreement shall be governed by the laws of the State of Arkansas.
16. This agreement, when executed by both the Buyer and the Seller shall contain the entire understanding and agreement of the parties with respect to the matters referred to herein and shall supersede all price or contemporaneous agreements, representations and understanding with respect to such matters, and no oral representations or statements shall be considered a part hereof.
17. This contract expires, if not accepted by the Administration of the Seller, on or before the \_\_\_\_\_ day of \_\_\_\_\_, 2002.
18. The property, as described herein, shall be sold on a as-is basis, with no actual or implied guarantees other than those set forth in this document.
19. It is understood and agreed by Buyer and Seller that each entity will submit for approval by their respective governing bodies within a period of 60 days after this document is fully executed.

OFFER AND ACCEPTANCE CONTRACT  
Page 3 of 5

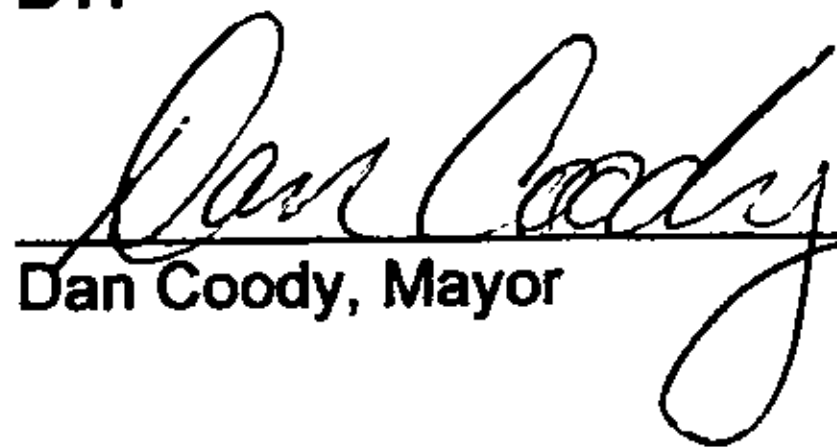
20.. NOTICE: SELLER ASSERTS AND BUYER HEREBY ACKNOWLEDGES THAT THIS CONTRACT IS EXPRESSLY CONTINGENT UPON THE APPROVAL OF THE CITY COUNCIL OF FAYETTEVILLE AND THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ARKANSAS, AND THAT THE FAILURE OF THE COUNCIL OR BOARD OF TRUSTEES TO SO APPROVE WILL MAKE ALL PORTIONS OF THIS OFFER NULL AND VOID.

**SELLER:**

**City of Fayetteville, Arkansas**

A municipal Corporation

**BY:**

  
\_\_\_\_\_  
Dan Coody, Mayor

Date: 7/16/02

**ATTEST::**

  
\_\_\_\_\_  
Heather Woodruff, City Clerk

Date: 7/16/02

**BUYER:**

**Board of Trustees of the University of Arkansas**

**BY:**

  
\_\_\_\_\_  
Donald Pederson, Vice Chancellor

Date: 7/10/02

**ATTEST:**

  
\_\_\_\_\_  
James Ezell, Program/Project Director

Date: 7/10/02



**EXHIBIT "A"**  
**PROPERTY DESCRIPTION**

PROPERTY DESCRIPTION:

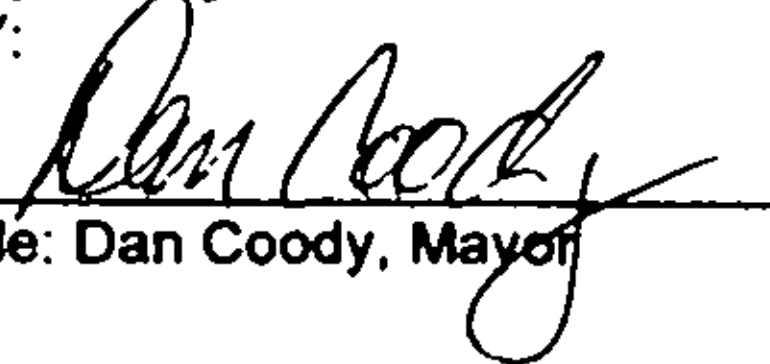
All that portion of the former Burlington Northern and Santa Fe Railway Company 100 foot wide Fayetteville to Pettigrew, Arkansas Branch Line property, now discontinued, being 50 feet wide on each side of the former Railway Company's Main Tract centerline as originally located and constructed upon, over and across the Southwest Quarter (SW $\frac{1}{4}$ ) of the Southwest Quarter (SW $\frac{1}{4}$ ) and the Southeast Quarter (SE $\frac{1}{4}$ ) of the Southwest Quarter (SW $\frac{1}{4}$ ) and the Southwest Quarter (SW $\frac{1}{4}$ ) of the Southeast Quarter (SE $\frac{1}{4}$ ) of section 21, Township 16 north, Range 30 West of the 5<sup>th</sup> Principal Meridian, Washington county, Arkansas, bounded by the Easterly side by the centerline of State Highway 71 (now State Highway 71-8) and bounded on the West side by the West line of said Section 21, containing 7.88 acres, more or less and subject to rights of way and easements of record.

**SIGNED FOR IDENTIFICATION**

**SELLER:**

**City of Fayetteville, Arkansas**

**BY:**

  
Title: Dan Coody, Mayor

Date: 7/16/02

**BUYER:**

**UNIVERSITY OF ARKANSAS**

**BY:**

\_\_\_\_\_  
Title

Date: \_\_\_\_\_

OFFER AND ACCEPTANCE CONTRACT  
Page 5 of 5

ACKNOWLEDGMENT

STATE OF ARKANSAS                    )  
                                              )  
COUNTY OF WASHINGTON            )       ss.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared Donald O. Pederson and James Ezell, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the **Vice Chancellor and Program/Project Director** for the **University of Arkansas, Fayetteville**, and are duly authorized to execute the foregoing instrument for and in the name and behalf of the **Trustees of the University of Arkansas**, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

\_\_\_\_\_  
Notary Public

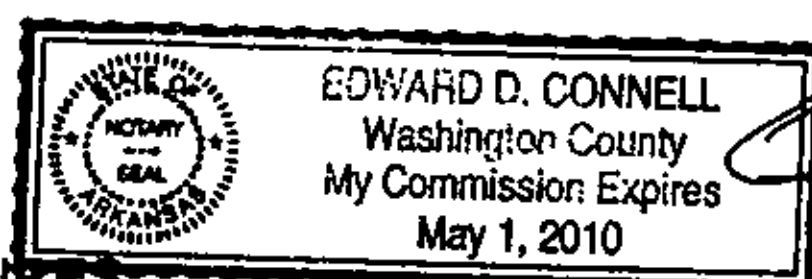
MY COMMISSION EXPIRES:  
\_\_\_\_\_

ACKNOWLEDGMENT

STATE OF ARKANSAS                    )  
                                              )  
COUNTY OF WASHINGTON            )       ss.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Dan Coody and Heather woodruff**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that they are the **Mayor and City Clerk of the City of Fayetteville, Arkansas, a municipal corporation**, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said municipal corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

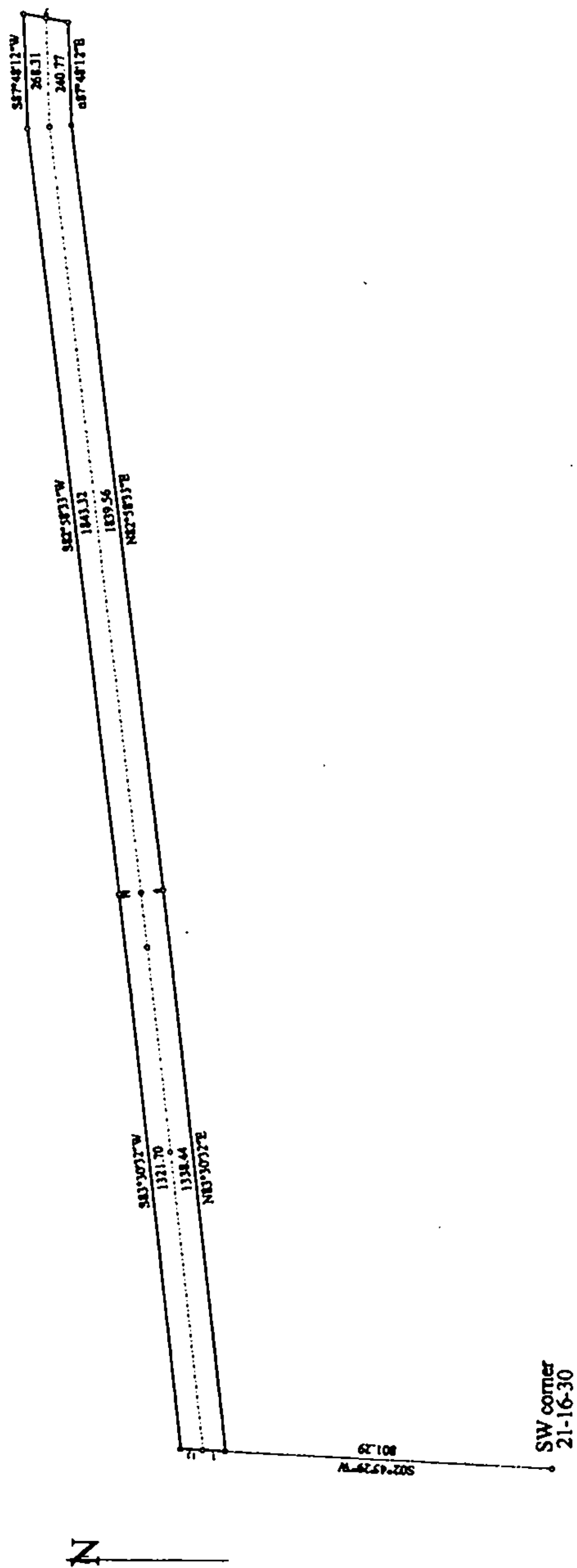
WITNESS my hand and seal on this 16<sup>th</sup> day of July, 2002.



Edward D. Connell  
Notary Public

MY COMMISSION EXPIRES:

05-01-2010



|                                                                                                                  |                       |                       |
|------------------------------------------------------------------------------------------------------------------|-----------------------|-----------------------|
| Title: Proposed Railroad Right of Way Sale to the U of A                                                         |                       | Date: 06-19-2002      |
| Scale: 1 inch = 300 feet                                                                                         | File: UoARRrow.des    |                       |
| Tract 1: 7.861 Acres: 342415 Sq Feet: Closure = n85.0923e 0.01 Feet: Precision = 1/669213: Perimeter = 7060 Feet |                       |                       |
| Tract 2: 0.000 Acres: 3 Sq Feet: Closure = s83.3300w 3423.26 Feet: Precision = 1/1: Perimeter = 3424 Feet        |                       |                       |
| Tract 3: 0.000 Acres: 0 Sq Feet: Closure = n02.4529e 801.29 Feet: Precision = 1/1: Perimeter = 801 Feet          |                       |                       |
| 001=S02.4529W 50.66                                                                                              | 009=S82.5833W 1843.32 | 017=N83.3032E 131.56  |
| 002=N83.3032E 1338.44                                                                                            | 010=N83.3032E 1.00    | 018=N82.5933E 1841.44 |
| 003=S83.3032W 1.00                                                                                               | 011=N83.3032E 1.00    | 019=N87.4812E 254.54  |
| 004=S83.3032W 1.00                                                                                               | 012=S83.3032W 1321.70 | 020=@1                |
| 005=N82.5833E 1839.56                                                                                            | 013=S02.4529W 50.66   | 021=S02.4529W 801.29  |
| 006=n87.4812E 240.77                                                                                             | 014=@IRR Centerline   |                       |
| 007=N10.5614E 102.69                                                                                             | 015=N83.3032E 704.68  |                       |
| 008=S87.4812W 268.31                                                                                             | 016=N83.3032E 491.83  |                       |



**APPRAISAL REPORT**  
**FOR**  
**CITY OF FAYETTEVILLE**  
**Complete Summary Appraisal Report**

**PROJECT** 20<sup>th</sup> Street  
**COUNTY** Washington

**PARCEL #** NA

**LOCATION** Abandoned Railroad R-O-W between S. School Ave. and S. Garland Ave., Fayetteville, AR  
**FEE OWNER** City of Fayetteville  
**ADDRESS** 113 W. Mountain, Fayetteville, AR 72701

**ESTATE APPRAISED** Fee Simple

**AREA OF WHOLE** 7.86 acs. **AREA OF RESIDUAL** 0

**AREA OF PROPERTY** 7.86 acres  
(Description attached)

**ESTIMATED FAIR MARKET VALUE OF THE PROPERTY:**

|                                      |  | Before   |                 |
|--------------------------------------|--|----------|-----------------|
| Land                                 |  | \$79,000 |                 |
| Improvements                         |  | \$ NA    |                 |
| Total                                |  |          | \$79,000        |
|                                      |  | After    |                 |
| Land                                 |  | \$ 0     |                 |
| Improvements                         |  | \$ NA    |                 |
| Total                                |  |          | \$ 0            |
| <b>FAIR MARKET VALUE OF PROPERTY</b> |  |          | <b>\$79,000</b> |

As of the 2nd day of May, 2002

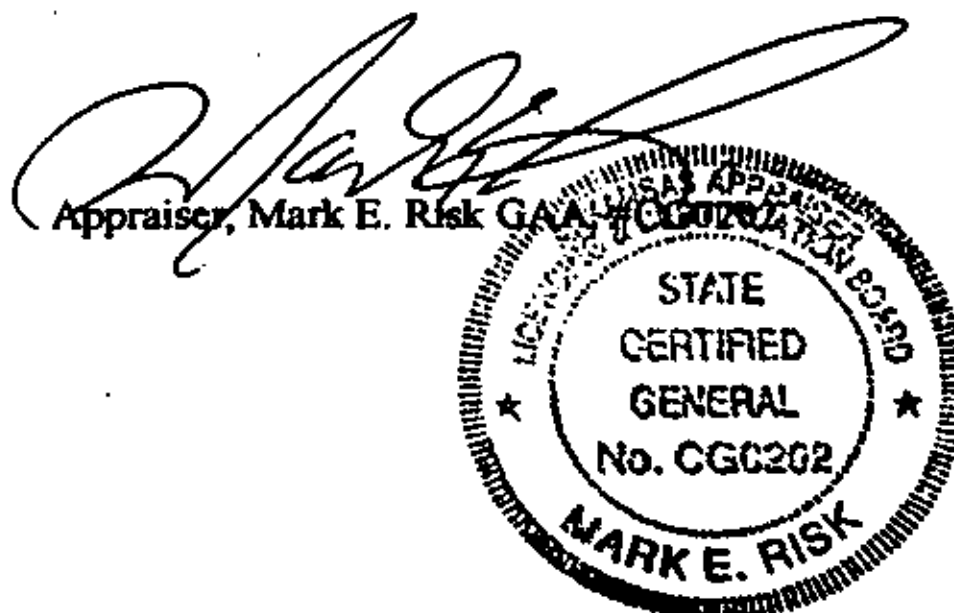
**ALLOCATION OF FAIR MARKET VALUE**

Total Acquisition 7.86 acs. - or 342,382 sq.ft. @ \$.23/sq.ft. = \$78,748  
Say \$79,000

Total Compensation \$79,000

**ATTACHMENTS:**

- ☒ Certificate of Appraiser
- ☒ Photographs
- ☒ Site, Improvement, H&B Use Narrative
- ☒ Legal Descriptions
- ☒ Market Data Approach
- ☒ Site Drawing
- ☒ Tax Assessment Cards



**BRONSON ABSTRACT CO., INC.**3810 FRONT STREET  
SUITE 5 (501-442-2700)  
FAYETTEVILLE, AR 72703

# Invoice

Invoice No.: 6715

To: **CITY OF FAYETTEVILLE**  
113 E. MOUNTAIN  
ATTN: ACCOUNTS PAYABLE  
FAYETTEVILLE, AR 72701

| Customer         | Date     | Item                                            | Amount | Balance |
|------------------|----------|-------------------------------------------------|--------|---------|
| CITY OF FAY      | 07/09/02 |                                                 |        |         |
| 1 F02-13234      |          | TITLE INSURANCE<br>THE BOARD OF TRUSTEES U OF A | 373.50 | 373.50  |
| 1                |          | TITLE SEARCH                                    | 100.00 | 100.00  |
| Invoice subtotal |          |                                                 |        | 473.50  |
| Invoice total    |          |                                                 |        | 473.50  |

Thank You

ALTA Commitment-10/17/1992 SCHEDULE A Commitment No. FATIC 2002-13254

1. Effective Date: JULY 1, 2002 at 7:00 A.M.

| 2. Policy or Policies to be issued:    | Amount      |
|----------------------------------------|-------------|
| ALTA Owner's Policy (Amended 10-17-70) | \$82,300.00 |

Proposed Insured:

THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ARKANSAS

|                                     |    |
|-------------------------------------|----|
| ALTA Loan Policy (Amended 10-17-70) | \$ |
|-------------------------------------|----|

Proposed Insured:

3. The estate or interest in the land described or referred to in this Commitment and covered herein is a FEE SIMPLE.

4. Title to the FEE SIMPLE estate or interest in said land is at the effective date hereof vested in:

THE CITY OF FAYETTEVILLE, ARKANSAS, a municipal corporation

5. The land referred to in this Commitment is situated in the County of WASHINGTON, State of ARKANSAS, and is described as follows:

All that portion of The Burlington Northern and Santa Fe Railway Company's (formerly St. Louis, San Francisco Railway Company) 100 foot wide Fayetteville to Pettigrew, Arkansas Branch Line property, now discontinued, being 50 feet wide on each side of said Railway Company's Main Track centerline as originally located and constructed upon, over and across the Southwest Quarter of the Southwest Quarter, the Southeast Quarter of the Southwest Quarter and the Southwest Quarter of the Southeast Quarter of Section 21, Township 16 North, Range 30 West of the 5th Principal Meridian, Washington County, Arkansas, bounded on the Easterly side by the centerline of State Highway No. 71 and bounded on the West by the West line of said Section 21.

COUNTERSIGNED BY: \_\_\_\_\_



BRONSON ABSTRACT COMPANY, INC.  
28 EAST CENTER STREET  
FAYETTEVILLE, AR. 72701

\*\*\*\*\*  
FIRST AMERICAN TITLE  
INSURANCE COMPANY  
\*\*\*\*\*



ALTA Commitment-10/17/1992

SCHEDULE B-I

Commitment No.FATIC 2002-13254

The following are the requirements to be complied with:

1. Payment to, or for the account of, the sellers or mortgagors of the full consideration for the estate or interest to be insured.
2. Instruments in insurable form which must be executed, delivered and duly filed for record:
  - (a) Quitclaim deed conveying herein described land from the City of Fayetteville, Arkansas, to the Board of Trustees of the University of Arkansas.

BRONSON ABSTRACT COMPANY, INC.  
28 EAST CENTER STREET  
FAYETTEVILLE, AR. 72701

\*\*\*\*\*  
FIRST AMERICAN TITLE  
INSURANCE COMPANY  
\*\*\*\*\*



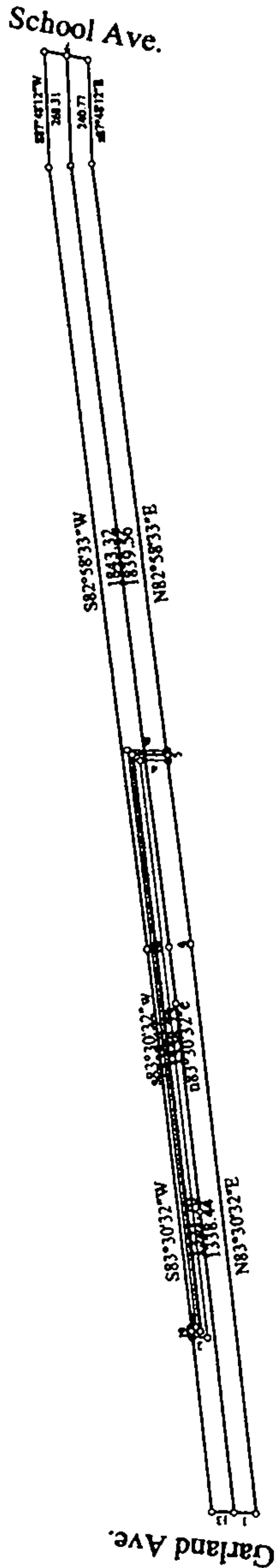
ALTA Commitment-10/17/1992 SCHEDULE B-II Commitment No.FATIC 2002-13254

Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company:

- 1 Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.
- 2 Rights or claims of parties in possession, boundary line disputes, overlaps, encroachments, and any other matters not shown by the public records which would be disclosed by an accurate survey and inspection of the land described in Schedule A.
- 3 Easements, or claims of easements, not shown by the public records.
- 4 Any lien, or right to a lien, for services, labor or material heretofore of hereafter furnished, imposed by law and not shown by the public records.
- 5 Taxes or assessments which are not shown as existing liens by either the public records or the records of any taxing authority that levies taxes or assessments on real property.
- 6 Zoning ordinances, resolutions, lot split or lot line adjustment regulations, and subdivision requirements of the municipality or county in which the insured premises is located.
- 7 General Taxes for the year 2002 and subsequent years not yet due and payable.
- 8 The policy will not insure acreage, any mention thereof is for descriptive purposes only.

BRONSON ABSTRACT COMPANY, INC.  
28 EAST CENTER STREET  
FAYETTEVILLE, AR. 72701

\*\*\*\*\*  
FIRST AMERICAN TITLE  
INSURANCE COMPANY  
\*\*\*\*\*



| Title: Proposed Railroad ROW Waterline Easement (10/15), PP600                                                   |                             | Date: 06-18-2002      |
|------------------------------------------------------------------------------------------------------------------|-----------------------------|-----------------------|
| Scale: 1 inch = 400 feet                                                                                         | File: RRWL#2.esm.des        |                       |
| Tract 1: 7.861 Acres: 342415 Sq Feet: Closure = n85.0923e 0.01 Feet: Precision = 1/669213: Perimeter = 7060 Feet |                             |                       |
| Tract 2: 0.000 Acres: 3 Sq Feet: Closure = s83.3300w 3423.26 Feet: Precision = 1/ 1: Perimeter = 3424 Feet       |                             |                       |
| Tract 3: 0.000 Acres: 8 Sq Feet: Closure = s87.4353w 1348.20 Feet: Precision = 1/ 1: Perimeter = 1460 Feet       |                             |                       |
| Tract 4: 0.843 Acres: 36735 Sq Feet: Closure = s02.0636w 0.41 Feet: Precision = 1/7291: Perimeter = 2968 Feet    |                             |                       |
| 001=S02.4529W 50.66                                                                                              | 014=@1RR Centerline         | 027=N02.4539W 50.66   |
| 002=N83.3032E 1338.44                                                                                            | 015=N83.3032E 704.68        | 028=N83.3032E 427.50  |
| 003=S83.3032W 1.00                                                                                               | 016=N83.3032E 491.83        | 029=S83.3032w 15.13   |
| 004=S83.3032W 1.00                                                                                               | 017=N83.3032E 131.56        | 030=S01.0451w 35.57   |
| 005=N82.5833E 1839.56                                                                                            | 018=N82.5933E 1841.44       | 031=N83.3032e 1358.47 |
| 006=N87.4812E 240.77                                                                                             | 019=N87.4812E 254.54        | 032=S01.3539w 64.59   |
| 007=N10.5614E 102.69                                                                                             | 020=@1 Water line (approx.) | 033=N82.5833e 25.29   |
| 008=S87.4812W 268.31                                                                                             | 021=N02.4539W 50.66         | 034=N01.3539e 90.01   |
| 009=S82.5833W 1843.32                                                                                            | 022=N83.3032E 427.5         | 035=S83.3032w 1358.73 |
| 010=N83.3032E 1.00                                                                                               | 023=S01.0451W 20.44         | 036=N01.0451e 10.35   |
| 011=N83.3032E 1.00                                                                                               | 024=N83.2732E 1358.63       | 037=S83.3032w 10.09   |
| 012=S83.3032W 1321.70                                                                                            | 025=S01.3539W 81.0          |                       |
| 013=S02.4529W 50.66                                                                                              | 026=@1 W/L 10/15 Esmt.      |                       |

School Ave.

S87°48'12"W  
268.31  
240.77  
S87°48'12"E

S82°58'33"W  
1843.32  
1839.56  
N82°58'33"E

2400 ft.

FOC 15' Easement

S83°30'32"W  
1321.70  
1338.44  
N83°30'32"E

Carland Ave.

S02°45'29"W  
758.13

SW corner  
21-16-30  
Cato Springs Rd.

|                                                    |                        |                  |
|----------------------------------------------------|------------------------|------------------|
| Title: Proposed Fiber Optic Cable Easement (pp600) |                        | Date: 06-19-2002 |
| Scale: 1 inch = 400 feet                           | File: UoAFOCrr.esm.des |                  |



RESOLUTION NO. \_\_\_\_\_

A RESOLUTION AUTHORIZING THE MAYOR AND STAFF TO WORK WITH LOCAL PUBLIC UTILITY COMPANIES TO SEEK LONG-TERM SOLUTIONS TO THE PROBLEMS ARISING FROM THE PRUNING AND REMOVAL OF TREES NEAR OVERHEAD LINES.

WHEREAS, the City of Fayetteville has established minimum standards for the pruning or removal of trees on public lands; and

WHEREAS, encroaching tree branches pose an acknowledged danger to overhead utility lines; and

WHEREAS, the citizens of Fayetteville have expressed alarm over the excessive pruning and removal of public space trees near overhead utility lines; and that

WHEREAS, a cooperative effort by the City and representatives of the local public utility companies offers the best hope of achieving long-term solutions to this dilemma.

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 authorizes the Mayor and Staff to work with local public utility companies to seek long-term solutions to the problems arising from the pruning and removal of trees near overhead lines.

PASSED and APPROVED this 6<sup>th</sup> day of August, 2002.

ATTEST:

By: \_\_\_\_\_

HEATHER WOODRUFF, City Clerk

APPROVED:

By: \_\_\_\_\_

DAN COODY, Mayor

## STAFF REVIEW FORM

Garland Ave.  
A. 4. Page 1

X AGENDA REQUEST  
 \_\_\_\_\_ CONTRACT REVIEW  
 \_\_\_\_\_ GRANT REVIEW

for the Fayetteville City Council meeting of August 6, 2002  
 FROM:

Greg Boettcher Public Works Street Dept.  
 Name Division Department

ACTION REQUIRED: Approval of an agreement with the Arkansas Highway and Transportation Department regarding design and funding for the replacement of the South Garland Avenue Bridge (Bridge No.19529). Schedule for Project subject to AHTD, targeted date to be Fiscal Year 2003. Costs to consist of deposit payment to AHTD at start of Preliminary design.

## COST TO CITY:

|                       |                           |                       |
|-----------------------|---------------------------|-----------------------|
| <u>\$-0-</u>          |                           |                       |
| Cost of this Request  | Category/Project Budget   | Category/Project Name |
| <u>Account Number</u> | <u>Funds Used To Date</u> | <u>Program Name</u>   |
| <u>Project Number</u> | <u>Remaining Balance</u>  | <u>Fund</u>           |

BUDGET REVIEW: 7-12-02 Budgeted Item Budget Adjustment Attached

Budget Coordinator

Administrative Services Director

## CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY: See Comments.

|                                       |                      |                |
|---------------------------------------|----------------------|----------------|
| <u>Marsha Farthing</u> <u>7/12/02</u> | <u>See Comments.</u> |                |
| Accounting Manager                    | ADA Coordinator      | Date           |
| <u>[Signature]</u> <u>7/15/02</u>     | <u>Nancy Smith</u>   | <u>7/15/02</u> |
| City Attorney                         | Internal Auditor     | Date           |
| <u>P. Vice</u> <u>7/15/02</u>         |                      |                |
| Purchasing Officer                    | Grant Officer        | Date           |

STAFF RECOMMENDATION: Approval of agreement with Arkansas Highway and Transportation Department.

Division Head

Date

Cross Reference

Department Director

Date

New Item: Yes No

Admin Svcs Director

Date

Prev Ord/Res #:

Mayor

Date

Orig Contract Date:

# FAYETTEVILLE

## PUBLIC WORKS DEPARTMENT

THE CITY OF FAYETTEVILLE, ARKANSAS

---

**TO:** Mayor Dan Coody and  
Fayetteville City Council

**FROM:** Greg Boettcher, P.E.,  
Public Works Director



**Date:** July 8, 2002

**RE:** Federal-Aid Bridge Replacement Project  
South Garland Avenue Bridge (#19529)

### BACKGROUND

The City of Fayetteville uses the Arkansas Highway and Transportation Department for annual inspection services. Under this agreement, qualified state bridge inspection personnel perform evaluations of all city bridges noting deficiencies and maintenance needs for each structure. These services are provided at a normal cost of \$1,000.00 to \$1,400.00 per year.

Bridge inspection reports serve multiple purposes including:

- Define bridge maintenance tasks for completion of Street Division
- Evaluate structural adequacy and capacity of the bridges
- Establish priorities for bridge maintenance and replacement activities
- Identify bridges that are eligible for funding under AHTD Programs

### DISCUSSION

The AHTD inspection report and the Fayetteville Capital Improvement Plan identified the Dead Horse Mountain Road Bridge as the next priority for the Federal-Aid Highway Bridge Replacement and Rehabilitation Program. The Agreement of Understanding for this project was presented to the City Council in February of 2002, where the matter was returned to the Street committee for further study.

At the June 2002 Street Committee Meeting the South Garland Avenue Bridge (#19529) over Town Creek was recommended as the next priority for this AHTD Program.

The proposed agreement, attached hereto, provides 80% grant funding on eligible costs, and will allow Arkansas Highway and Transportation Department to formally place this project in the work schedule. The City of Fayetteville shall be required to pay a deposit at such time as the preliminary design commences.

### RECOMMENDATION

It is recommended that the City Council approve this agreement and authorize the Mayor's execution of the "Agreement of Understanding between the City of Fayetteville and the Arkansas Highway and Transportation Department".



**ATTACHMENTS;**

**#1-AHTD Letter- 01-02-02**

**#2-Agreement of Understanding**

**#3-Location Map**



ARKANSAS STATE HIGHWAY  
AND  
TRANSPORTATION DEPARTMENT

JAN 07 2002

Dan Flowers  
Director  
Telephone (501) 569-2000



P.O. Box 2261  
Little Rock, Arkansas 72203-2261  
Telefax (501) 569-2400

January 2, 2002

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

Dear Mayor Coody:

Reference is made to your recent request for a bridge replacement project for Bridge No. 17332 over the West Fork of the White River on Dead Horse Mountain Road. This bridge is eligible for replacement under the Federal-aid Highway Bridge Replacement and Rehabilitation Program.

Preliminary engineering, including an environmental review, right-of-way acquisition and plan preparation, takes approximately two to three years for a project of this type. Also, there is an upper limit of \$1 million in Federal-aid available for the project.

In order to proceed with programming this Federal-aid bridge replacement project, your City Council must adopt a resolution for the project (sample enclosed) and then the enclosed Agreement of Understanding should be signed. Upon receipt of a signed and sealed copy of the resolution and the signed Agreement, State and Federal-aid numbers will be assigned and a copy of the executed Agreement will be returned to you. We will request a deposit from the City prior to beginning preliminary engineering.

If you have any questions, please contact Bill Bradberry in our Programs and Contracts Division at (501) 569-2261.

Yours truly,

Robert L. Walters  
Chief Engineer

Enclosures

c: Director

BETWEEN

THE CITY OF FAYETTEVILLE

AND

THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

In Cooperation with the  
U.S. Department of Transportation, Federal Highway Administration

RELATIVE TO

The improvement of Bridge Number 19529 over Town Branch on South Garland Avenue (hereinafter called "the project") utilizing Federal-aid Highway Bridge Replacement and Rehabilitation funds.

WHEREAS, the Transportation Equity Act for the Twenty-First Century (TEA-21) provides 80% Federal-aid funds to be matched with 20% non-federal funds (cash match) for certain bridge replacement and rehabilitation projects, and

WHEREAS, the City of Fayetteville (hereinafter called "City") has expressed its desire to use Federal-aid funds for an eligible project and to provide necessary matching cash share for such funds, and

WHEREAS, each project phase will be funded as follows:

|                           | <u>Federal %</u> | <u>City %</u> |
|---------------------------|------------------|---------------|
| Preliminary Engineering:  | 80               | 20            |
| Right-of-Way:             | 0                | 100           |
| Utilities:                | 0                | 100           |
| Construction:             | 80               | 20            |
| Construction Supervision: | 80               | 20 , and      |

WHEREAS, it is specifically agreed between the parties executing this agreement that it is not intended by any of the provisions or any part of the agreement to make the public or any member thereof a third party beneficiary hereunder or to authorize anyone not a party to this agreement to maintain a suit or action for injuries or damage of any nature pursuant to the terms or provisions of this agreement, and

WHEREAS, the City understands that the Arkansas State Highway and Transportation Department (hereinafter called "Department") will adhere to the General Requirements for Recipients and Sub-recipients Concerning Minority Business Enterprises as stated on Attachment A,

IT IS HEREBY AGREED that the City and the Department, in cooperation with the Federal Highway Administration, will participate in a cooperative program for implementation and will accept the responsibilities and assigned duties as described hereinafter.

THE CITY WILL:

1. Transmit to the Department a signed and sealed copy of the Resolution from the City Council (see Attachment B) which requests a project and authorizes the Mayor to execute agreements and contracts with the Department for this project.
2. Submit a \$35,000 deposit to the Department before preliminary engineering begins and the local matching share of the total estimated cost before a contract is awarded for construction.
3. Be responsible for 100% of the cost for appraisal and acquisition of right-of-way, relocation services (when required), adjustment of all man-made improvements, including utilities. Be responsible for 20% of the cost for preliminary engineering, construction, and construction engineering.  
**NOTE: The maximum amount of Federal-aid funds available for this project is \$1 million.**
4. Submit a letter to the Right of Way Division of the Department which either (1) stipulates the services relative to right-of-way acquisition, appraisal, relocation, and utilities that the City will assume or (2) requests that the Department handle some or all of these services.
5. Be responsible for 100% of all preliminary engineering, right-of-way, and other costs incurred should the City not enter into the construction phase of the project.
6. Bear any claim awarded against the Arkansas State Highway Commission or the Department or its officers and employees because of any damage sustained on account of the operations or actions of the City; or because of any act of omission, neglect, or misconduct of said City; or from any claims or amounts arising or recovered under any law, ordinance, order, or decree including but not limited to, claims before the Arkansas State Claims Commission; provided, however, that the City and Department shall at all times protect as sacred the immunity from civil suits afforded the State of Arkansas and its several Agencies, Commissions and Departments, such as the Department and the Arkansas State Highway Commission, as mandated by Article 5, § 20 of the Constitution of Arkansas, Ark. Code Ann. § 19-10-305, and the 11<sup>th</sup> Amendment of the Constitution of the United States.
7. Repay to the Department the federal share of the cost of this project if for any reason the Federal Highway Administration removes federal participation.
8. Be responsible for all costs not provided by the Federal Highway Administration.
9. Be responsible for satisfactory maintenance and operation of all improvements on that portion of the project not on the Arkansas Highway System. Failure to adequately maintain and operate the facility in accordance with Federal-aid requirements will result in withholding future Federal-aid highway funds.
10. Make no alterations to the improvements constructed with Federal-aid funds without first consulting with the Department.
11. Maintain or adopt regulations and ordinances as necessary for proper maintenance and operation of the improvements.
12. Be responsible for the necessary enforcement of operations as required by improvements on the Arkansas State Highway System and City Streets.



13. Hereby attest that the employment policies and practices with regard to its employees, any part of whose compensation is reimbursed from federal funds, will be without regard to race, color, creed, or national origin.

THE DEPARTMENT WILL:

1. Be responsible for administering Federal-aid funds and for project construction supervision.
2. Be responsible for preparing plans and specifications for this project.
3. When requested, provide the necessary services relative to right-of-way acquisition, appraisal, relocation, and utility adjustments and will be reimbursed for costs involved in performing these services.

IT IS FURTHER AGREED that should the City fail to fulfill its responsibilities and assigned duties as related in this Agreement, such failure will disqualify the City from receiving future Federal-aid highway funds.

IT IS FURTHER AGREED, that should the City fail to pay to the Department any required funds due for project implementation or fail to complete the project as specified in this Agreement, the Department may cause such funds as may be required to be withheld from the City's gasoline tax allotment.

IN WITNESS WHEREOF, the parties thereto have executed this Agreement this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

ARKANSAS STATE HIGHWAY  
AND TRANSPORTATION DEPARTMENT

CITY OF FAYETTEVILLE

\_\_\_\_\_  
Dan Flowers  
Director of Highways and Transportation

\_\_\_\_\_  
Dan Coody  
Mayor

GENERAL REQUIREMENTS  
FOR  
RECIPIENTS AND SUB-RECIPIENTS  
CONCERNING MINORITY BUSINESS ENTERPRISES

It is the policy of the U. S. Department of Transportation that minority business enterprises (MBEs) as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Agreement. Consequently, the MBE requirements of 49 CFR Part 23 apply to this Agreement.

The recipient or its contractor agrees to ensure that MBEs as defined in 49 CFR Part 23 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this Agreement. In this regard all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that MBEs have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted contracts.

If as a condition of assistance the recipient has submitted and the Department has approved a minority business enterprise affirmative action program which the recipient agrees to carry out, this program is incorporated into this financial assistance agreement by reference. This program shall be treated as a legal obligation and failure to carry out its terms shall be treated as a violation of this financial assistance agreement. Upon notification to the recipient of its failure to carry out the approved program, the Department shall impose such sanctions as noted in 49 CFR Part 23, Subpart E, which sanctions may include termination of the Agreement or other measures that may affect the ability of the recipient to obtain future DOT financial assistance.

The recipient shall advise each sub-recipient, contractor or subcontractor that failure to carry out the requirements set forth in Subsection 23.43(a) shall constitute a breach of contract and after the notification of the Department, may result in termination of the agreement or contract by the recipient or such remedy as the recipient deems appropriate.

(NOTE: Where appropriate, the term "recipient" may be modified to mean "sub-recipient", and the term "contractor" modified to include "subcontractor".)



GENERAL REQUIREMENTS  
FOR  
RECIPIENTS AND SUB-RECIPIENTS  
CONCERNING MINORITY BUSINESS ENTERPRISES

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## FEDERAL-AID PROJECT RESOLUTION

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION EXPRESSING THE WILLINGNESS OF  
THE CITY OF FAYETTEVILLE  
TO UTILIZE FEDERAL-AID MONIES  
FOR THE FOLLOWING CITY PROJECT:

## Replacement of Bridge No. 19529 over Town Branch on South Garland Avenue

WHEREAS, the City of Fayetteville understands Federal-aid Highway Bridge Replacement and Rehabilitation funds are available for certain qualified city bridges at the following federal participating ratios:

|                                                  | <u>Work Phase</u>        | <u>Federal Share</u> | <u>City Share</u> |
|--------------------------------------------------|--------------------------|----------------------|-------------------|
| City Bridge Projects                             | Preliminary Engineering  | 80%                  | 20%               |
|                                                  | Right-of-Way             | 0%                   | 100%              |
|                                                  | Utilities                | 0%                   | 100%              |
|                                                  | Construction             | 80%                  | 20%               |
|                                                  | Construction Engineering | 80%                  | 20%               |
| City projects programmed but not let to contract | All Phases               | -0-                  | 100%              |

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

SECTION I: The City will participate in accordance with its designated responsibilities in this project.

SECTION II: Mayor Dan Coody is hereby authorized and directed to execute all appropriate agreements and contracts necessary to expedite the construction of this city project.

SECTION III: The City pledges its full support and hereby authorizes the Arkansas State Highway and Transportation Department to initiate action to implement this project.

THIS \_\_\_\_\_, 2002.

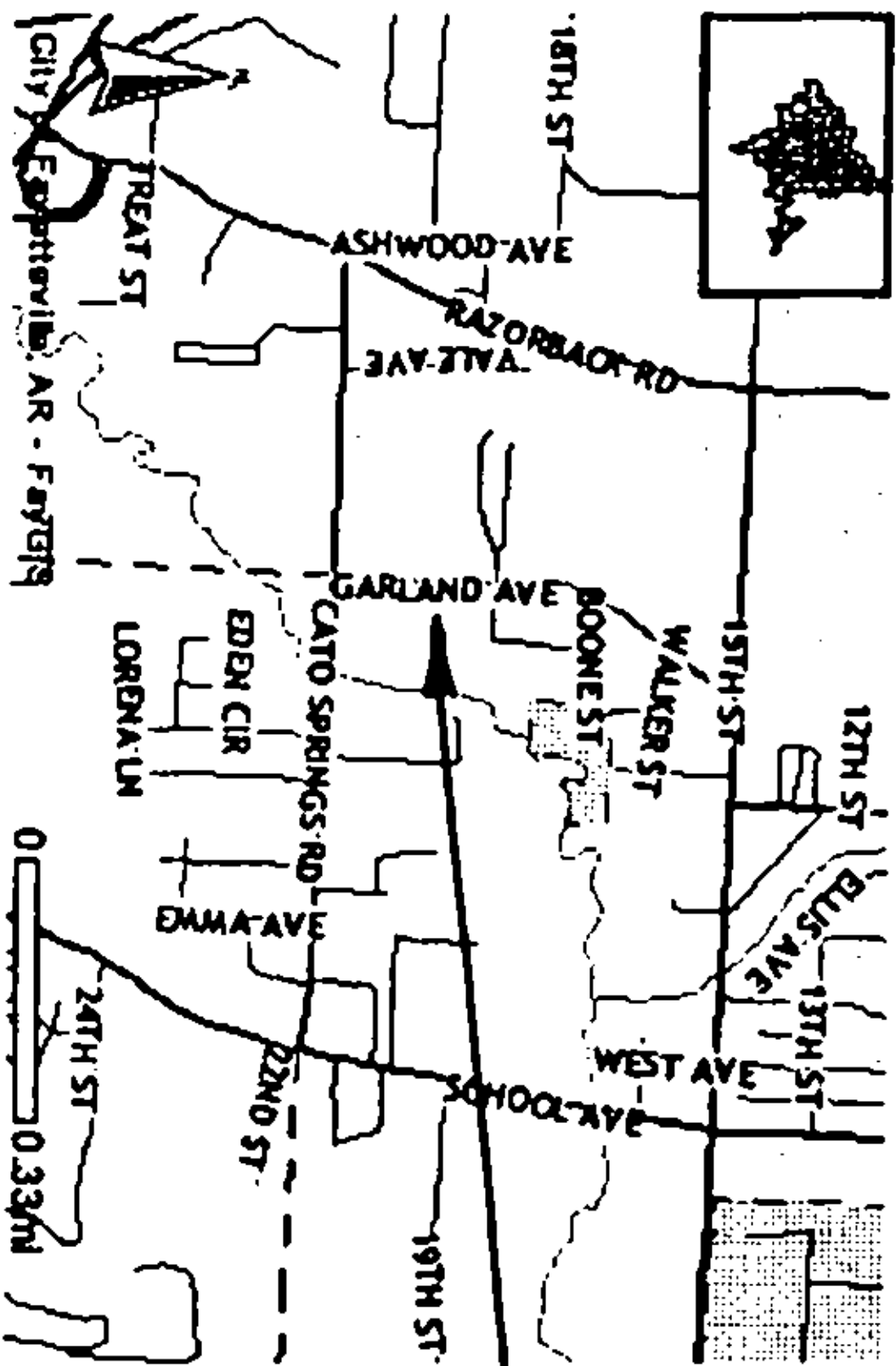
\_\_\_\_\_  
Mayor Dan Coody

ATTEST:

(SEAL)



Garland Ave.  
A. 4. Page 11



*Bend & Location*



STAFF REVIEW FORM

☒ Agenda Request  
☐ Contract Review  
☐ Grant Review

For the Fayetteville City Council meeting of August 6, 2002.

FROM:

Tim Conklin

Planning

Urban Development

Name

Division

Department

**ACTION REQUESTED:** To approve an ordinance for RZN 02-17.00 as submitted by Dave Jorgensen on behalf of Bleaux Barnes and Sam Mathias for property located south of Deane Street, west of Sang Avenue, and east of Porter Road. The property is zoned R-1, Low Density Residential and contains approximately 21.03 acres. The request is to rezone to RMF-6, Low Density Multi-Family Residential.

**COST TO CITY:**

\$0

Cost of this request

Category/Project Budget

Category/Project Name

Account Number

Funds used to date

Program Name

Project Number

Remaining balance

Fund

**BUDGET REVIEW:**

Budgeted Item

Budget Adjustment Attached

Budget Coordinator

Administrative Services Director

**CONTRACT/GRANT/LEASE REVIEW:**

**GRANTING AGENCY:**

Accounting Manager

Date

ADA Coordinator

Date

City Attorney

Date

Internal Auditor

Date

Purchasing Officer

Date

**STAFF RECOMMENDATION:** Staff recommended approval and on July 8, 2002 the Planning Commission voted 8-0-0 to recommend the rezoning be approved by the City Council.

Division Head

7-17-02

Date

Department Director

7-19-02

Date

Administrative Services Director

7/19/02

Date

Mayor

7/19/02

Date

Cross Reference

New Item: Yes No

Prev Ord/Res#: \_\_\_\_\_

Orig Contract Date: \_\_\_\_\_

Consent —  
New Bus ✓



ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED  
IN REZONING PETITION RZN 02-17.00 FOR A PARCEL  
CONTAINING APPROXIMATELY 21.03 ACRES LOCATED SOUTH OF  
DEANE STREET, WEST OF SANG AVENUE, AND EAST OF PORTER  
AVENUE, FAYETTEVILLE, ARKANSAS, AS SUBMITTED BY DAVE  
JORGENSEN OF JORGENSEN & ASSOCIATES ON BEHALF OF BLEAUX  
BARNES AND SAM MATHIAS.

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

Section 1: That the zone classification of the following described  
property is hereby changed as follows:

From R-1, Low Density Residential to RMF-6, Low Density Multi-Family  
Residential as shown in Exhibit A attached hereto and made a part hereof.

Section 2. That the official zoning map of the City of Fayetteville,  
Arkansas, is hereby amended to reflect the zoning change provided in  
Section 1 above.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

APPROVED:

**DRAFT**

By: \_\_\_\_\_  
DAN COODY, Mayor

ATTEST:

**DRAFT**

By: \_\_\_\_\_  
Heather Woodruff, City Clerk

**EXHIBIT "A"**

PART OF THE NW ¼ OF THE NW ¼ OF SECTION 8 AND PART OF THE SW ¼ OF THE SW ¼ OF SECTION 5, ALL IN T16N, R30W IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SW CORNER OF SAID NW ¼ NW ¼ THENCE N00°05'24"W 330.00 FEET, THENCE N89°59'09"E 35.00 FEET TO THE P.O.B., THENCE N00°05'24"W 327.97 FEET, THENCE N89°55'02"E 588.66 FEET, THENCE N00°01'30"E 659.78 FEET, THENCE N89°59'07"E 51.97 FEET, THENCE N00°04'32"W 309.45 FEET, THENCE N87°25'56"E 476.84 FEET, THENCE S00°03'51"W 991.07 FEET, THENCE S89°07'23"E 152.87 FEET, THENCE S00°37'19"W 325.72 FEET, THENCE S89°59'09"W 1264.55 FEET TO THE P.O.B.; CONTAINING 21.03 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY OF RECORD.

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.  
Fayetteville, AR 72701  
Telephone: (479) 575-8264

## PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission  
FROM: Dawn T. Warrick, Senior Planner  
DATE: July 8, 2002

**RZN 02-17.00: Rezoning (Mathias/Barnes, pp 364/403)** was submitted by Dave Jorgensen of Jorgensen & Associates on behalf of Sam Mathias and Bleaux Barnes for property located south of Deane Street, west of Sang Ave and east of Porter Avenue. The property is zoned R-1, Low Density Residential and contains approximately 21.03 acres. The request is to rezone to RMF-6, Low Density Multi-Family Residential.

### RECOMMENDATION:

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

**PLANNING COMMISSION ACTION:** Required YES  
☐ Approved ☐ Denied

Date: July 8, 2002

**CITY COUNCIL ACTION:** Required YES  
☐ Approved ☐ Denied

Date: August 6, 2002

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



## **BACKGROUND:**

The subject property is located north of Wedington Drive and south of Deane Street, east of the I-540 bypass in a residential area which consists of many different housing types and densities. The University of Arkansas' Experimental Farm is located north of the property.

The applicant has requested to rezone this 21.03 acre tract from R-1, Low Density Residential to RMF-6, Low Density Multi-family Residential. The requested zoning designation would permit the development of townhomes (attached dwellings that may be sold individually) as well as duplexes and other attached units.

The property has potential to provide access to three main traffic routes in the area (Deane Street, Porter Rd. and Sang Ave.).

The applicant has offered a bill of assurance with this request which addresses the configuration of various structures within the development as well as screening and greenspace provisions. This bill of assurance has been discussed with the Asbell Neighborhood Association. The applicant has had several conversations with representatives from that organization during the process of compiling materials for this rezoning request.

In 1999, a portion of this property (11.64 acres which did not adjoin Sang Ave. or Porter Rd.) was the subject of a rezoning request. The applicant at that time sought to rezone the property to R-2, Medium Density Residential and to develop an apartment complex. Staff did recommend approval of the request and the Planning Commission voted 5-2-0 to recommend the request to the City Council. The neighborhood was very concerned about traffic and drainage issues relating to the proposal. The City Council did not approve the rezoning. Minutes from Planning Commission and City Council meetings regarding the 1999 request are included with this report.

## **SURROUNDING LAND USE AND ZONING**

North: U of A Experimental Farm, outside city  
South: Residential, R-1  
East: Residential, R-1  
West: Residential, R-1 & R-2

## **INFRASTRUCTURE:**

**Streets:** This project is between Porter Rd. (classified a collector on the Master Street Plan) and Sang Street (a local street) on the south. The property also extends to the north and adjoins Deane Street (classified a minor arterial on the Master Street Plan).



**Water:** 8" line along Sang Ave.  
12" line along Deane St.

**Sewer:** Available on Sang Ave., Porter Rd. and to the north of the subject property

**LAND USE PLAN:** General Plan 2020 designates this site Residential. Rezoning this property to RMF-6, Low Density Multi-Family Residential is consistent with the land use plan and compatible with surrounding land uses in the area.

### **FINDINGS OF THE STAFF**

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

**Finding:** The proposed zoning is consistent with land use planning objectives, principles and policies and with land use and zoning plans. This rezoning specifically addresses the guiding policies within the General Plan regarding Residential Areas. This section states in part *"this land use plan establishes a policy for residential areas to be planned as traditional neighborhoods containing a mix of different densities, housing types, and lot sizes."*

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

**Finding:** The zoning is needed in order for the property to be developed as proposed by the applicant. The property is currently zoned R-1 and may be developed with single family lots meeting the bulk and area requirements set forth in the Unified Development Ordinance for that zoning district.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

**Finding:** The proposed zoning will not appreciably increase traffic danger and congestion. Initial proposals by the applicant indicate street connections to Porter Rd., Sang Ave. and Deane Street. Having multiple access points will encourage the disbursement of traffic within the development.

Development of the property under current R-1 zoning would generate approximately 805 vehicle trips per day (vpd) according to Institute of Traffic Engineer's (ITE) software.

Under the applicant's proposal with RMF-6 zoning, the project would generate approximately 738 vpd.

**The average rates applied to these different types of development do not vary widely and in fact they indicate that the proposed zoning would result in a decrease in traffic from a project developed at the maximum density permitted under the current R-1 zoning designation.**

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

**Finding: The proposed zoning will not alter population density greatly and will not undesirably increase the load on public services.**

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
  - a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
  - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

**Finding: N/A**

## Exhibit "B"

**§161.061 DISTRICT RMF-6 LOW DENSITY MULTI-FAMILY RESIDENTIAL.**

**A. Purpose.** The Low Density Multi-family Residential District is designed to permit and encourage the development of multifamily residences at a low density that is appropriate to the area and can serve as a transition between higher densities and single family residential areas.

**B. Uses.****1. Uses Permitted.**

|        |                                        |
|--------|----------------------------------------|
| Unit 1 | City-Wide Uses by Right                |
| Unit 8 | Single-Family Dwellings                |
| Unit 9 | Multifamily Dwellings - Medium Density |

**2. Uses Permissible on Appeal to the Planning Commission.**

|         |                                          |
|---------|------------------------------------------|
| Unit 2  | City-Wide Uses by Conditional Use Permit |
| Unit 3  | Public Protection and Utility Facilities |
| Unit 4  | Cultural and Recreational Facilities     |
| Unit 11 | Mobile Home Park                         |
| Unit 25 | Professional Offices                     |

**C. Density.**

|                   |               |
|-------------------|---------------|
| Families Per Acre | <u>4 to 6</u> |
|-------------------|---------------|

**D. Bulk and Area Regulations.****1. Lot Width Minimum.**

|                               |          |
|-------------------------------|----------|
| Mobile Home Park              | 100 Feet |
| Lot within a Mobile Home Park | 50 Feet  |
| One Family                    | 60 Feet  |
| Two Family                    | 60 Feet  |
| Three or More                 | 90 Feet  |
| Professional Offices          | 100 Feet |



**2. Lot Area Minimum.**

|                                             |                                 |
|---------------------------------------------|---------------------------------|
| Mobile Home Park                            | 3 Acres                         |
| Lot Within a Mobile Home Park               | 4,200 Sq. Ft.                   |
| Row House:<br>Development<br>Individual Lot | 10,000 Sq. Ft.<br>2,500 Sq. Ft. |
| Single-Family                               | 6,000 Sq. Ft.                   |
| Two-Family                                  | 7,000 Sq. Ft.                   |
| Three or More                               | 9,000 Sq. Ft.                   |
| Fraternity or Sorority                      | 2 Acres                         |
| Professional Offices                        | 1 Acre                          |

**3. Land Area Per Dwelling Unit.**

|                                                                     |                                                 |
|---------------------------------------------------------------------|-------------------------------------------------|
| Mobile Home                                                         | 3,000 Sq. Ft.                                   |
| Apartments:<br>Two or More<br>Bedrooms<br>One Bedroom<br>No Bedroom | 2,000 Sq. Ft.<br>1,700 Sq. Ft.<br>1,700 Sq. Ft. |
| Fraternity or Sorority                                              | 1,000 Sq. Ft. per Resident                      |

**E. Yard Requirements (feet).**

| FRONT YARD | SIDE YARD | REAR YARD |
|------------|-----------|-----------|
| 25         | 8         | 25        |

Cross Reference: Variances Chapter 156.

**F. Height Regulations.** Any building which exceeds the height of 20 feet shall be set back from any side boundary line an additional distance of one foot for each foot of height in excess of 20 feet.

(Code 1991, § 160.033; Code 1965, App. A, Art. 5(III); Ord. No. 2320, 4-5-77; Ord. No. 2700, 2-2-81)

**Mathias / Barnes Rezoning****Summary of Average Vehicle Trip Generation**

\* **For 84.12 Dwelling Units of Single Family Detached Housing**  
**July 02, 2002**

---

|                 | 24 Hour<br>Two-Way<br>Volume | 7-9 AM Pk Hour |      | 4-6 PM Pk Hour |      |
|-----------------|------------------------------|----------------|------|----------------|------|
|                 |                              | Enter          | Exit | Enter          | Exit |
| Average Weekday | 805                          | 16             | 47   | 55             | 30   |

---



---

|          | 24 hour<br>Two-Way<br>Volume | Peak Hour |      |
|----------|------------------------------|-----------|------|
|          |                              | Enter     | Exit |
| Saturday | 849                          | 43        | 36   |
| Sunday   | 739                          | 39        | 34   |

---

Note: A zero indicates no data available.

Source: Institute of Transportation Engineers  
 Trip Generation, 6th Edition, 1997.

**TRIP GENERATION BY MICROTRANS**

Mathias / Barnes Rezoning  
Summary of Average Vehicle Trip Generation  
\* For 126 Dwelling Units of Residential Condominium / Townhouse  
July 02, 2002

|                 | 24 Hour<br>Two-Way<br>Volume | 7-9 AM Pk Hour<br>Enter | Exit | 4-6 PM Pk Hour<br>Enter | Exit |
|-----------------|------------------------------|-------------------------|------|-------------------------|------|
| Average Weekday | 738                          | 9                       | 47   | 45                      | 23   |
|                 | 24 hour<br>Two-Way<br>Volume | Peak Hour<br>Enter      | Exit |                         |      |
| Saturday        | 714                          | 32                      | 28   |                         |      |
| Sunday          | 610                          | 28                      | 29   |                         |      |

Note: A zero indicates no data available.  
Source: Institute of Transportation Engineers  
Trip Generation, 6th Edition, 1997.

TRIP GENERATION BY MICROTRANS



## ASBELL NEIGHBORHOOD ASSOCIATION

2615 Megan Drive  
Fayetteville, Arkansas 72703

July 8, 2002

Dear Commissioners:

This is a summary of a neighborhood vote regarding the proposed rezoning and development of RZN 02-17, located south of Deane Street, west of Sang Ave., and east of Porter Road. The vote was taken by ballot following a meeting on May 23, 2002, at Calvary Baptist Church on Porter Road between Bleaux Barnes and Sam Mathias of Mathias Properties and residents of the Asbell neighborhood. ANA members not present at the meeting were allowed to e-mail or call in their votes later.

The meeting was open to all residents of the Asbell area who reside and/or own property within the boundaries of the neighborhood association. The meeting was advertised three weeks in advance to association members and 5 to 7 days in advance to residents of the neighborhood by door-to-door canvassing with flyers. Over three hundred flyers were distributed throughout the neighborhood.

We realize there is nothing binding in this vote. It is presented to you, the Planning Commission for the City of Fayetteville, to give you an idea of the opinion of the neighborhood about this rezoning and this development. All but two votes were from association members.

May 23 Meeting – 33 people attending (20 households)

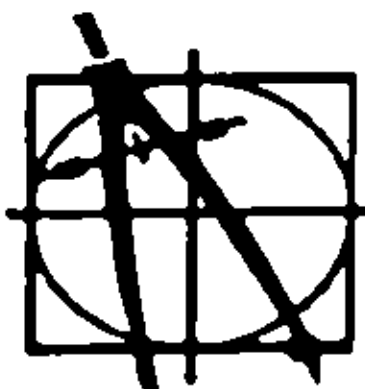
|                                                 | <u>For</u> | <u>Against</u> | <u>Abstain</u> |
|-------------------------------------------------|------------|----------------|----------------|
| Total Present                                   | 29         | 2              | 0              |
| Total (including<br>ANA members not<br>present) | 42         | 2              | 3              |

*The ANA Board voted 7-0-2 to approve.*

*The following is a breakdown of the above results by different blocks in the neighborhood.*

|                                 | <u>For</u> | <u>Against</u> | <u>Abstain</u> |
|---------------------------------|------------|----------------|----------------|
| Sang Ave.                       | 3          | 0              | 0              |
| Lawson (b'twn<br>Sang & Porter) | 10         | 0              | 1              |
| Porter                          | 6          | 0              | 0              |
| Megan Drive                     | 9          | 0              | 0              |
| Stable/Arthur Hart/<br>Houston  | 4          | 0              | 1              |
| Holly (Sang and Porter)         | 5          | 0              | 0              |
| Hatfield/Valley                 | 3          | 0              | 0              |
| Turner/Vista/Wedington          | 2          | 2              | 1              |





# JORGENSEN & ASSOCIATES

## CIVIL ENGINEERS • SURVEYORS

124 WEST SUNBRIDGE, SUITE 5 • FAYETTEVILLE, ARKANSAS 72703 • (501) 442-9127 • FAX (501) 582-4807

DAVID L. JORGENSEN, P.E., P.L.S.

THOMAS HENNELLY, P.E.

CHRISTOPHER B. BRACKETT, P.E.

City of Fayetteville  
113 W. Mountian  
Fayetteville, AR 72701

6/10/02

Att: Planning Dept.

Re: Rezone property between Porter Rd & Sang

Attached herewith please find the documents required for rezoning the above referenced property.

The property is between Porter and Sang Street and extends to Deane Street to the north and consists of approximately 21 acres. The owner wishes to rezone from A-1 to RMF6. We have met with the neighbors and I believe we have their support. The property to the west is R-2. To the east the zoning is R-1 and to the south is R-1.

An 8" waterline exists on Sang Ave and a 12" waterline exists on Deane Street. Sewer is available on Sang, Porter and to the north.

If this property is rezoned, the developer wishes to develop a subdivision which will have a street running east-west connecting sang and Porter Street and also a street to the north connecting to Deane Street. This will insure improved traffic flow.

The developer proposes town houses on the south and patio homes on the interior of the property. The request is to rezone from R-1 to RMF 6, which would allow 6 units per acre. There will also be single family homes along Sang & Porter streets.

If rezoned, we will proceed with the normal process of submitting a concept plan for parks review then the preliminary plat for review.

We do have exterior elevations of the units to be built. In addition, the developer proposes to install 2" diameter trees along the south boundary and a privacy fence along this south boundary line. A green space is reserved where the flood plain exists.

Please review and call me concerning any questions you may have.

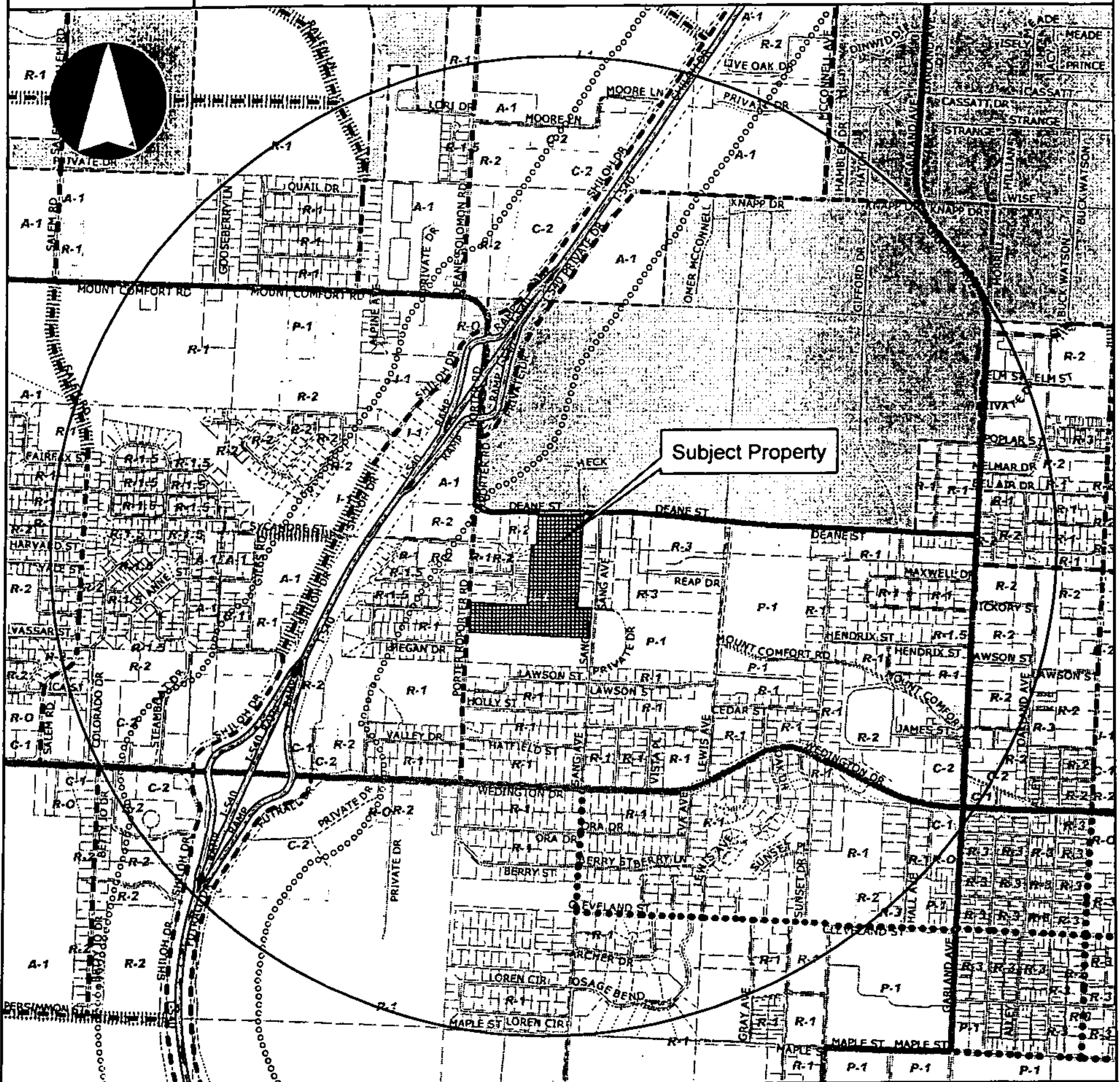
Thank you,

David L. Jorgensen

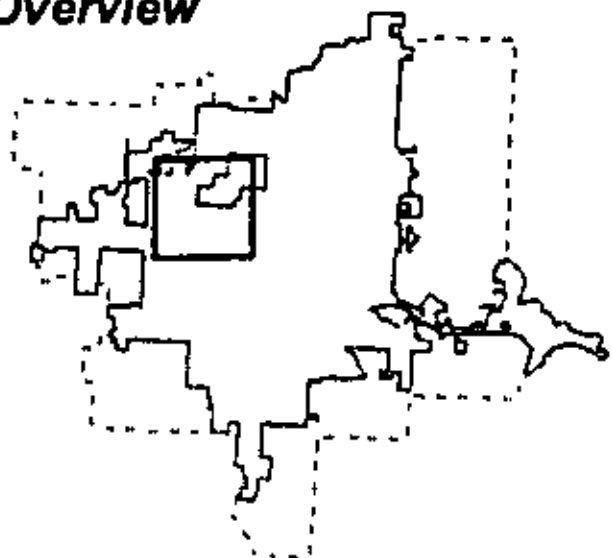
RZN02-17.00

One Mile View

# MATHIAS-BARNES



## Overview



## Legend

Subject Property

RZN02-17.00

## Streets

Existing  
Planned

## Boundary

Planning Area  
Overlay District  
City Limits  
Outside City

## Master Street Plan

Freeway/Expressway  
Principal Arterial  
Minor Arterial  
Collector  
Historic Collector

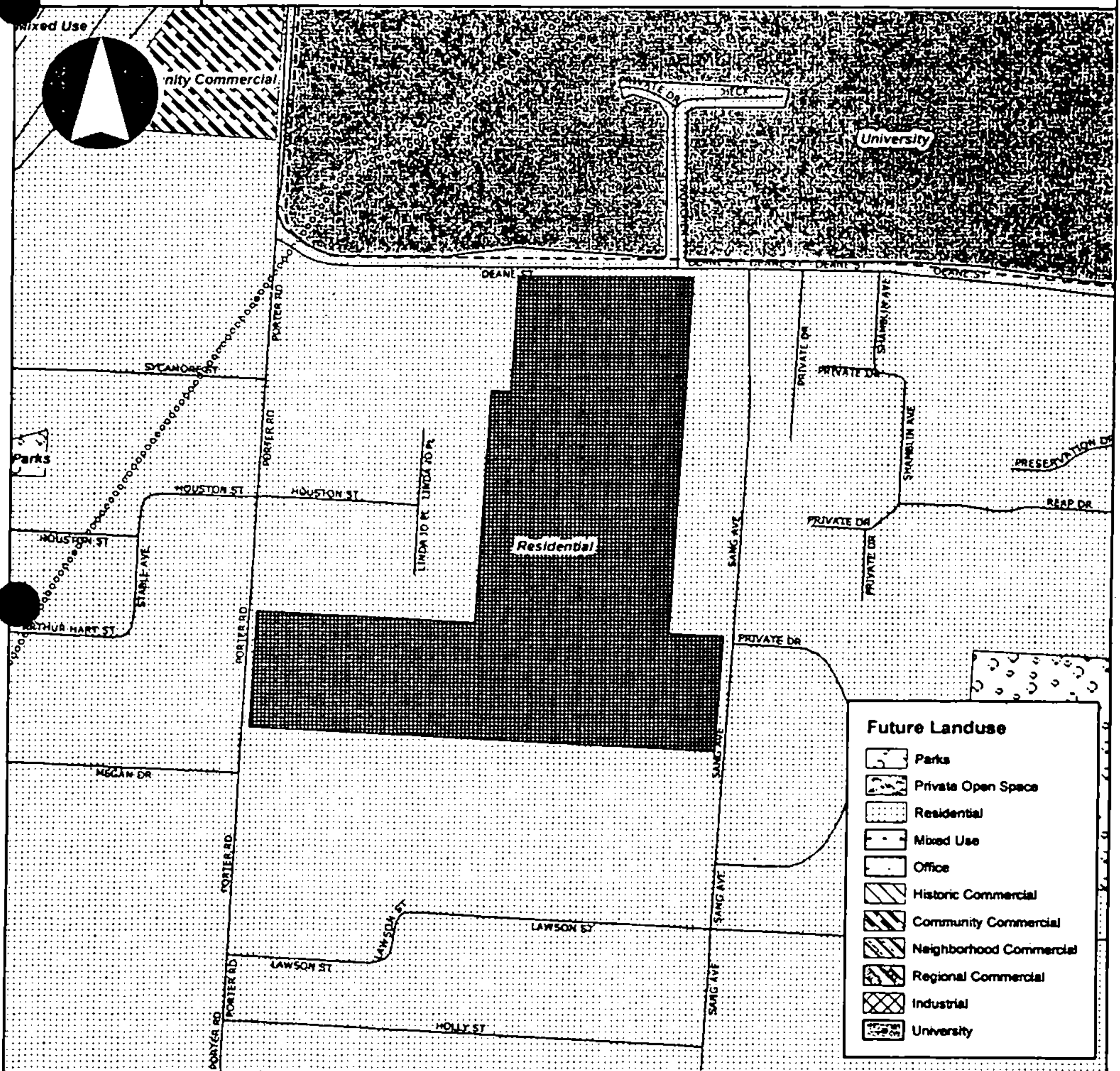
0 0.125 0.25 0.5 0.75 1 Miles



**RZN02-17.00**

Future Landuse

# MATHIAS-BARNES



## Overview

## Legend

Subject Property

RZN02-17.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

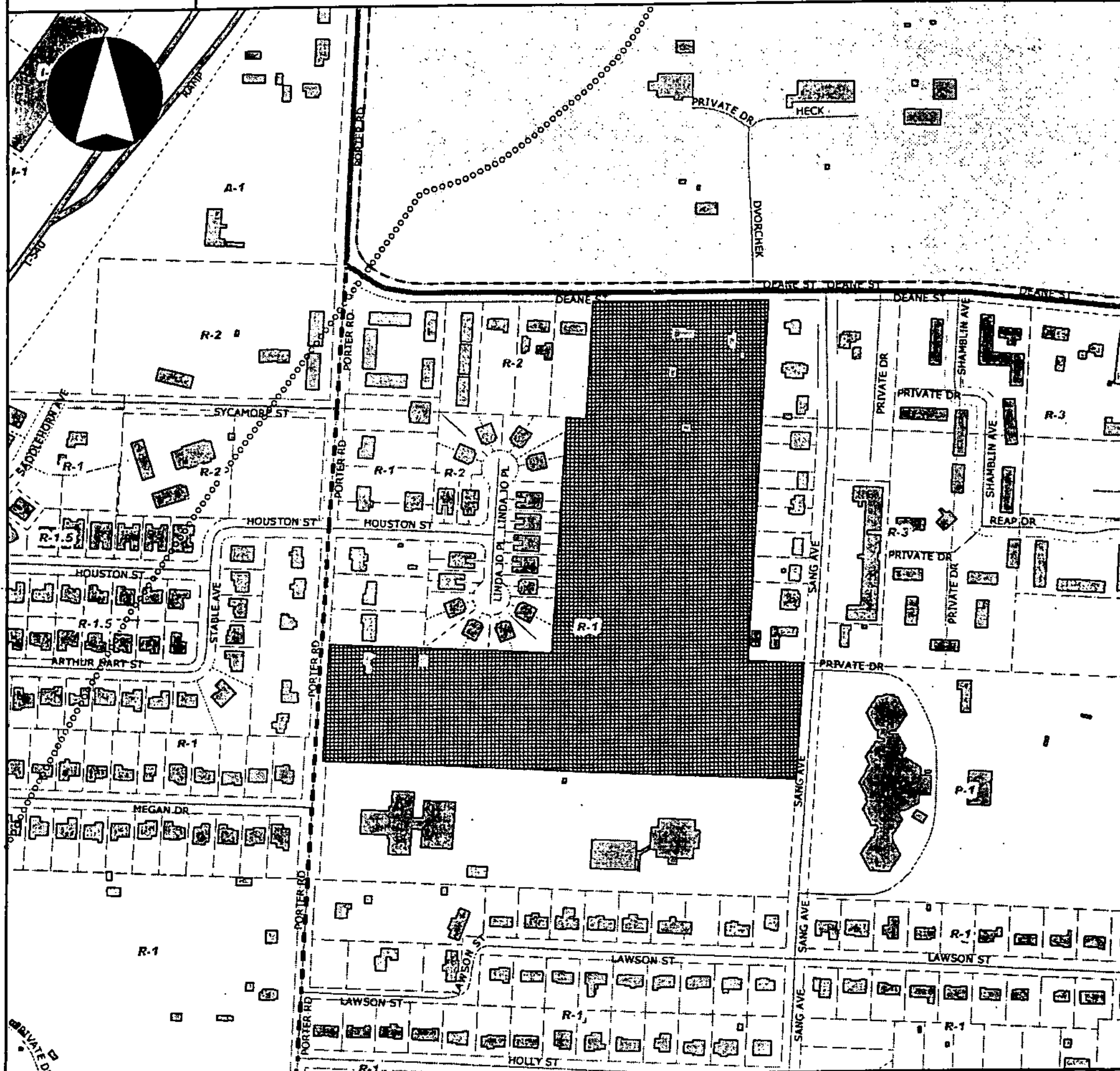
City Limits

0 125 250 500 750 1,000 Feet

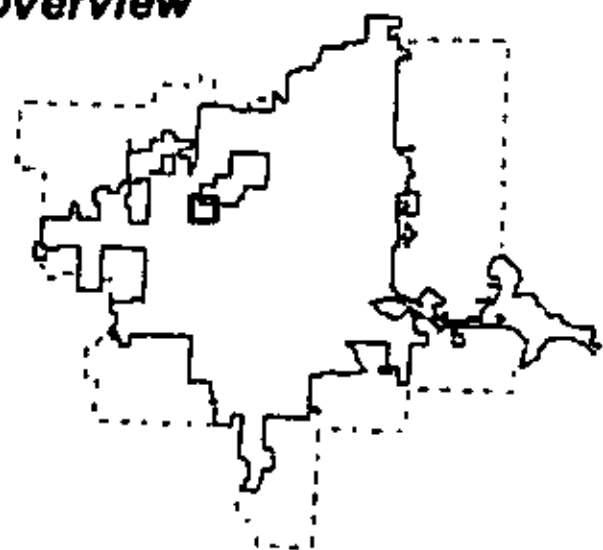
**RZN02-17.00**

Close Up View

# MATHIAS-BARNES



## Overview



## Legend

### Subject Property

RZN02-17.00

### Streets

Existing  
 Planned

### Boundary

Planning Area  
 Overlay District  
 City Limits  
 Outside City

### Master Street Plan

Freeway/Expressway  
 Principal Arterial  
 Minor Arterial  
 Collector  
 Historic Collector

0 125 250 500 750 1,000 Feet



**RZN 02-17.00: Rezoning (Mathias/Barnes, pp 364/403)** was submitted by Dave Jorgensen of Jorgensen & Associates on behalf of Sam Mathias and Bleaux Barnes for property located south of Deane Street, west of Sang Ave and east of Porter Avenue. The property is zoned R-1, Low Density Residential and contains approximately 21.03 acres. The request is to rezone to RMF-6, Low Density Multi-Family Residential.

Hoffman: The next item on the agenda is another rezoning. It is RZN 02-17.00 which was submitted by Dave Jorgensen of Jorgensen & Associates on behalf of Sam Mathias and Bleaux Barnes for property located south of Deane Street, west of Sang Ave and east of Porter Avenue. The property is zoned R-1, Low Density Residential and contains approximately 21.03 acres. The request is to rezone to RMF-6, Low Density Multi-Family Residential. Staff, do you have a report before we get to the applicant?

Conklin: This rezoning request is for RMF-6. Prior to filing the application they did meet with staff and the applicant has met with the Neighborhood Association. There is a Bill of Assurance in your packet. I would like to make sure that everyone understands that this was offered voluntarily by the applicant. It is my understanding also this evening that there have been some modifications to this Bill of Assurance and the applicant will have to talk to you about that this evening with regard to how that Bill of Assurance may have changed. I don't have that in my possession this evening at this time. RMF-6 is one of the new zoning districts that we adopted over a year ago. It allows for multi-family structures, apartments. It also allows for single-family duplex or triplex. The Bill of Assurance that they are proposing does limit the type of units that are proposed within the RMF-6. They are proposing I believe a total of seven single-family homes as part of this development. This piece of property a few years ago did come before the Planning Commission and City Council. The request at that time was to rezone it to R-2. There was quite a bit of opposition with regard to the proposed use for student apartments or student housing. It was ultimately denied by the City Council. This request once again, goes back to this RMF-6, which is a total of a maximum density of six units per acre. It is significantly less density than what was requested a few years ago. That is all I have.

Hoffman: Thank you Mr. Conklin. Is the applicant present?

Jorgensen: My name is Dave Jorgensen and on behalf of the developers on this project I am here to represent them and we have Bleaux Barnes, who is one of the owners on it and also we have Richard Maynard here with us who is with the Asbell Neighborhood Association. To carry on what Tim was talking about RMF-6, we have got 21 acres. We are allowed six units per acre, which brings us to 126 units, which is what we propose on this. We did meet with the Neighborhood Association and we did come up with a plan that hopefully you have in your packet. This is going to turn into what will eventually be the preliminary plat of this project and the reason we did this is to show the neighbors what this project is

going to look like and tweak it so that they are satisfied. For instance, we have all the lots adjacent to Porter Road and Sang Road as single-family. Those are lots 111 and 112 and lots 10, 23, and 24 are single-family. All of the lots along the south boundary line, there are eight condominium lots, which there are four units per each one of those so that is 32 units. We also have a single-family lot number 59 on Deane Street. Lots 60 and 61, we are reserving those for five units combined on both of those lots and then all of the rest of them are what we call patio homes. For instance, lot 17 is a lot 17A and 17B and the reason for this is so that we can have separate ownership on each one of these units because their market is for single-family houses. The owners even went to the trouble of drawing up exterior elevations so that you can see what it looks like. This is a condominium unit. The patio units, this is not correct in that the patio units now have two car garages, which is one of the reasons that we changed the Bill of Assurance. In working with the Neighborhood Association and getting all of this information, we are also tweaking that Bill of Assurance making sure that it satisfies them and that is one of the things that we changed on the Bill of Assurance that each one of the patio homes has a two car garage. In addition to that, the owners are in the process of developing covenants. Here again, this is premature. Normally we don't do this until a little bit later on in the process but at this particular point they are calling for 80% brick, front yards sodded, architectural shingles and they want to also do something like mailboxes that are either brick or something that is uniform throughout the whole project. The interest is to build a project here that satisfies the surrounding neighbors. By the way, we like working with neighborhood associations for that exact reason. I would be glad to answer any questions.

- Hoffman: Do you have the revised Bill of Assurance that you can address or do you want to do that later?
- Jorgensen: We can address that now. I just did this this afternoon and it is redlined but if you have a Bill of Assurance in your packet, item number two, and this may have already been corrected, does your version say seven units on two lots?
- Warrick: I marked that out and wrote five.
- Jorgensen: That is one item that we're correcting. At the end of that it says on two lots along Deane Street for a total of 126 units, I just wanted to clarify that there is a total of 126 units. Item number four, it reads "condominium units will have two bedrooms each with a one car garage." Also, another sentence right after that. "Each patio home will have two or three bedrooms with a two car garage." That is added after that item number four. Item number five is "The petitioner agrees to install a view obscuring hedge along the back of the other properties along Sang Avenue." This was requested. In addition to that, we have added item number ten and I will read that. "Petitioner specifically agrees that all such restrictions and terms shall run with the land and bind all future owners unless and

until specifically released by a resolution of the Fayetteville City Council. This Bill of Assurance shall be filed for record in the Washington County Circuit Clerk's office after petitioner's rezoning is effective and shall be noted on the Final Plat, which includes all the petitioner's property." That is a result of meeting with everybody several times and you might say refining it.

Hoffman: Thank you. Would you provide the staff with a final copy of that for their records?

Jorgensen: Sure.

Hoffman: Do you have any more presentation before I take public comment?

Jorgensen: I think that is it. I would be glad to answer questions.

Hoffman: I will go ahead and take public comment on this rezoning.

Maynard: Good evening. My name is Richard Maynard. I am here both as an adjoining property owner and also for spokesperson for the Asbell Neighborhood Association. For a couple of years I have been pushing for these preliminary meetings with developers and neighborhoods and now I've had two in as many months so kind of be careful what you ask for because they do get kind of time consuming but I am glad that we have them. I think as you all know, we did have this meeting on May 23<sup>rd</sup> with Mr. Barnes and Mr. Mathias. Just to give you a little bit about that, because I think it is important and it is pertinent to this and just how we do that. As a neighborhood association we are not there advocating necessarily for the neighborhood but we are providing the forum to let this dialogue happen. I don't know how we could've advertised this anymore. I put it out on over 300 flyers. We skipped the apartment complex. We didn't have as great of a turnout. We had about 33 people from about 20 households, which is a lot less than the one we had with the Lindsey development. My feeling about it is in that sense it is like an election. You can choose to come and participate or choose not to come and participate. If you don't mind, I would like to just give you if you are interested the results of these if I may.

Hoffman: Hand those to Renee.

Maynard: Basically what it does is it just explains how we go about doing this because I know you are just seeing the result of the process and not the process itself. I am not going to take a lot of time even talking about that but that is really how it should be. There are a lot of these things I think can get worked out before it ever reaches this far or even before it gets very far in the planning office. Although, we try to involve the planning office every step of the way because we don't want to go making agreements with each other that wouldn't fit into the city plan. I just wanted to break it down so you kind of saw where the people were coming



from. Some people weren't there but voted anyway. Of course, as I said last time, we realize that this is not a binding vote. It is just to let you know how the neighborhood feels about it. I think it is pretty clear the neighborhood feels fine about it so far and now we just sort of leave it up to you because none of us are engineers or we are not builders or we're not contractors. If I may, I would just like to say that this process works, it just does. The worst thing that could happen out of this is that a developer or neighborhood could meet together and the neighborhood says no. Then the developer has a better idea of whether they want to proceed or not. That is really I think all it should mean. More than that, what this does and what Mr. Jorgensen mentioned, the whole tenure is much different, it is much friendlier than coming up here and battling out through you and asking you to play an arbitrator in the whole process. Things come out and it becomes a dialogue. I think in the interview that some of you may have read a few weeks ago, Mr. Mathias said it actually makes us better developers. If I may just give you a couple of examples. When I first saw this it was a very, very preliminary idea from Mr. Barnes and Mr. Mathias. It was a horseshoe development. There was now outlet onto Dean and I know Mr. Conklin wasn't very fond of it from the city's point of view but I had another for it from a neighborhood perspective. I said "I don't think you realize every development along Porter all empties out onto Porter." Maybe they would've found that out on their own, maybe not, but that is something from a neighborhood perspective that comes out. At our neighborhood meeting a couple who lives across the way on Porter were bothered that the new street would empty right out onto their driveway. Because of that they were able to make an adjustment and still make this development work. We were talking at one time about a private fence along those Sang properties where I live. I said "Why do that? We already have a fence there, chainlink fence to a pasture fence. Why don't you put a hedge row there?" That is something that comes out of these meetings. It is not just presenting something to the neighborhood and the neighborhood going thumbs up or thumbs down. I think we really try to work out what we can work out beforehand. How far a neighborhood wants to go with that, I guess that is up to another neighborhood and another developer. We kind of stop there. We didn't want to get too much into materials and certainly not as the head of this organization, I didn't want to be putting myself into a negotiator position because I don't think that would be appropriate and it didn't get brought out in the meeting. I do want to point out that the revisions on the Bill of Assurance. Yes, they were not things that we were bickering over by any means. I think it really was fine tuning. I simply made the case that anything you are sure of put in the Bill of Assurance. To my mind, the Bill of Assurance truly is between the neighborhood and the developer, whether you agree or not I don't know. There is nothing taken away in other words. If you know you are going to do a two car garage, what is the problem? Why don't you go ahead and put it in there? They were absolutely agreeable. That is really all I have to say about it. Please keep in mind, we have already had another situation, and I hope this idea catches on. This idea will really not work if this becomes a neighborhood referendum. In other words, this will not work if

just because the neighborhood says it is ok it goes through or quite frankly, just because the neighborhood says no that it doesn't go through. I don't believe in that at all. I have never advocated that. Basically what we are saying is that it looks good to us and now it is up to you. Thank you.

Hoffman: Thank you Mr. Maynard. Is there anybody else that would like to address us?

Davison: Hi. I am still Sharon Davison. I sort of have to be a little sarcastic here and say I think that it is great that we are all so happy that developers are finally showing some minimal consideration and speaking with the neighborhoods. I think it is sort of sad that we have to be so grateful that they are finally doing the decent thing that they should have done to begin with. I would also like to clarify for people that aren't really in a lot of these processes that when City Planners say staff recommends, these things are saying these people have followed the rules, or whatever they say they have to do so we say they can. Very rarely do they vigorously say we think this is a great project so do it. We need to listen to some of these things. Lets also understand that with our neighborhoods when they are saying ok. Well, they are resigned to having to say ok. It is wonderful that they can have little things that actually turn into big things such as primarily where the dumpster is located. These are issues and these are issues that developers have chosen to ignore until we have really applied pressure. I think you all may have had phone calls, you may have been paying attention the past year, neighborhoods are feeling pinched and we are all really, really looking to you to help us out here. It is great that we can rely on you for exactly what Mr. Maynard said, the details. I appreciate going to Subdivision and having Commissioner Bunch say "Well, what about these parking spaces? or what about these numbers?" That is what I feel you are supposed to be doing for us and I appreciate you doing for us. My problem is not that this may not be the persons right to develop, not that this may not even be an appropriate project, but it is the timing of these projects. Look at what we just discussed. All the building we are going to do with the Broyles and Lazenby field. We have people over there by Wedington. Well, the thing is we can't handle it all right now. I was wondering are we at this limited sewer capacity? Does anyone know our current capacity rate at this point as of, we can even say July 1<sup>st</sup>. What is our sewer capacity? Can anyone tell us that? Are we operating at 99.4% as I have been told?

Conklin: I don't have that information.

Davison: But we can keep approving everything and not know? This is part of my issue and why I brought up a complaint at the City Council about dragging our feet on impact fees. We have volumes of these projects. These are people that are living in these neighborhoods that are still suffering with sewage water runoff in their backyard in this very area. Simply as we are up on Mount Sequoyah dealing with sewage runoff and we don't have these things fixed. The question came does building drive infrastructure? You know, I think the whole point of planning is

meaning you build the infrastructure and then you build the units. We are at the point now where we are building things and saying "Oh, ok, well later we'll fix it." I loved Mr. Earnest's eventually comments. He wanted to approve a lot of developments because eventually this is all going to go in over there. Wedington has we think 20,000 max cars on it although we were given erroneous figures of 13,000. Here is the deal, why are we not at a moratorium? We were at a certain deal about capacity. You approve these yet we have to see. Will you inform me of this Ms. Hoffman?

Hoffman: I will do my best. We are here to discuss this rezoning. This is not a forum for impact fees. I know that we have got the consultants and we have had many public meetings and those are in process. I can just tell you that a standard condition of approval prior to approving any new residential development is that they are made aware that should sewer capacity not be available at the time of construction they don't get a building permit. That is the standard that we follow for any new development or rezonings that are approved by this Commission and by City Council.

Davison: I appreciate that. That is very important to me that people are coming in. My thing is I am not trusting some of the numbers I am getting such as from Mr. Hugh Earnest as our city representative. Therefore, I am very leery as to wondering why Mr. Conklin doesn't know our sewer capacity and how we can keep doing this. I would like to request that Mr. Conklin...

Hoffman: Do you have anymore comments based on this project?

Davison: Based on this project, do we have the sewer capacity at this time for it? Thank you.

Hoffman: Thank you Ms. Davison.

Hoskins: I am Anetta Hoskins and I am a home owner adjacent to both of these little properties. I have been there sixteen years and I have enjoyed having cattle on both my south side and my west side and I really enjoy that. However, I realize that things can't stay the same and I am very pleased with this proposed development that is going in. Thank you.

Hoffman: Thank you. Is there any other member of the audience that would like to address us on this rezoning? Seeing none, I will go ahead and close public discussion and bring it back to the applicant and to the Commission.

Estes: This project of course has had a history. Those of us with institutional history has some memory of that. Some of the participants no longer serve, other participants have passed away and are no longer with us. The last time that this was before us I, together with Commissioner Hoover, voted against this rezoning request. All of



the reasons that I voted against it are no longer with us. I am very pleased that the developer has met with Mr. Maynard and with the neighborhood association. I am very pleased that the matters and concerns that I had when we saw this before have been resolved and have been worked out. It is for those reasons that I would move that we forward to the full City Council for its consideration RZN 02-17.00.

Hoffman: I have a motion for approval of this rezoning and forwarding to City Council by Commissioner Estes.

Shackelford: I will second.

Ward: Does that include the new changes and the covenants?

Estes: The Bill of Assurance of course is not within our providence to dictate or to request but let me address Mr. Jorgensen in that regard. Mr. Jorgensen, as the movement I have heard your comments and I have heard the amendments to the Bill of Assurance so let me say that. Let me also say that the form that you are using for the Bill of Assurance references our Chancery Courts. By Amendment 80 we no longer have Chancery Courts, we have Circuit Courts so you need to also strike the reference Chancery Courts from your Bill of Assurance.

Jorgensen: Ok.

Estes: It is the Circuit Court, strike Chancery Court. Amendment 80 was passed and we now just have Circuit Court. Mr. Ward, is that responsive to your thoughts?

Ward: More than enough.

Hoffman: Thank you Commissioner Estes. Is there any further discussion? Renee, would you call the roll please?

**Roll Call:** Upon completion of roll call the motion to approve RZN 02-17.00 was approved by a vote of 8-0-0.

Hoffman: Thank you. The motion carries unanimously on a vote of eight to zero.



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**RZ99-28: REZONING  
REALTY RESOURCES, PP364**

This item was submitted by William S. Hahn on behalf of William M. Weatherford and Larry & Brenda Swain for property located at 2200 and 2201 W. Deane Street. The property is zoned R-1, Low Density Residential and contains approximately 11.64 acres. The request is to rezone the property to R-2, Medium Density Residential.

Michelle Harrington and William Hahn were present on behalf of the request.

**Staff Recommendation**

Staff recommended approval of the proposed R-2 zoning.

**Committee Discussion**

Johnson: Staff, could you give us your explanation of this recommendation on this rezoning.

Conklin: Staff did recommend approval of the rezoning. This site is located on Deane Street to the north is the University of Arkansas Experimental Farm. It does adjoin R-1 zoning on the east boundary. However, four of the structures on Sang Avenue are duplexes and one structure is a 5-plex. On the west boundary line, it does adjoin R-1 zoning and R-2 zoning. If you'll refer to page 2.6 in the agenda, Linda Jo Place on the western boundary has developed with townhouses and it's zoned R-2. Staff has recommended approval based on the findings in this report that additional multi-family residential dwellings in this area are appropriate and consistent with the 2020 Plan. If you have any other questions, I'll be happy to answer them at this time.

Johnson: Commissioners, any additional questions of staff? Ms. Harrington?

Harrington: My name is Micki Harrington. I'm here tonight representing Realty Resources, Chartered and Mr. Hahn, the representative, is here with me tonight. We are requesting as Tim indicated, approval of R-2 zoning on this property. We believe that it is a good location for R-2 zoning because of what is around it and across from it. It is an infill situation in an area that is very appropriate for it and it's serviced by the University of Arkansas bus system which hopefully will allow a lot of transportation needs to be met with the bus system and not require more cars to the University because the bus system is right there. We think it is a good place to put an R-2 development but we're happy to answer questions and help with details as you need.

Johnson: Do you have any questions of Ms. Harrington at this time?

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Ward: How many units do you plan on putting on this?

Harrington: It's not certain yet but they're talking roughly 120 to 140 depending on the site needs and demands.

Johnson: Any other Commissioners with initial questions.

Estes: Staff, how many units would an R-2 zoning accommodate?

Conklin: R-2 zoning does allow up to 24 units per acre. This would allow 275.

Estes: Thanks.

Johnson: So, the maximum that you're contemplating, although, of course, you're not bound to this would be about half.

Harrington: About 12 to 15 units per acre.

**Public Comment**

Richard Maynard, residing at 1717 N. Sang was present in opposition to the rezoning.

Maynard: I'm here with my neighbors today. Should I introduce them?

Johnson: No. If they wish to speak individually, they may. Otherwise, if they merely want to let us know that they support your position, they can do that through a show of hands.

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Maynard: I own the property at 1717 N. Sang. First, I want to make it clear that we do not object to Mr. Weatherford's selling of his property. We sit on Sang Avenue which is on the east side. We've all enjoyed that little bucolic pasture for a long time. We know it isn't going to last forever. We certainly don't want to interfere with his right to sell his property. Nor do we object to Mr. Hahn developing that property. In fact, in a way, I would welcome it. What we do object to is this drastic change to that neighborhood and to our quality of life and to our investments. I moved here about 5 years ago and I looked around quite a bit in Fayetteville to find a place that I thought I would be happy with and that I could build a home. I did find a really nice piece of property. Ms. Lavender, one of my neighbor's here, her husband built it about 40 years ago but it hadn't been kept up. One of the first things that I was a little bit nervous about was there was a mobile home park across from me and as Tim said, there were several duplexes going south of me to Ms. Hoskin's home. She lives by the Baptist church there and she is here with us tonight. There's a 5-plex right to the south of me. It made me nervous. I came down to this office to find out exactly what the zoning was and it all said R-1. I didn't know what R-1 meant and I asked them about that and the reason those were R-1, they can say there are duplexes there now and



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they can say there's a quad-plex there and there's a mobile home across the street. The mobile home may be different zoning but those were still R-1. Those were there before the city limits expanded so they were grandfathered in. Right now, that neighborhood that we are talking about is primarily R-1. It is primarily designed for low density residential. I can only think that your predecessors, the City Planners that came before, had a reason if those duplexes were there and that mobile home was there to call it R-1 and not see in the future that as R-2. What's over there on the west that is R-2 on Linda Joe Place and as Tim said, they are duplexes. In fact, until very recently because I don't have any real cause to go over there, I didn't know that they weren't single family homes. I don't know if they are rentals over there or if they are owned. Those are nice places there. They don't adversely add to the population density. I came down here last Thursday, just to get some clarification of what Mr. Hahn had in mind here and I did talk to Brent and he helped me out quite a bit on some things. The main thing that we were concerned with was what exactly did he have in mind. Did he have in mind what is over at Linda Jo Place? Those nice, well kept duplexes or did he have something else in mind. Brent told me he didn't really know. We really couldn't ask that. Once you rezone that, it seems like as I read this, you have quite a bit of latitude as to what you're going to put in there. As I look at 12 to 14 units, in an 11 acre space of land, I'm not quite sure how Mr. Hahn is going to that and keep the parking regulations and keep the green ordinance and by the way, I have a question on that --

Johnson: You're several steps ahead of where we are in this process. Tonight, we're only looking at the issue of rezoning. We can't get into green space issues and development issues. We'll look at that if and when this ever gets rezoned.

Maynard: The only thing that I can see that he can probably do is go up and that means 2 story townhouses probably 8 units per building. That is going to be a drastic change. That is going to add so much population to that small area of land. Also, Ms. Doege knows more about ~~this than I do and I'll let her speak to that, part of this is on flood plain. Again, I don't know~~ what Mr. Hahn has in mind. How is he going to rectify that? Is he going to build up the land and if so, where is that water going to go inside of our own back yards? I realize maybe this isn't an issue that I can talk about tonight but we live there and these are concerns of ours. Access is another problem I have. The only access I see is on Deane Avenue. So, we have lots of concerns that maybe I can't address tonight or maybe you can't answer but that's a problem that we have. We would like to see something like Linda Jo Place, like something that is going to add to the quality of the neighborhood then we would be okay with that. We knew that property was going to be sold and developed at some point. We're not going to keep things as they are but we are trying to protect our quality of life because we live there and we own property there. In my own particular case, because it was R-1, over the past 5 years I have spent a lot of time, a lot money, I've taken out a second mortgage and worked a second job to make this into a home that I would be happy with. Now, you're going to change the rules on me. I don't quite understand what compelling need there is. If I can refer and I think this is something I can talk about, is on the final pages of this, the findings of the staff. I'm not going to comment on number 1. I don't know that much about it to comment on it. I will comment on number 2:

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"A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed."

The finding of the staff was that yes, it was justified and yes, it is needed. Our question is why? Why is it needed? I can only think of 2 reasons. If you're putting apartments in there for college students, the only reason that I can think of is that there's a dearth of college housing available now which is an interesting thing because I teach in a special program at the University. When I was on my way to the office yesterday, I went by the College Park Apartments. There's a big, red sign out there with apartments available \$199 and up. I got an idea and I started calling other places. I called Faucette Properties. They have apartments available. I called Washington Plaza, just a half a block over from us on Deane and Lewis and they had apartments available. The program I work at is an English program for international students. They come to us before they go into the University. One thing we do get for them is housing. I talked to our housing coordinator today and asked how much trouble they had finding apartments for our students and she said none at all. There can always be more college housing. I understand that. We are a growing university. What concerns me is when that starts to take prevalence over the people who live and work in this city. There are houses available and there are places to put more college housing. What we have there in this property that he's asking to rezone and you're considering tonight is primarily residential. You don't have anything like you have to the east of us. You don't have anything like you have at College Park Apartments. As I said before, it's going to be a drastic change to that neighborhood. It's going to be change that will dictate how that neighborhood will be for now and forever. Like I said, we moved in there with an understanding and we know situations change. We understand that. I don't buy this that there is a compelling need to build affordable college housing at least right there. There are other places to do it. We'll always need some. The only other need I can see and I'm sorry to say it. This is a very valuable property. I wish I owned it myself. Somebody does stand a change to make a lot of money off this. ~~It's a much more valuable property than mine is but mine is an investment,~~ too. I'm not just talking about a dollar investment. Although, we're all concerned about that. We're very concerned about how this college housing is going to effect our property investment. More importantly, we're talking about our investment and our quality of life that we have there.

Number 3:

"A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion."

Again, there is a bus line on Deane Street. It runs once an hour. Maybe, the University will increase that. Again, we live there. There's a lot of traffic going down Sang now. I guess I can't ask what the access plans are for this idea that Mr. Hahn has. I can tell you there is a lot of traffic now. If you've ever come down on the bypass and gone off onto Porter Road about 8:00 in the morning, you will sit there for a few minutes. I've made that mistake. I visit my mother sometimes up in Bella Vista and once in a while I'll stay over and I'll forget and not take the cloverleaf onto Garland but I'll go to Porter out of habit. You can sit there for awhile as people

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are coming off of Mt. Comfort and then as it goes under the bypass it ells around into Deane. About an eighth of a mile which I'm sure there will be an access, we're going to have students coming out. Of course, not all of them. It will take them about 1 day to figure out the shortest route to the University is down Sang. That's a straight shot. There's no stoplight from Deane to Wedington and people speed down there. We put up with it all the time. We've called and complained and nothing ever really gets done about it. There is a school there. There is a trailer park right across from me. Kids play out there. They shouldn't but they do and that's a fact. There is Asbell School. If you can imagine for a second that kind of added traffic going down there. I don't know how you're going to change that. Are you going to put a stoplight there and back up traffic more? Or put a stop sign there? If you ever drive down there, pay attention. Right past the Baptist church, it kind of crests and right over that crest there's a cross walk. If you're going the 20 to 25 mph speed limit, there is no chance to stop. There's none. I'm not trying to say somebody didn't do their job. I'm just saying that I think if you took another look at that and imagine what the effect of the density of population that you're adding there. We're talking about 12 to 14 units or 120 to 140 new units. There will be at least a couple of people in each unit and we're talking about an increase of population of about 300 to 400 people and all of them have cars. We were all students at one time. We know what happens when we rush to get to school. When we get older, we become a little bit more responsible and you think about it. I cannot believe that this is not going to add adversely to traffic. It doesn't have anywhere to go except down Sang and over to Garland. This is going to add heavy traffic. I don't care if the University puts in 5 buses. Finally, I want to mention one thing about number 4. To me, it seems this zone was recommended primarily on number 4 as the best explanation. There may be water lines. There may be enough sewage capacity. We have a concern about the flood plain as I mentioned before. It seems like this is based pretty much on finding number four. The most important point, I saved for last and it's the last thing you have in your criteria which is 5.a:

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~~"It would be impractical to use the land for any of the uses permitted under its existing zoning classification."~~

Why? That's my question. Why would that be impractical. That is a residential neighborhood. I don't care if people are renting there or people like myself and my neighbors own and live there. That is a residential area. It would be a beautiful spot for a home. It would be a beautiful spot for home for people of middle income and who could afford \$60,000 or \$70,000 homes. I know people and you do, too, who cannot find that kind of home in Fayetteville. They're to moving West Fork. They're moving to Farmington. They're moving to Springdale. I feel that is what you might be asking me to do because I can't afford a \$90,000 home or a \$100,000 home either. I have a home and I'd like to keep my home. I teach college students and I don't have anything against them but I know what I was like 25 years ago. I was a pretty good kid but I wouldn't want me then living behind me now. If homes are impractical, we don't care. More expensive homes or duplexes if you want but something that is going to fit in the nature of what that neighborhood is. What kind of bothers me about this whole thing is that it seems like the burden to keep things R-1 is put on my neighbors and me. It's R-1 now and we're up here



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buried them deep and planted his grapes on top of them. That not only helped him but it helps us now. We're getting all this extra water from the east and it is absorbing because we have this wonderful drainage system there. They're going to bring in these apartment houses and they're going to do like the apartment houses at Washington Plaza and Encore. They're going to put concrete and buildings and they're going to cover all that wonderful absorbing soil. They're probably going to raise it, too. If they go ahead and bring in all this fill and they raise this up a foot or two, the water will go back on us. Our soil isn't as absorbent as that and we're lucky we have that land next door but it isn't going to absorb it. It's going to be up to us and up to the people on the west side of Porter. I drove over there today and saw a woman who lives in one of the units on Linda Jo and I asked her if her unit had ever flooded. She said, no, it had gotten very close but it had never flooded. The unit 2 doors down from her had flooded this year. They actually had water in the building. That happened with the wonderful drainage system that we have on Mr. Weatherford's land. When they cover that up with concrete and they will cover it up with concrete and that's the way you build apartment buildings anymore to provide these wonderful places to park. They are going to flood. Are the engineers going to come and lift our houses off the foundation? I know we are not going to be able to live in our house if they completely pave all that property over there. Who is going to buy our houses when they flood every year? We're sunk. There's nothing we can do. The only answer I can see is for a reasonable person to put in either single dwelling or duplexes that continue to allow most of that land to be lawn which will continue to absorb all this rain. That way, we're not going to get their runoff and the people over on Porter aren't going to get their runoff. I know they have all these wonderful culverts planned and they'll have water running underneath. All that does is just shunt it off somewhere else and we're still going to have it in spite of whatever they plan.

#### Further Commission Discussion

Johnson: Several of those comments really go to issues that we would have to address and address very carefully but not at this stage. The drainage issues are very serious. I think you'll find that the city, every year, does more and more to assure that new developments don't create new drainage problems. In a place such as this, one of the best ways that you can keep up if this gets rezoned, once this development is proposed, is to follow it through the process and see what is being done about the drainage plan because it is my experience since I've been on the Commission that much more care is taken in '99 on drainage issues than even was 4 or 5 years ago. This is not the time when we have any authority to deal with that rather that is at the development stage. The other thing I would observe is there are 2 adjacent properties that in the foreseeable future, won't be developed in anyway other than as they now exist. The University Experimental Farm across Deane Street; I've not heard of any plan to do anything other than leave that for the foreseeable future as farm which helps the adjacent area in terms of intense development. The same is true on the smaller tract to the south which, I believe, has 2 churches on it.

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having to convince you to keep it R-1 or at least get more specifications as to what he has in mind instead of leaving it up to him to give a compelling reason why they need to change this outside of making a great business deal. I hope to God that isn't your consideration tonight on the amount of money somebody has to make. If that's it, then we don't stand a chance because our properties don't come anywhere near that value. At the very least, I would ask you if you would -- what you decide here to tonight is going to have a tremendous effect on us and the neighborhood. It will change the nature of that neighborhood forever. Before you rush into a decision, at least give it a second look. You're welcome to come onto my property through the back gate. I have a good panorama of that view. Imagine what that neighborhood could look like. Also, try to imagine what it's going to look like with 300 or 400 college age students in there. We have to live there, ladies and gentlemen. You don't. Mr. Hahn doesn't. Mr. Weatherford doesn't. We are the ones that have to live there. Thank you.

Johnson: Thanks, Mr. Maynard. Are there others who would address us on this proposed rezoning?

Faye Doege residing with her mother at 1745 N. Sang was present in opposition to the proposed rezoning.

Doege: I'm going to address one problem which is a little complicated. When those houses were first built on Sang Avenue, there were no apartment houses or anything across the street. There was no trailer park. My dad built those houses. Then they developed the Washington Plaza apartment house. That was fine. We needed low cost apartments for people. Unfortunately, one thing they did was to bring in 20 tons of fill and they raised the level of the land there. That wasn't too bad because that water had places to go. It went east and it went west and it went south. We had some natural absorbing areas there and one of the places that used to collect most of the water from Washington Plaza was a place where they decided to build this new apartment house, The Encore apartments which is across the street from our place now. Now, they have concreted all that land that used to absorb the water that ran off of Washington Plaza. Now that water from Washington Plaza washes through there onto Sang and across Sang into our property which has been causing a little bit of a problem but we have been able to get by. One of the reasons we have been able to get by is the kind of soil that we have over there. The soil on the west side of Sang is Captina silt loam. It has a slow percolation rate but it has moderately good drainage so when we have a lot a rain, it will puddle a little bit but it will eventually soak in and you can't say that about every place in Fayetteville because there are a lot of places where it puddles and it will not soak in after a long, hot summer but it will eventually sink in. The place where most of the water goes from across the street and from our place and from the University Farm where it drains down Sang, is into this property where they want to build the apartments. That soil there is Pembroke silt loam and it has good drainage. Not only that, that whole area has excellent drainage because it used to be a vineyard about 50 years ago. A man named Rudolph had a vineyard there. That was low property there and he came in and put in drain tiles under all that property there. He used clay tiles with holes in them and he

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Harrington: I wanted to take a brief opportunity to make a couple of comments. With all due respect to Mr. Maynard and the neighbors over there. I don't believe that the impact is going to be as large as they think. I turned onto Sang and turned around in a large apartment building directly across the street from all of these houses. I'm afraid that this R-1 area is really no longer R-1. In reality it has not been for many, many years because of the number of duplex, triplex, 5-plex apartments, etc. I would like to think of this as a true R-1 but there is very little R-1 left in this area and has not been for some time especially with a mobile home park right there and the apartments that are already in existence. If this is done nicely as this developer intends to do and he does, of course, intend to comply with all the city regulations and there are many as Ms. Johnson has mentioned regarding the drainage. If there is a chance that it's not going to work, this project will not go in and that will be discovered at the development stage when the drainage is evaluated. The reason that R-2 is being looked at here is because it would be a very difficult property to develop as R-1 given the surrounding mixed uses across the street where there's a grain elevator, etc. It's not terribly conducive to R-1 and even with very small R-1 as you all know, you have many bitter battles in here about the lower price home and the small lot R-1 for the same reason that apartments are opposed. I believe that this developer intends to find a way to do to this in such a way that it will not be a negative impact on the area and will provide much needed housing. The need for housing continues to go up and maybe there are apartments available today but that doesn't mean next year and the year after. There is very little, if any, R-2 on this entire side of town available at this point. So, I wanted to briefly address those items. I have the realtor here who has explored the market very seriously and can certainly address your concerns about what the needs of the market are. I don't know if you want to take the time with that so I'll just look for direction on whether you would like to have some comments from him or from Mr. Hahn.

Johnson: Commissioners are certainly free to raise questions to the people Ms. Harrington has made available.

Estes: I have several questions for staff. The status quo is R-1. We must make 4 specific findings of fact to grant the applicant's request. The first finding regards the 2020 Plan which lists this property as residential. That finding is met. The second finding of fact that we must make is that the proposed zoning is needed. That's the first question I have for staff. Do we truly have a shortage of R-2 property? As I ask that question, I think about the Lindsey Development that is going in to the northwest of this. I think of all the vacant apartment ads I see in the Northwest Arkansas Times each morning. Is there truly a shortage of R-2 property in the City of Fayetteville?

Conklin: Trying to answer your question accurately, as staff, we don't have a detailed market analysis to determine how much R-2 land is available in this community. We do know that there is not much R-2 land existing which is undeveloped in Fayetteville. When we looked at this recommendation and whether or not to recommend additional multi-family, this is an area where the existing land use is very mixed. It was on the U of A bus route and it was possible to



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build additional apartments east of the bypass instead of on the other side of the bypass. As staff, we felt like it was justified at this time.

Estes: The third finding of fact that we must make is that it does not appreciably increase traffic congestion. As I listened to the applicant's presentation, 140 units, 2 cars per unit, 2 day trips, that makes 560 trips. Upon what basis was the finding made that the proposed zoning would not increase traffic?

Conklin: At this time, Deane Street, in my opinion does not have any traffic problems. If this does have students that live in these apartments, these students are not going to all be leaving at 8:00 in the morning. Looking at other apartments in this area, this morning there was little or no traffic when we were out there, even in the R-3 zone directly to the east on the east side of Sang Avenue.

Estes: The fourth finding of fact is the determination that the proposed zoning will not alter population density. Listening to the applicant's presentation, I make the finding as a matter of fact that it will increase population density. How did staff reach the conclusion the proposed zoning would not alter the population density?

Conklin: Let me clarify that the finding states that the proposed zonings would not alter the population density and *thereby undesirably increase the load on public services including schools, water, and sewer facilities*. With regard to schools, I contacted the school district. The school district has told me that they will accommodate future growth and student population in Fayetteville. With regard to water and sewer facilities, at the time of development, our City Engineering Division, does sit down and make recommendation on what improvements are needed on site and off site to be able to handle the additional load. Therefore, as staff, we believe that finding can be met.

Estes: I have no further questions.

Ward: We were talking about the number of units they are proposing and with R-2 zoning, you can put in duplexes on this property kind of like the site to the west. It looks to me, quickly calculating, they could do 125 units of duplexes on this property with the density that we allow on duplexes. If the units themselves are not going to be any more than what is allowable as far as duplexes, I'm not sure that there is that much difference or would change that much as far as apartment complexes.

## MOTION

Ward: I will recommend approval of RZ99-28.

Johnson: Is there a second.

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Marr:           Second.

Johnson:       We have the motion by Commissioner Ward, seconded by Commissioner Marr to approve RZ99-28. I remind you that a rezoning requires 5 positive votes and then if the rezoning passes at this level, it goes to the City Council for finalizing.

**Roll Call**

Upon roll call, the motion passed with a vote of 5-2-0. Commissioners Estes and Hoover voted against the motion.

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Mr. Todd thanked him for saying so, but added that it takes fifty "atta-boys" to erase one screw-up.

Alderman Austin said he would second that, saying "atta-boy."

Mayor Hanna asked for further comments.

Alderman Daniel stated that she was very happy how this had worked out and added that she hoped all of the old wounds on this subject would be healed now.

Upon roll call, the resolution was approved unanimously, 8-0-0.

*RESOLUTION 129-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*

**RZ 99-28**

An ordinance approving rezoning request RZ 99-28 submitted by Michele Harrington on behalf of William M. Weatherford and Larry and Brenda Swain for property located at 2200 & 2201 W. Deane Street. The property is zoned R-1, Low Density Residential and contains approximately 11.64 acres. The request is to rezone the property to R-2, Medium Density Residential.

*Mr. Rose read the ordinance for the first time.*

Alderman Daniel stated that this property was in Ward 4, her ward. She said she would like to make a motion to leave the item on the first reading.

Mr. Rose and Mayor Hanna commented that they didn't need to make a motion in order to do that.

Alderman Russell said that he would like to hear from Michele Harrington and the others who had come tonight about this agenda item.

Mickey Harrington, representing Realty Resources, introduced herself. She stated that this was a classic case of an infill in an area that is already densely settled. It is an R-1 neighborhood from a long time ago, but it should be considered an R-2 given its population. She noted several pieces of R-3 zoning in the area. This would become an apartment complex development that would be built in such a way to preserve the row of pine trees in the area. There have been concerns stated at the Planning Commission level that she wished to address. One was that this would be a drastic change for the neighborhood; she disagreed because the neighborhood was already heavily populated with rental homes, rental duplexes, triplexes, four-plexes and five-plexes, rental apartments and rental mobile homes. This would change a field into a dwelling



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area, but she felt this was a natural evolution of the City as it grows. This development would be targeted at students; there would be a bus route servicing this apartment complex. There had been concern that students would take Sang Avenue to get to the university, but she thought that most people going to the university would take Garland Avenue instead. She and the Planning Department didn't believe that the traffic situation would be affected. She also didn't believe that the quality of life would be affected by this development because the neighborhood was already largely R-2 and R-3 zoning. Flooding and storm water run-off had also been mentioned at the Planning Commission meeting; this developer would be required to meet all requirements of the City on this subject and she didn't think run-off would be a significant problem at all. There would be every attempt made to make this a quality development and a different kind of apartment complex, and they would have the parking run along the outer edge of the property so that the buildings would not be along the edge of the street. She felt that turning this infill piece of property into an R-2 zoning would not cause any problems for the neighbors and would end up being a good development for the City, the area and the university students.

Jeff Whitmer, Lindsey & Associates Realty, was introduced by Ms. Harrington. He stated that Realty Resources had contacted him last year to find property on which to build apartments that met three criteria: 1) to be near the university, 2) to be on a bus route, and 3) to have the correct zoning. Using Highway 62 and Highway 71B as their borders, there was nothing on the market at that time except property that was not already zoned. They found this piece and contacted the owner who had said that he couldn't sell the property with its R-1 zoning. They chose the property because they thought an apartment complex would blend in with what was already there. Everything to the west -- a row of apartments, duplexes and single-family residences -- is already zoned R-2, except for one piece with a duplex on it. Directly across the street from this mixture is R-3 zoning -- a 22-unit mobile home park and a 38-unit apartment complex. The University of Arkansas Experimental Farm and Feed Mill are to the north. To the south is a vacant field. Of the 78 housing units in the area he had described, 71 are rental units, approximately 90%.

Alderman Santos asked whether the Planning Commission required a Bill of Assurance for the 12-15 units per acre proposed.

Ms. Harrington replied that they did not request a Bill of Assurance because the Planning Commission was reluctant to require those because of the tracking required. The number of units would be determined at the Large Scale Development stage.

Richard Maynard, 1717 N. Sang Avenue, introduced himself as an adjoining property owner. Three weeks ago he had come down before the Planning Commission regarding this rezoning. He stated that he was joined by many neighbors who were opposed to this rezoning because it would have a major negative impact on their homes, their way of life, their property values, the neighborhood and the City of Fayetteville. He asked for a show of hands to show those opposed



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to this project; approximately 18 people raised their hands. He stated that this all comes down to the question of "why": why are we doing this, what compelling need is there to change this rezoning, how does it benefit the community, how does it improve the neighborhood and how does it serve the university. He hoped that the Council would consider the question "why" rather than "why not." He admitted that if he didn't live in the neighborhood, he might also think why not. He might also think that in reality that the zoning was not R-1 because of the duplexes, the quadplex, and the trailer park. If he only looked there, where Ms. Harrington wants all to look, he would also say to himself that there is very little R-1 property left in the area and there has not been in some time. But that would not correlate with the map he saw that afternoon in the Planning Department office which showed R-1 zoning through most of that area. You would see the mobile home park and the Encore Apartments, but those were a relatively contained area. One block east of that past Lewis Avenue is R-1 zoning; south of the Asbell school are R-1 homes; south of the Baptist church are R-1 homes; west of him across Porter Avenue are R-1 homes. What you would find are little niches carved out in the area for R-2 apartments. The map in the area shows 95% R-1 zoning. When he came here six years ago, he looked for months for a property that he could afford in a neighborhood that he liked with a huge backyard. The house was in bad need of repair and he had developed it into an investment and into his home. He saw the mobile home park, the duplexes and the quad-plex to the South of him, and he questioned whether this would be a good place for him to live. The duplexes existed in that area before there was any zoning and are zoned R-1. The only area zoned R-3 is a compact 11-12 acre area. Right now, they were changing the rules on his neighborhood and on his neighbors who had bought into this neighborhood and thought they were safe. They were talking about changing the rules so that two people could make a deal. He had no idea what this would do to his property values. Ms. Harrington could say what she would but it gave him no faith in what would happen to his home unless the Council could give him a good reason as to why this needed to change at this time. If the status quo is R-1, then they should give him convincing evidence as to why it should be changed. He understood that before they could grant this there had to be four specific findings of fact that must be made to grant the applicant's request for rezoning. He had spoken with Mr. Conklin and Alderman Santos and questioned how this would affect the flood plain. Nobody could guarantee that this private development would not have a disastrous impact on his property. He had given each of the Councilmen a packet including letters of protest from the neighbors about this rezoning. The four findings of the staff include the first finding, that land use be consistent with the 2020 Plan, designating what would be residential and commercial. Because this is an apartment complex and would be residential, he agreed that this would be consistent with the letter but not the spirit of the Plan. The second finding is a determination as to whether the proposed zoning is justified or needed at the time rezoning is proposed. Mr. Estes was the only one on the Planning Commission that asked how the Planning staff had come to this recommendation, and there had been no clear answer. Mr. Maynard could only come up with one justification for this, and it was that the university needs more housing. He had done research into this and had included a list of randomly-chosen apartments to show the availability of housing at this time. He had also included the Campus

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Master Plan, which showed that they had proposed 2300 new beds. He didn't think this was the impetus behind this rezoning but rather a proposal to put as many apartments in this area as possible. The third finding regards the impact on the traffic situation of Sang Avenue. He had spoken to Perry Franklin in the Traffic Department. He knew this would be a student population and he knew that you couldn't put 280-300+ cars on that road. He knew that Sang Avenue would be the choice to the university and that no student would be using that bus route even if they increased it. He felt that they were inviting a tragedy to happen by increasing the density in front of an R-1 area in front of the school. Those living there already were conscious of the small children playing in the area. He didn't think that those living in a transient neighborhood would have that same awareness and care for the neighborhood. The fourth finding concerns whether this would increase the need for public services. Planning Commissioner Marilyn Johnson had pointed out that the experimental farm was north of there and this project would probably not constitute an increase on the water and sewer lines. He hoped that this was not the only consideration that they would have. There is nothing like this in the neighborhood, Sang to Porter, Deane to Wedington. Additionally, Mr. Maynard pointed out that it would be impractical to use the land for any of the uses permitted under its existing classification. He had gotten an education in his neighborhood in the last three weeks. Megan Place and Linda Jo Place have beautiful homes there. If he could be assured that the R-2 apartments going in there would be the same, there wouldn't be a problem. He sees R-2 and R-3 zoning only in certain areas. There is Porter Place at the corner of Deane and Porter, which is an eyesore and is not even completed and seems to be falling apart already. He is afraid that something similar would be going into his own backyard. And finally, his neighbors were concerned about the traffic and the flood plain. They had had flooding problems already and would have to shell out a lot of money for flood insurance. He wanted to ask the Council whether they could guarantee that they wouldn't be ruined by this, and wouldn't have to move because of this, that it wouldn't create more flooding problems. There were a lot of good intentions and beliefs here, but that wasn't good enough for him and his neighbors. This neighborhood, he admits, is imbalanced but he knew that if they put this complex in here it would be a disaster and would deteriorate property values. Right now it was a beautiful, peaceful, livable neighborhood. At some point he felt this would have to become personal. Would they want this in their backyard and behind their property. If not, how could they ask for them to have it in theirs. Once the zoning was changed, the impact would be irreversible. He hoped that they would at least think about this before they voted on it, and vote no, because if they didn't vote no, they would basically be telling him he needed to find a new home.

Mayor Hanna asked for further comments from the Council.

Alderman Davis asked if this was on the third year Flood Plan.

Mr. Conklin replied that it does contain areas classified as Zone A; no detailed study had been conducted by FEMA. They would have to, as part of this project, calculate the amount of water



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coming onto and leaving the site.

Alderman Austin asked Mr. Conklin if he would comment on the R-1 and R-2 zoning in the neighborhood, given that Ms. Harrington and Mr. Maynard seemed to disagree on this.

Mr. Conklin asked them to refer to C.2 page 8 to the zoning map with its classifications. To the west is R-2 zoning which has developed with duplexes; further to the west is R-1. To the east of the site is R-1 and R-3 zoning. With regard to the amount of R-1 versus R-2 zoning, further to the south is primarily R-1; to the east is R-2 and R-3.

Alderman Austin commented that he had a constituent that would like to comment on this rezoning at a future time.

Ms. Harrington asked to address some of Mr. Maynard's comments. As to why change the zoning, she felt that the landowner needed to be considered. If Mr. Maynard had been the owner of this land and had not been able to sell it, would he feel this would be a viable project. The Weatherfords and the Swains had tried to sell this property as an R-1 and had failed. She held up a map showing that there was a lot of R-3 zoning in the area. The landowners have a right to market their property and sell it. Ultimately, the landowners would be the most affected. Also, how could you have a lot of duplexes and tri-plexes in an R-1 zone. The City would rarely rezone property that had been grandfathered in; it was up to the discretion of the landowner if they wanted to add another unit or change the use. Lastly, looking at the apartment availability for right now only was short-sighted.

Mr. Maynard responded that yes, he might try to sell his property too. But they were not against Mr. Weatherford trying to sell his property, they simply wanted him to do it within the rules. He stated that he had heard that the basis of why Mr. Weatherford hadn't been able to sell the property was based on the amount he was asking for the property. The people who had attended tonight believed that they, too, were affected by this rezoning. Yes, Mr. Weatherford had a right to sell his property for as much money as he could but he needed to take into consideration all of the people he was affecting.

Alderman Santos asked when the sign notice about this project came up and down.

Mr. Conklin stated that the sign should remain up until the City Council acts on the request, and admitted that sometimes the sign would inadvertently disappear.

Alderman Young added that this was a good reason why they should save this for another night.

**THE ITEM WAS LEFT ON THE FIRST READING.**

**OLD BUSINESS**

**RZ 99-28.00**

An ordinance approving rezoning request RZ 99-28 submitted by Michele Harrington on behalf of William M. Weatherford and Larry and Brenda Swain for property located at 2200 & 2201 W. Deane Street. The property is zoned R-1, Low Density Residential and contains approximately 11.64 acres. The request is to rezone the property to R-2, Medium Density Residential. This item was left on the first reading at the October 5, 1999 City Council meeting.

Mayor Hanna noted that Richard Maynard had passed out a packet at the last City Council meeting that included a petition from the neighbors and some letters. He also stated that he had gotten a call from Mr. Weatherford requesting that they leave this item on the second reading because he and his attorney would be out of town for tonight's meeting.

Alderman Trumbo mentioned that he would like to allow everyone who had come to tonight's meeting have an opportunity to speak tonight.

Mayor Hanna stated that Mr. Maynard had given him a list of speakers opposing the proposal.

*Mr. Rose read the ordinance for the second time.*

Mayor Hanna asked the Council for their comments.

Alderman Daniel mentioned that she had checked with the courthouse records and had found that Mr. Weatherford was not the legal owner of the property in question.

Jeff Whitmer, Lindsey & Associates Realty, stated that he had the deeds which showed that Mr. Weatherford owned the property but they had not been filed with the County Courthouse yet. He said that he would bring them to the next Council meeting.

Alderman Daniel said that she had received about 25 e-mails and calls opposing this item and two calls in favor.

Mayor Hanna introduced Father Douglas Simmons as one of the speakers representing the opposition to this rezoning.

Father Douglas Simmons, 1558 Stable, stated that his reason for opposing this item was because of its hazard. The more dense the population, the more dangerous the area is for its residents. This area has small roads with no shoulders or sidewalks, only ditches. There had been many accidents at the intersection of Deane Street and Porter Road. People use Porter Road as a shortcut to Highway 71. The proposed apartment complex would house many students who would use Deane Street, Sang Avenue, and Porter Road. It has been his experience from living in other cities like Fayetteville whose streets did not increase in proportion to the size of the population.

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Fay Dogee, 1745 Sang Avenue, stated that she has lived at her house for three years. Prior to that, she lived at 1615 Sang Avenue, across from the Encore Apartments. Prior to that apartment complex was built, she never experienced any flooding problems or high water. The empty land there had been lower than the street. The soil had been covered in order to construct the apartments, which resulted in flooding and storm water run-off. The pasture in question for this rezoning would also require that the soil be covered to construct the apartments. Currently, the soil there is listed as pembroke silt loam which has very good drainage and acts like a blotter. It is also lower than the land to the east on Sang Avenue. Naturally, the apartment complex builder will bring in more soil to raise the level of the property to that of the road, which will then result in a canal. She could not imagine that any construction they could do would guarantee that the neighbors would not have resulting flooding problems. She had checked and had found that the apartments at Linda Jo Place had flooded this year. She believed this rezoning would lead to a rezoning request from the property owner on the south. She couldn't see any reason why they could deny that future rezoning request; the City would virtually be saying to her and her neighbors that they, as lower middle class homeowners in that area, shouldn't mind the rezoning, shouldn't mind that their kids needed to dodge speeding cars, shouldn't mind the increase in partying and noise in the area, and shouldn't matter that their property values were reduced. On October 7 and 8, her brother, a civil engineer, J.M. Lavender came to surmise the situation. In Oklahoma City where he works, rezoning changes were not made unless there was an overwhelming need to do so, and he had found it strange that zoning regulations here were considered as suggestions. She had also found available property that could be developed closer to the university. She asked that the Council leave their neighborhood as it is.

Chris Norris, 2122 W. Lawson, stated that he and his wife had lived there for three years. He wanted to know why they had not been informed of this rezoning. They had been informed by Richard Maynard who had put a flyer on their door. They had decided to buy their home in that neighborhood because it was close to Asbell School, had a big backyard, and was next to a church and a field. If this complex went in, they would have to move. Their child walks to and from school and rides his bike in the neighborhood. In his opinion, this rezoning would break the City's agreement with the neighborhood with the current rezoning. He asked why they would want to put children in danger.

Faylene Honniger stated that she and her daughter had moved into their house on Hatfield almost two years ago. She had bought this house for her daughter for when she grew up. She said there were fifteen kids on her street where cars are constantly speeding. Her daughter is not allowed to walk by herself to or from school. Kids don't always think before they step out into the street. Recently she had found out that her whole street had been rezoned flood plain and they had not been informed by the City. Her neighbor had been told by her bank, telling her that she needed to get flood insurance. Less people would be interested in buying the houses in her neighborhood now. Part of the field for this apartment complex had been determined to be within the flood plain. She had asked a City worker why they had been zoned as flood plain; she had been told that it was due to the growth in the area, although Ms. Honniger thought there had not been that much construction. She could not imagine any engineer telling her that her home would not flood due to this new apartment complex. She knew in her heart that this was not right.

Alderman Davis asked for the date on the most current flood plain map.



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Tim Conklin, City Planner, answered that it was July 21, 1999. The Corps of Engineers and FEMA had reevaluated the Fayetteville area and were producing more current maps. The City maps showed the designations at that date, not for the future, and showed who was required to get flood insurance.

Alderman Davis stated that the flood insurance rate maps changed constantly.

Mr. Conklin agreed.

Alderman Davis mentioned that flood insurance was very expensive.

Mr. Conklin answered yes and no. If your property had not been in the flood plain and had been built correctly according to the existing flood maps of its time, then it would not be very expensive, it would be grandfathered in. But if you do build below the flood elevation, then it could be a substantial increase.

Annetta Hoskins, 1601 N. Sang Avenue, stated she and her husband had owned their home for 13 ½ years. They had enjoyed Mr. Weatherford's cattle living across her back fence. She was not opposed to Mr. Weatherford selling the property, nor the buyer developing the property, but she was opposed to the density being proposed. She didn't believe the property was limited to 140 units. She was concerned with the increase in traffic the development would bring. She was concerned with the flood plain; Mr. Weatherford's property looks like a lake after a heavy rain. She agreed with Ms. Harrington's comments at the last Council meeting that it is the owners who are hurt; she pointed out that they, too, are owners.

Jim DeVore, 2615 Megan, stated that most of his concerns had already been expressed. He felt his property would definitely be a part of any storm water run-off. The rainwater after the last rain had been 4'7" deep; one of his neighbors had had expensive damage done to his car due to the flooding. He felt that the planning done in the City for the flood control had not been very good. Considering the people affected by the run-off and the traffic from this development, it would not be necessary.

Richard Maynard asked for a show of hands for people opposed to this proposal. He deferred his time to speak until after Mr. Hahn's attorney had spoken.

Wayne Krug, the petitioner and Michele Harrington's partner, asked to respond to the major concerns of the citizens who had already spoken before Council. He pointed out that this would truly be a fill-in zoning; there is a mixture of zoning in the area. Across the street is R-3 zoning which allows an even higher density zoning than what they were proposing. Currently they have a field in the location, which is not a good use of land for the landowner. He felt this was not a great change to the neighborhood in terms of zoning. The change in zoning had been approved by the City's Planning staff and concurred with sound planning strategy for the City. Issues of traffic, drainage, and screenage would all be dealt with further in the development process. He stated that the issues of drainage and run-off would be handled by the engineers. As for speeding traffic, he said that in his experience of the university, the students didn't get out of class and speed through residential streets. He thought a legitimate concern would be the increase in the amount of traffic that this apartment complex would cause, but he didn't think it was right to not do anything in this area that might increase traffic. As for putting duplexes in instead of

apartments, you could put in 135 units rather than 140 units, less than a 5% increase from the duplex density. He thought they would be pleased with the development they were putting in. If the property were rezoned, the property owners were not legally bound by the 140 units he was talking about. This project would not materially harm others. The planning professional's felt the zoning was proper and fit with the surrounding property. Access, drainage and other issues would be addressed during the large scale process.

Alderman Santos asked if the developer had any intentions of providing a bill of assurance.

Mr. Krug replied developers would provide a bill of assurance stating that the development would be between 12 and 15 units per acre rather than 20 and 24.

Mr. Nelson, Reality Resources, stated he was the developer hoping to purchase and rezone the property. Other projects they had worked on they had not be able to get more than twelve units per acre. They did large amenity package and a lot of green space. They were not trying to place too many units on one space. It was unattractive and it was not what the students wanted. They were trying to take the institutional feel out of the housing. This was a more upscale student housing project, with a lot of open space and recreation facility.

Alderman Austin noted this property had been part of the solution to the flooding problem in the area. He asked if the client would place a bill of assurance that everything possible would be done to manage the water on the property, but to take care of the water that had been coming onto the property that the neighbors had been talking about.

Mr. Krug stated they would have to do that irregardless.

Alderman Young clarified that the city had a drainage ordinance which the developer had to comply with.

Mr. Maynard stated he had been told very little. He was allowed to ask very little. He felt they had a right to know what was going back there. He respected property rights, but property did affect other property. The owner had the right to sell his property as long as it did not affect the rights of others. He thought the owner could sell his property under the current zoning, but he was asking more than the market would allow. He was concerned about the flooding. He expressed concern about the increase of traffic this development would cause.

Mr. Krug stated the University was trying to recruit an additional one thousand student a year for the next five years. Those students needed to live somewhere and it was nice to live close to the university. Zoning was a function of government restriction on the property. Zoning was to keep alike uses together.

Alderman Daniels noted there was a proposal to build several new dorms on campus and they were wanting to increase student enrollment.

Alderman Santos added the Chancellor's goal was increase enrollment by 50% by the year 2010. He was

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wanting to increase the percentage of students living on campus from about 27% to approximately 40% in the future. It would still create an off campus demand for several thousand off-campus units.

Alderman Davis added that was what they were hoping for, but reality was a different question. His concern was that the Cliff's had an additional 200 units in the process of being constructed. They had also just approved another 225 units close to the University Farms. All these units would be coming on line by next fall. The city currently had a lot of vacancies in the newspapers for apartments. He was not sure that they could prove at this time that there was a need for more apartments.

Mayor Hanna replied he was not sure that it was the council's charge to debate the need. He thought they were to listen to both sides and make the best judgment they could.

Alderman Russell questioned what the traffic increase would be.

Mr. Conklin stated they had done a trip generation calculation using the Institute of Transportation Engineers with 140 dwelling units they would expect in a twenty-four hour, two-way volume, of 928 trips. That was 928 trips going two-ways.

Mr. Krug stated most of the traffic would not be twenty-four hours a day. He thought they would be running approximately 80 vehicles an hour over the two or three exits. If they were to compare with any other reasonable intersection, they would find that it was not a large increase in traffic.

Ms. Doege stated she use to be a student. There was not way in the world she would only make two trips a day. She was constantly make trips. She thought the estimate was too low for a student and needed to be increased two to three times.

Alderman Russell asked if the equation to determine traffic estimate was if uniform or did they had a factor to plug in there type of development or was it uniform for all type of dwelling unit and what type of people they had living there.

Mr. Conklin replied there were different factors they could put into the program. There was not a factor for students. All apartments were factored the same.

Alderman Austin questioned the different types of streets in the city.\

Mr. Conklin stated the city had a master street plan that classified streets by how they functioned and the traffic they served. They had a local residential street that handled the traffic out of a subdivision. A collector street which was a two-lane street, 36' wide which handled 4,000-6,000 vehicles per day. The next street was a minor arterial street. It was a four-lane street it was 54' wide. It handled anywhere from 12,800 to 14,500 vehicles per day. Deane Street was classified as a minor arterial. It was currently built as two-lane. They did have a principle arterial, which was also a four-lane street with a median boulevard in the middle. Those were the city's major streets like College Avenue. Sang was classified as a local street which was for 3,000 to 4,000 vehicles per day.



Alderman Russell asked to see a show of hands for people who were here for this issue. Most of the audience raised their hands.

Alderman Young stated there were reasons to vote for the rezoning and there were reason to vote against it. It was not going to be an easy decision.

Mayor Hanna thanked the people for coming.

*ITEM WAS LEFT ON THE SECOND READING.*

### NEW BUSINESS

#### **PASSENGER BUS**

An ordinance approving a Bid Waiver to purchase one used Diesel-Powered Forward Control Passenger Bus. This will allow the Mayor and City Clerk to approve for purchase the unit recommended by the Fleet Operations Division, the Youth Center Director, and the Equipment Committee. This unit will be primarily utilized by the Fayetteville Youth Center.

*Mr. Rose read the ordinance for the first time.*

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

*Mr. Rose read the ordinance for the second time.*

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

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

Alderman Daniels asked if the equipment had been located yet.

Mayor Hanna replied it had not been located yet. They were giving the fleet manager the latitude to go out and look for one. If he found one that met the guidelines that the equipment committee had approved. This would give him the authority to go out and purchase it.

Mayor Hanna called for the vote. Upon roll call the ordinance passed unanimously.

**ORDINANCE 4193 AS RECORDED IN THE CITY CLERK'S OFFICE.**

**HANNA MOORE LEASE**

A resolution approving a lease agreement with Hanna Moore Development for a six-month lease for heated storage located at 1671 Fred Hanna Drive per bid 99-77. The agreement will be for the period from November 1, 1999 to April 30, 2000.

*RESOLUTION 141-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK*

Alderman Davis moved to approve the Consent Agenda. Alderman Daniel seconded the motion. Upon roll call the motion carried unanimously, 8-0-0.

**OLD BUSINESS:****RZ 99-28**

An ordinance approving rezoning request RZ 99-28.00 submitted by Michele Harrington on behalf of William M. Weatherford and Larry and Brenda Swain for property located at 2200 and 2201 W. Deane Street. Item was postponed until November 16, 1999 City Council meeting.

**CAPITAL IMPROVEMENTS**

A resolution approving the 2000-2004 Capital Improvements Program. This is a planning document; any funding will be submitted with the 2000 Operating Budget.

Alderman Austin moved to approve the resolution. Alderman Santos seconded the motion. Upon roll call the motion carried unanimously, 8-0-0.

*RESOLUTION 142-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK*

**RZ 99-29 PLANNING COMMISSION APPEAL**

An ordinance approving rezoning request RZ 99-29.00. The request is to rezone approximately 1.0 acres of land located along Sycamore Street from R-1, Low Density Residential, to R-1.5, Moderate Density Residential, to allow the development of an upper-scale six-unit residential Planned Unit Development. The ordinance was left on the first reading at the October 19, 1999 City Council meeting.

*Mr. Rose read the ordinance for the second time.*

Mayor Hanna stated he had received a petition from the Board of Directors of the Richardson Center. He had also received a number of letters concerning the rezoning.

**OLD BUSINESS**

**RZ 99-28**

An ordinance approving rezoning request RZ 99-28.00 submitted by Michele Harrington on behalf of William M. Weatherford and Larry and Brenda Swain for property located at 2200 and 2201 W. Deane Street. The property is zoned R-1, Low Density Residential and contains approximately 11.64 acres. The request is to rezone the property to R-2, Medium Density Residential. This item was left on the second reading at the October 19, 1999 City Council meeting.

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

Mayor Hanna stated the ordinance was on the third reading. He noted there had been a neighborhood meeting at Asbell School last Thursday. He added the City had received a Bill of Assurance from the developers limiting their development to what they originally told them they would do. Mr. Richard Maynard made the statement that he would not address the issue tonight, unless the partitioners addressed the issue, then he reserved the right to speak. He asked the council if they needed to discuss the issue further or if they were ready to vote on the issue.

Alderman Daniel stated the neighborhood meeting had been very good. She stated that she could not support the rezoning. She represented them. She had lived on the street for several years. She had bought a home on Deane Street. She felt it was still her neighborhood. There were still some property owners in the neighborhood. It was a neighborhood in transition. There were a lot of apartments and duplexes in the area; however, there were property owners who wanted to maintain their property and property values. Even though the City had strict ordinances she thought there might be problems with drainage. Deane Street was getting very busy and she felt the traffic was increasing. She would like to see less dense and high quality development.

Alderman Austin stated the Planning Staff and the Planning Commission had approved the rezoning. The projections indicated there was a need for more in the future. He thought it was a good plan. The streets were ready to handle more traffic than what this project would generate. There was a need for densifying inside the beltway. However, there were several reasons to vote against it. The sewer capacity and the traffic on Sang Avenue would be greater, because there is a light on Wedington Drive. The environment of family atmosphere would be disrupted. There was no traffic light on Deane and Porter Road. There might be late night noises for the neighbors. He thought it was the right time for the project, but the wrong place. He would oppose the rezoning.

Alderman Santos stated he was very sympathetic to the neighbors, but he thought the City had agreed on a policy for the future development of Fayetteville. They had planned to encourage higher density inside the bypass, along transit lines, and near schools and universities. They



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were going to preserve hillsides, wooded areas and vista views. He thought this was the kind of project that followed all of those goals that they had professed to endorse, except when it came to applying them to real life, which meant that no matter where they tried to place a development of this type of density they were going to get this sort of complaints. This parcel was surrounded by multi-family dwellings on the east, with duplexes and apartments to the west. The property owner on the south supported this rezoning. The property owner on the north was the University Farms. He could see how they could say they had these goals of increasing the density inside the City limits and preserving hillsides and all those noble goals without causing some inconvenience to the most immediate neighbors. In this case most of the neighbors were in multi-family units. He thought they needed to either follow or change their goals. He asked whether the Council wanted to encourage sprawl and the planning principles or not.

Alderman Young stated he would take exception to the views of Alderman Santos. They all embraced the ideas increasing density. Everyone was looking to the land use plan and pointing out one aspect of increasing density. It was how they did it. It was not by rezoning into a higher density. The whole idea of infill was that they were to infill that particular lot. They would increase the density of the area but not by rezoning. If they increased the zoning, that was in conflict with other parts of the plan, affecting compatibility. He looked at the Grey Apartments; at the time they were constructed, the apartments would not be built, because the regulations had been put into affect by the citizens of Fayetteville. He was going to oppose this development. He did not believe these apartments would be compatible with the surrounding area.

Alderman Russell stated if they did need student housing and did not allow them to be developed in areas like this, then they would be pushed out toward the edges of town and would increase sprawl. The people of Fayetteville were going to be the ones to pay the price of that. He thought if this was in his backyard he would be arguing against the rezoning because of property values. The right of the property owner argument did not weigh well with him because he thought the property had been zoned R-1 for a long time. Perhaps the property owners could not get the money they wanted for their property and were forced to sell it within the current zones. Another reason to vote against the rezoning was that they had not, to his knowledge, had anyone from the University state that this supported the University's goals. He thought in the future they would need more student housing, but he did not believe the need was there now. He would be opposing the rezoning.

Mayor Hanna called for the vote. Upon roll call the ordinance failed by a vote of 1-7-0, Alderman Santos voting for the rezoning.

*ORDINANCE FAILED BY VOTE OF 1-7-0.*

RZN 02-17.00

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JORGENSEN & ASSOCIATES  
CIVIL ENGINEERS • SURVEYORS

114 WEST SUNBRIDGE, SUITE 3 • FAYETTEVILLE, ARKANSAS 72703 • (501) 442-9127 • FAX (501) 582-4807

# FAX

**To:***Heather***From:***Dave***Date:****Number of Pages:** (including cover)**Phone:** (501) 442-9127**Fax:** (501) 582-4807**REMARKS:**

Revised Bill of Assurance for Mathias  
Rezoning on Porter Rd.



**BILL OF ASSURANCE  
FOR THE CITY OF FAYETTEVILLE**

The buyer/developer of property located between Sang Ave and Porter Rd and Deane Street more particularly described as approximately 21 Acres in part of section 5 and part of section 8 of T16N, R 30W in Washington county Arkansas hereby voluntarily offers this Bill of Assurance and enters into this binding agreement and contract with the City of Fayetteville, Arkansas. This bill of Assurance is offered to assist in the rezoning of the above described property.

The petitioner expressly grants to the City of Fayetteville the right to enforce any and all of the terms of this Bill of Assurance in the Circuit Court of Washington County and agrees that if Petitioner or Petitioner's heirs, assigns, or successors violate any term of this Bill of Assurance, substantial irreparable damage justifying injunctive relief has been done to the citizens and City of Fayetteville, Arkansas. The Petitioner acknowledges that the Fayetteville Planning commission and the Fayetteville City council will reasonably rely upon all of the terms and conditions within this Bill of Assurance in considering whether to approve Petitioner's rezoning request.

Petitioner hereby voluntarily offers assurances that Petitioner and Petitioner's property shall be restricted as follows if Petitioner's rezoning is approved by the Fayetteville City Council.

1. The use of Petitioner's property shall be limited to single-family condominiums & patio homes.
2. Other restrictions including number and type of structures upon the property are limited, as follows: 7 single family units, 8 condominiums with four per condo=32 units, 41 patio homes with 2 each=82 units, 5 units on two lots along Deane Street, for a total of 126 units.
3. The petitioner agrees to install 2" DBH Loblolly pine trees spaced at 30' O.C. along the south boundary line. In addition, a privacy fence will be installed along this same south property line.
4. Condominiums units will have 2 bedrooms each with a one-car garage. Each patio home will have 2 or 3 bedrooms with a two-car garage.
5. The Petitioner agrees to install a view obscuring hedge along the back of the other properties along Sang Ave.
6. Quality of construction shall be established and enforced by covenants.



7. Occupants must abide by the City ordinance that no more than 3 unrelated people may occupy any unit.
8. Greenspace will be set aside for City Park or use by occupants of this project.
9. All of the above items as per plat submitted for this rezoning request.
10. Petitioner specifically agrees that all such restrictions and terms shall run with the land and bind all future owners unless and until specifically released by Resolution of the Fayetteville City Council. This Bill of Assurance shall be filed for record in the Washington County Clerk's Office after Petitioner's rezoning is effective and shall be noted on the Final Plat, which includes all of Petitioner's Property.

IN WITNESS WHEREOF, and in agreement with all the terms and conditions stated above, as the owner, developer or buyer (Petitioner) voluntarily offer all such assurances.

Sam Mathias

Bleau Barnes

7-22-02  
Date

7-22-02  
Date

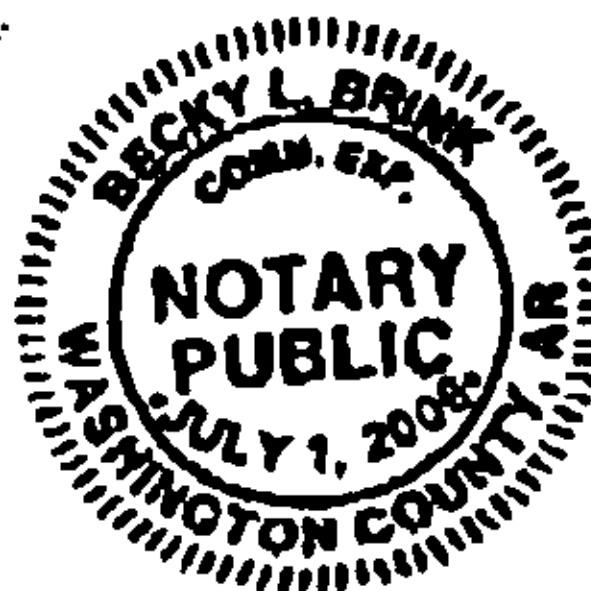
Notary Oath

STATE OF ARKANSAS  
COUNTY OF WASHINGTON

And now on this 22 day of July, 2002, appeared before me, Bleau Barnes and Sam Mathias, and after being placed upon his oath swore or affirmed that they agreed with the terms of the Bill Assurance and signed their names above.

My Commission Expires: July 1, 2006

Becky L. Brink  
Notary Public



For the Fayetteville City Council meeting of: August 6, 2002

FROM:

Carrol Hill

Name

Solid Waste and Recycling

Division

General Services

Department

**ACTION REQUIRED:** Approve resolution authorizing an increase in staffing in Solid Waste and Recycling to permit an additional driver to be added to the Division personnel compliment.

**COST TO CITY:**\$35,948

Cost of this Request

\$386,577

Category/Project Budget

Personal Services

Category/Project Name

5500-5010

Account Number

\$207,418

Funds Used to Date

Commercial Collections

Program Name

NA

Project Number

\$179,159

Remaining Balance

Solid Waste

Fund

**BUDGET REVIEW:**

\_\_\_ Budgeted Item      XXX Budget Adjustment Attached

[Signature] 7-15-02  
Budget Manager

\_\_\_\_\_  
Administrative Services Director

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

[Signature]  
Accounting Manager

7/15/02  
Date

\_\_\_\_\_  
ADA Coordinator

\_\_\_\_\_  
Date

[Signature]  
City Attorney

7/15/02  
Date

[Signature]  
Internal Auditor

7/15/02  
Date

[Signature]  
Purchasing Officer

7/16/02  
Date

\_\_\_\_\_  
Date

**STAFF RECOMMENDATION: Approve Resolution**

\_\_\_\_\_  
Division Head

\_\_\_\_\_  
Date

Cross Reference

[Signature]  
Department Director

7-17-02  
Date

New Item: XXXXX Yes      No

[Signature]  
Administrative Services  
Director

7/19/02  
Date

Prev Ord/Res #:  
Orig Contract Date:

[Signature]  
Mayor

7/19/02  
Date

[Signature]  
Consent

July 19, 2002

TO: Gary Dumas  
FROM: Carrol Hill  
SUBJECT: Rolloff Business Line

When we initiated this new business line, we were committed to providing excellent service, and competitive pricing. As you know, we are holding our own in the competitive area. The only bids that we have not been awarded have been those that the current hauler has reduced his current rate to meet our quote, and thus retained the business. Travis Dotson is our service representative and is responsible for the selling aspect of this line of business. Jason Drummond is the Crew Leader who is in charge of scheduling the loads and utilizing his MRF employees to complete the days rolloff activity. We have been using one MRF driver, and one MRF vehicle to facilitate the business. In addition to the duties of Rolloff, this driver is responsible for the Public Drop Off area, keeping the boxes empty as well as cleaning up the area. In 22 working days, this resulted in 33 exchanges. The Recycling dump pad is another duty of this driver, and in the same 22 working days the pad has been exchanged 23 times. The regular rolloff loads consisted of 13 New Deliveries, 74 exchanges, 5 pulls.

We make a trip at least once a week transporting our glass to Tulsa. When this occurs, we only have the Crew Leader left in the MRF. This results in overtime for the MRF to maintain its daily schedule of baling, shipping etc. January 1, 2002 thru June 30, 2002 the three MRF employees have worked 459 hours of overtime (\$9,098) to maintain their work load. This averages \$1,516/month. One new employee working 40 hours would make \$1,683/month. The addition of this employee would allow the division to continue to grow the business and maintain service levels without the overtime. Further, 459 hours of overtime has already begun to fatigue the employees, and will soon have an effect on the moral, and with that high fatigue level an increase in accidents or injuries could occur.

We are requesting permission to hire a permanent employee to work in the MRF to replace the employee who is now running the rolloff loads. This would allow us to minimize the overtime, maintain our good service reputation and grow the business.



# *City of FAYETTEVILLE*

TO: Mayor and City Council

FROM: Gary Dumas

DATE: July 3, 2002

SUBJECT: Additional Personnel in Solid Waste

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## **Background:**

As the City council is aware the Solid Waste and Recycling Division has slowly been entering into the large container rolloff business serving larger volume commercial and industrial customers.

This business line has been productive and now the Division has exceeded its capacity to efficiently add more customers and maintain necessary levels of service in other program areas. If this activity is to continue to develop, additional resources are necessary in the form of an additional driver, an additional rolloff truck is not necessary at this time. These costs annually will be approximately \$36,000 for the driver salary and benefits.

With this additional staff, we will be in a position to add up to an additional 25 service calls per week. This will allow the resources that have been used in this program to return to their normal work duties, reduce overtime, and then be available when additional resources are necessary.

Program revenue is adequate to fund this additional personnel. Please see the attached memo from Carrol Hill, Environmental Affairs Administrator.

## **Recommendation:**

Approve resolution authorizing an increase in staffing in Solid Waste and Recycling to permit an additional driver to be added to the Division personnel compliment.

June 26, 2002

TO: Gary Dumas  
FROM: Carrol Hill  
SUBJECT: Rolloff Business Line

When we initiated this new business line, we were committed to providing excellent service, and competitive pricing. As you know, we are holding our own in the competitive area. The only bids that we have not been awarded have been those that the current hauler has reduced his current rate to meet our quote, and thus retained the business. Travis Dotson is our service representative and is responsible for the selling aspect of this line of business. Jason Drummond is the Crew Leader who is in charge of scheduling the loads and utilizing his MRF employees to complete the daily rolloff activity in addition to the daily MRF duties. We have been using one MRF driver, and one MRF vehicle to facilitate the business. In addition to the duties of Rolloff, this driver is responsible for the Public Drop Off area, keeping the boxes empty as well as cleaning up the area. In 22 working days, this resulted in 33 exchanges. The Recycling dump pad is another duty of this driver, and in the same 22 working days the pad has been exchanged 23 times. The regular rolloff loads consisted of 13 New Deliveries, 74 exchanges, 5 pulls.

We make a trip at least once a week transporting our glass to Tulsa. When this occurs, we only have the Crew Leader left in the MRF. This results in overtime for the MRF to maintain its daily schedule of baling, shipping etc.

We are requesting permission to hire a permanent employee to work in the MRF to replace the employee who is now running the rolloff loads. This would allow us to minimize the overtime, maintain our good service reputation while we continue to grow the business.

The division billings for rolloff are as follows:

| Month         | Gross Revenue | Net Revenue |
|---------------|---------------|-------------|
| January 2002  | \$1,268.29    | \$443.90    |
| February 2002 | \$1,761.43    | \$616.50    |
| March 2002    | \$8,223.73    | \$2,878.31  |
| April 2002    | \$3,314.09    | \$1,159.93  |
| May 2002      | \$8,128.93    | \$2,845.13  |
| June 18, 2002 | \$11,002.65   | \$3,850.92  |

If you have any questions regarding this request, please contact me.



For the Fayetteville City Council meeting of: August 6, 2002

FROM:

Gary DumasGeneral Services

Name

Division

Department

**ACTION REQUIRED:** Approve resolution authorizing change order number 1, to the engineering services agreement with McClelland Engineering allowing for additional public participation activities for the Wilson Springs Business Park extending timeframes established in the contract and adding the amount of \$32,388.47.

**COST TO CITY:**\$32,388.47

Cost of this Request

1010-6600-5314-004470-9470-5809-00

Account Number

\$1,969,547

Category/Project Budget

\$202,998

Funds Used to Date

\$1,766,549

Remaining Balance

Business and Technology Park

Category/Project Name

Program Name

General Fund/Sales Tax

Fund

95075-10  
Project Number**BUDGET REVIEW:**

\_\_\_ Budgeted Item

XXXX Budget Adjustment Attached
  
Budget Manager
\_\_\_\_\_  
Administrative Services Director**CONTRACT/GRANT/LEASE REVIEW: GRANTING AGENCY:**
  
Accounting Manager
7/17/02  
Date\_\_\_\_\_  
ADA Coordinator\_\_\_\_\_  
Date
  
City Attorney
7/17/02  
Date
  
Internal Auditor
7/17/02  
Date
  
Purchasing Officer
7/18/02  
Date\_\_\_\_\_  
Date**STAFF RECOMMENDATION: Approve Resolution**\_\_\_\_\_  
Division Head\_\_\_\_\_  
Date

Cross Reference

  
Department Director
7-18-02  
Date

New Item: Yes

XXXXXX No

  
Administrative Services  
Director
7/19/02  
Date

Prev Ord/Res #: \_\_\_\_\_

Orig Contract Date: \_\_\_\_\_

  
Mayor
7/19/02  
Date

Consent

# **FAYETTEVILLE**

## **THE CITY OF FAYETTEVILLE, ARKANSAS**

### **DEPARTMENTAL CORRESPONDENCE**

To: Mayor and City Council

From: Gary Dumas

Date: July 2, 2002

Subject: McClelland Contract Timeframe Changes and Additional Expenses for Wilson Spring Business Park

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### **Background**

The Council approved the contract with McClelland Engineering on February 5, 2002 for specific work tasks related to the Wilson Spring Business Park and then on March 19, 2002 authorized McClelland to continue with all work tasks within the contract. The Council also requested the establishment of an additional inclusive public process and requested an action item before the Council prior to proceeding with development of the preliminary plat and large scale development.

Since the inception of work, the project has been involved with considerable public debate and at the Council's request several meetings have been held, some publicly advertised, others with smaller groups, both in the office and in the field. This public discourse in an attempt to reach consensus has required McClelland to expend more resources than was budgeted in that work task within the contract.

The staff and McClelland have attempted to maintain a tight reign on the budget for this contract service. Currently there is no problem with the overall budget, but the project is still in its concept development stage. With the project status and continuing discussion, there are numerous public meetings to come. The initial budget authorized \$4,461 for preparation and presentation at these public meetings and established a timeframe for preparation of the preliminary plat and construction bid opening. Also included within the budget are the required meetings before the Planning Commission regarding the lot split, preliminary plat, master street plan amendment, and any presentations before the City Council. These meetings before the Commission and Council have not yet occurred and that work task budget is intact.

The total contract fee is \$128,158. As of June 7, \$25,937 has been billed. \$21,388.47

has been billed for the work task, Preparation for and Presentation at Public Meetings, the budget for this work task is \$4,461. As of June 7, \$16,927.47 in additional work has been performed within the work task, Preparation for and Presentation at Public Meetings. During the course of this extra work and additional anticipated public participation, the time lines in the contract have been exceeded and will continue toward an unknown completion date. The contract should be amended to insert a performance date from the date of official Council authorization.

**Request:**

In order to maintain adequate funding for the remaining work tasks in the contract, a change order adding \$16,927.47 for work already performed at the request of the City Council and an additional \$15,461 for work anticipated to be performed within the work task, Preparation for and Presentation at Public Meetings is requested. This will cover anticipated costs for remaining necessary meetings and for additional work involving other public participation activities. Also the contractual time frames will be adjusted from a specific date, to a date established by the City Council when appropriate approvals are obtained.

**Recommendation**

Approve change order number 1, to the Engineering Agreement with McClelland Engineering for the Wilson Spring Business Park, modifying the performance dates and adding \$32,388.47 to fund public involvement activities requested by the City Council.

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**AMENDMENT NO. 1  
TO  
ENGINEERING AGREEMENT  
FAYETTEVILLE BUSINESS TECHNOLOGY PARK PROJECT**

STATE OF ARKANSAS

COUNTY OF WASHINGTON

The basic agreement entitled CITY OF FAYETTEVILLE BUSINESS TECHNOLOGY PARK PROJECT, ENGINEERING AGREEMENT, is hereby amended. The referenced basic agreement pertains to the engineering services associated with the Phase 1 development of a 289-acre (approximately) parcel of City-owned land into a Business Technology Park. This Amendment entered into and executed on the date indicated beneath the signature blocks, by and between the City of Fayetteville (OWNER) and McClelland Consulting Engineers (ENGINEER) extends the Project Schedule, Scope of Services and Fees due to the change in scope of the Preparation for and Presentations at Public Meetings portion of the basic Engineering Agreement. This action is taken to allow the Engineer to undertake design and construction administration services beyond the contract expiration date of October 2002. This change in scope was brought about by the City Council's direction to involve the local environmental activists in the planning stage of the park project.

The following sections are hereby amended as follows:

**SECTION II - PROJECT SCHEDULE:**

The basic engineering agreement required the opening of construction bids for Phase 1 development to take place in October 2002. Additionally, the Engineer requested authorization to commence detailed design not later than June 1, 2002 in order to meet the October 2002 bid opening date. As a result of the above-mentioned change in the scope of services, the amended contract bid opening date shall be eighteen weeks from the time the ENGINEER is authorized by the OWNER and the City Council to proceed with the preliminary engineering required for the Preliminary Plat.

**SECTION III - SCOPE OF SERVICES:**

The amendment to the basic agreement extends the Scope of Services to include the additional time required for Preparation for and Presentations at Public Meetings as requested by the City Council.

**SECTION IV - FEES:**

Item No. 2 has increased from \$4,461 to \$36,850. This results in an increase of the overall contract amount from \$128,158 to \$160,547.

Except as amended specifically herein, the basic ENGINEERING AGREEMENT shall remain in full force as originally approved and executed.

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

FOR THE CITY OF FAYETTEVILLE:

By: \_\_\_\_\_  
Mayor

Attest: \_\_\_\_\_

Date: \_\_\_\_\_

FOR McCLELLAND CONSULTING ENGINEERS, INC.:

By: \_\_\_\_\_  
Vice President

Attest: \_\_\_\_\_  
Project Engineer

Date: \_\_\_\_\_



## STAFF REVIEW FORM

|              |                 |
|--------------|-----------------|
| <u>  X  </u> | AGENDA REQUEST  |
| <u>  X  </u> | CONTRACT REVIEW |
| <u>     </u> | GRANT REVIEW    |

**For the Fayetteville City Council meeting of August 6, 2002**

**FROM:**

| <u>Jim Beavers</u> | <u>Engineering</u> | <u>Public Works</u> |
|--------------------|--------------------|---------------------|
| Name               | Division           | Department          |

**ACTION REQUIRED:**

1. Approval of a resolution awarding the engineering contract to the firm of McGoodwin Williams and Yates for the Water Transmission and Distribution System Master Plan Study in the not-to-exceed amount of \$205,000.00.
2. Approval of an engineering contract contingency in the amount of \$20,000.00.

**COST TO CITY:**

|                       |                              |                       |
|-----------------------|------------------------------|-----------------------|
| <u>\$ 225,000.00</u>  | <u>\$0</u>                   | <u>Water System</u>   |
| Cost of this Request  | Category/Project Budget 2002 | Category/Project Name |
| <u>4470-9470-5808</u> | <u>\$0</u>                   | <u>Water/Sewer</u>    |
| Account Number        | Funds Used To Date 2002      | Program Name          |
| <u>02128 - 0010</u>   | <u>\$0</u>                   | <u>Sales Tax</u>      |
| Project Number        | Remaining Balance 2002       | Fund                  |

**BUDGET REVIEW:**

**Budgeted Item**

  x   Budget Adjustment Attached

  
Budget Manager

Administrative Services Director

**CONTRACT/GRANT/LEASE REVIEW:**

**GRANTING AGENCY:** \_\_\_\_\_

Maisha Farthing 7/19/02  
Accounting Manager Date  
~~\* See Not Page 8~~ corrected  
~~City Attorney~~ 7/22/02  
Date  
P. U. 7/22/02  
Purchasing Officer Date

Nancy Smith 7/19/02  
Internal Auditor Date

\_\_\_\_\_  
ADA Coordinator Date

\_\_\_\_\_  
Grant Coordinator Date

**STAFF RECOMMENDATION:** Approval

Consent \_\_\_\_\_  
New Business ☒

Sam Beavers 07-18-02  
Division Head Date

Cross Reference

Shy Beeth 7-18-02  
Department Director Date

New Item: Yes x No   

Goodwin 7/25/02  
Administrative Services Director Date

Prev Ord/Res #:       

Dan Cooley 7/25/02  
Mayor Date

Orig Contract Date:       

Orig Contract No:

STAFF REVIEW FORM

Description Water Transmission and Distribution System Master Plan Study

Meeting Date August 6, 2002

**Comments:**

Budget Manager

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Accounting Manager

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City Attorney

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Purchasing Officer

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ADA Coordinator

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Internal Auditor

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Grant Coordinator

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**Reference Comments:**

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# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS  
113 W. Mountain St.  
Fayetteville, AR 72701  
Engineering Division

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To: Dan Coody, Mayor

Thru: Greg Boettcher, Public Works Director  
Contract Review

From: Jim Beavers, City Engineer *Jim Beavers*

Date: July 17, 2002

Re: City Council Meeting August 6, 2002.  
Proposed engineering contract with McGoodwin, Williams and Yates for the Water Transmission and Distribution System Master Plan Study.

Staff recommends and requests that the City Council:

1. Approve a resolution awarding the engineering contract to the firm of McGoodwin Williams and Yates for the Water Transmission and Distribution System Master Plan Study in the not-to-exceed amount of \$205,000.00.
2. Approve an engineering contract contingency in the amount of \$20,000.00.

The proposed engineering contract will provide a comprehensive water distribution analysis. "The increased expanse of and the growing water demands in the water distribution network necessitate a complete analysis. This analysis shall include development of a calibrated computer model of the water distribution system, including pipes, pumping stations, control valves, water storage tanks, valves and hydrants. The model shall be created on H2O Net software, with the City of Fayetteville receiving the following at the end of the services: a current version of the modeling software, training on the use of the software and calibrated distribution network data for input into the modeling software. This work shall include a comprehensive analysis of such issues as: adequacy of current piping, areas of inadequate fire flows, areas of low pressures, areas of high pressures, water distribution piping improvements needed, water pumping system improvements needed, water storage improvements needed, identification of maximum residence time locations for water testing, identify areas of the system that have issues warranting further investigations by in-house resources (possible closed valves, malfunctioning control valves, improper pumping applications, etc.). The water distribution analysis shall be consolidated into a formal report that lists all of the recommended improvements to the water

distribution system, including the relative priority of each identified improvement element, the predicted costs of each improvement element, the predicted annual capital improvement funding needed for the next ten years (listing activities by costs and implementation year), an evaluation of water losses, conclusions and recommendations. This report shall form the core of the water system capital improvement program for coming years and shall provide in-house capability to evaluate needs/impacts of developments upon the infrastructure system." (Water/Sewer Committee Agenda, June 26, 2002, Greg Boettcher, PW Director).

Please refer to the contract for specific tasks.

The proposed engineering contract and source of funding was endorsed by the Council's Water and Sewer Committee June 26, 2002.

2002 Budget: The proposed engineering contract with McGoodwin, Williams and Yates for the Water Transmission and Distribution System Master Plan Study is not in the 2002 budget. Staff requests that funds be transferred from the proposed Mount Sequoyah water/sewer replacements CIP project. The Mount Sequoyah project budget may be revised based upon future designs.

enclosures:

1. Proposed contract with McGoodwin, Williams and Yates

City of Fayetteville, Arkansas  
Budget Adjustment Form

|                            |                                                                                                             |                                     |              |
|----------------------------|-------------------------------------------------------------------------------------------------------------|-------------------------------------|--------------|
| Budget Year<br><b>2002</b> | Department: <b>Public Works</b><br>Division: <b>Engineering</b><br>Program: <b>Water/Sewer Improvements</b> | Date Requested<br><b>08/06/2002</b> | Adjustment # |
|----------------------------|-------------------------------------------------------------------------------------------------------------|-------------------------------------|--------------|

|                                                                                                                                         |                                                                                                              |
|-----------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|
| <b>Project or Item Requested:</b><br><br>\$225,000 in the Water Transmission and Distribution System Master Plan Study capital project. | <b>Project or Item Deleted:</b><br><br>\$225,000 from the Mount Sequoyah W&S System Upgrade capital project. |
|-----------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|

|                                                                                                                                                             |                                                                                                                                                                             |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Justification of this Increase:</b><br><br>The funding is needed for a engineering contract with McGoodwin, Williams, and Yates for a master plan study. | <b>Justification of this Decrease:</b><br><br>Currently, the Water Transmission and Distribution System Master Plan Study project is a higher priority than Mount Sequoyah. |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

| Increase Expense (Decrease Revenue) |         |                |      |      |    |                |   |
|-------------------------------------|---------|----------------|------|------|----|----------------|---|
| Account Name                        | Amount  | Account Number |      |      |    | Project Number |   |
| Waterline Improvements              | 225,000 | 4470           | 9470 | 5808 | 00 | 02128          | 1 |
|                                     |         |                |      |      |    |                |   |
|                                     |         |                |      |      |    |                |   |

| Decrease Expense (Increase Revenue) |         |                |      |      |    |                |   |
|-------------------------------------|---------|----------------|------|------|----|----------------|---|
| Account Name                        | Amount  | Account Number |      |      |    | Project Number |   |
| Waterline Improvements              | 225,000 | 4470           | 9470 | 5808 | 00 | 01023          | 1 |
|                                     |         |                |      |      |    |                |   |
|                                     |         |                |      |      |    |                |   |

| Approval Signatures                                                                                |                        | Budget Office Use Only                |  |
|----------------------------------------------------------------------------------------------------|------------------------|---------------------------------------|--|
| Requested By<br> | Date<br><b>7-19-02</b> | Type:      A      B      C <b>D</b> E |  |
| Budget Manager                                                                                     | Date                   | Date of Approval                      |  |
| Department Director                                                                                | Date                   | Posted to General Ledger              |  |
| Admin. Services Director                                                                           | Date                   | Posted to Project Accounting          |  |
| Mayor                                                                                              | Date                   | Entered in Category Log               |  |



**CITY OF FAYETTEVILLE  
AGREEMENT FOR ENGINEERING SERVICES  
WATER TRANSMISSION AND  
DISTRIBUTION SYSTEM MASTER PLAN STUDY**

STATE OF ARKANSAS  
COUNTY OF WASHINGTON

This Agreement entered into and executed this \_\_\_\_\_ day of \_\_\_\_\_, 2002, by and between the City of Fayetteville, Arkansas, acting by and through its Mayor, and McGoodwin, Williams and Yates, Inc., with offices located in Fayetteville, Arkansas.

**WITNESSETH THAT:**

WHEREAS, the City of Fayetteville requires engineering services to evaluate the water transmission, distribution, storage and pumping systems of the City of Fayetteville; and

WHEREAS, the City of Fayetteville requires an assessment of the system-wide improvements necessary to meet the needs of the City of Fayetteville's water customers over the next 20 years; and

WHEREAS, the City of Fayetteville has selected McGoodwin, Williams and Yates, Inc. to provide the required engineering services;

NOW THEREFORE, it is considered to be in the best public interest for the City of Fayetteville to obtain assistance of McGoodwin, Williams and Yates' organization in connection with said engineering services. In consideration of the faithful performance of each party of the mutual covenants and agreements set forth hereinafter, it is mutually agreed as follows:

**SECTION 1.0 EMPLOYMENT OF McGOODWIN, WILLIAMS AND YATES**

The City of Fayetteville agrees to employ the McGoodwin, Williams and Yates, Inc. to perform, and McGoodwin, Williams and Yates agrees to perform, professional engineering services in connection with the project set forth in the Sections to follow; and the City of Fayetteville agrees to pay and McGoodwin, Williams and Yates agrees to accept, as specified in the Sections to follow as full and final compensation for work accomplished.

**SECTION 2.0 DESCRIPTION OF THE PROJECT**

The project shall consist of an engineering study of the water transmission and distribution of the City of Fayetteville. The system will be evaluated to determine the present capacity and what additional facilities should be developed and constructed to meet the needs of the next 20 years projected growth.

**SECTION 3.0 SERVICES TO BE FURNISHED BY McGOODWIN, WILLIAMS AND YATES**

- 3.1 McGoodwin, Williams and Yates shall provide at their own expense a suitable engineering staff to perform the necessary studies and evaluations and to report their findings and recommendations to the City of Fayetteville.
- 3.2 The Master Plan Study will include recommendations for improvements to the water distribution system and will include recommendations for:
- Immediate to short-range improvements (generally less than five years).
  - Long-range improvements for the five to 20 year planning horizon.
- 3.3 The Master Plan Study will include the following:
- 3.3.1 The modification of a hydraulic model of the water system developed in previous studies at the current system configuration. Generally, pipes 2 inches and larger will be modeled. The system will be modeled using H<sub>2</sub>ONET by MWH Soft, Inc.
- 3.3.2 Geocode usage data and assign to nodes. (Geocoding assigns digital data to a location on a digital map based on data fields in the digital data base.)
- 3.3.3 Calibrate the hydraulic model.
- 3.3.4 Analysis of the water system under existing conditions (average day, maximum day, maximum instantaneous demand, and fire flow conditions). The work includes an update of the water system model utilizing latest data available from the city's records.
- 3.3.5 Analysis of the water system under projected conditions of population and water use for the years 2007, 2012 and 2022. McGoodwin, Williams and Yates will use the city's current master plan for projections of population and land use to locate future system demands.
- 3.3.6 Fire flow conditions to be analyzed shall be:
- Residential - 1,500 gpm in maximum of two fire hydrants.
- Residential fire flow demands shall be evaluated at each fire hydrant junction node in the system. Other larger fire flow demands shall be evaluated at locations directed by the City of Fayetteville.
- 3.3.7 Identification of low pressure areas within the system and recommendations on mitigation of low pressure (less than 45 psi) at projected demands.

- 3.3.8 Identification of improvements required to serve the City of Fayetteville, including the planning area jurisdiction. This includes the transmission system necessary to supply Fayetteville from Beaver Water District. Master-metered wholesale customers that serve outlying systems will be considered as a point demand.
  - 3.3.9 Sizing and preliminary routing of future distribution and/or transmission lines, generally requiring pipe sizes 12 inches or greater.
  - 3.3.10 Recommendation on future major distribution lines in anticipated growth areas.
  - 3.3.11 Evaluation of adequacy of total system storage; recommendation on the location of new storage and new booster stations as may be required.
  - 3.3.12 Evaluate operational issues regarding the replacement of small diameter (generally less than 6 inches) and galvanized or cast iron water lines. Replacement of small diameter and substandard pipe materials will be recommended based on performance of the distribution system and suspect areas.
  - 3.3.13 Coordination with those entities identified in Paragraph 3.3.8 above concerning projected population and water demand growth. Additionally, information developed by the City of Fayetteville regarding major industrial customers will be used in developing future demand.
  - 3.3.14 Develop a data base management system whereby the hydraulic model constructed for the study can continuously be upgraded by city staff in-putting new facilities and demands on a regular basis.
  - 3.3.15 A final report setting forth McGoodwin, Williams and Yates' findings, recommendations, and present-day estimates of probable cost for development of the future facilities recommended in the Master Plan Study.
- 3.4 The following specific items will be addressed in the analysis utilizing the model:
- 3.4.1 Additional or improved pressure planes will be evaluated for the following areas:
    - Kessler Mountain
    - Dinsmore Trail
    - Country Club Hill
    - Lover's Lane/Highland Park Subdivision
    - Ed Edwards Road
    - Hillcrest/Baxter
  - 3.4.2 Dead-end lines will be evaluated for water quality and fire flows.
  - 3.4.3 The old 14-inch raw water line feeding the Industrial Park will eventually need replacement because of continual maintenance required on the line. The model



will evaluate whether there is a need for a replacement line and what size it should be, if required, when the old 14-inch raw water line is taken out of service.

- 3.4.4 Evaluate the need for storage on Highway 156 to serve the Industrial Park and Greenland.
- 3.4.5 Evaluate the need for additional capacity along Highway 16 East to Elkins, including the possibility of looping to the north to the existing system.
- 3.4.6 Evaluate the need to eliminate the large dead-end lines in locations such as the Northwest Arkansas Mall and Razorback Road.
- 3.4.7 Evaluate the practicality of which jurisdiction should serve the area west of Greenland (i.e., Fayetteville, Washington Water Authority, or others).
- 3.4.8 Evaluate the timing of the installation of the planned 24-inch diameter line along Highway 265 from Highway 45 to Joyce.
- 3.4.9 Evaluate the need for a loop from Township and Highway 265 to the east.
- 3.4.10 Evaluate the issues of looping and operation and maintenance for both Farmington and Greenland service areas.
- 3.4.11 Evaluate the hydraulic impact of lining the existing 36-inch transmission line with a smaller diameter insert.
- 3.4.12 Evaluate the Goshen area system and system-controlling mechanisms for regulating pressure and rate of flow. Evaluate the need for placing Goshen on the primary or a separate pressure plane.
- 3.4.13 Evaluate the need for additional storage for fire flows for the Goshen area.
- 3.4.14 Evaluate additional water transmission supply lines from the Beaver Water District, which shall include a route along the west side of Fayetteville.
- 3.4.15 Prepare an analysis of alternate locations for recommended major transmission lines.
- 3.4.16 Perform a water quality analysis to evaluate the chlorine residual and residence time of water in the system.
- 3.4.17 Coordinate with the University of Arkansas Physical Plant regarding existing and planned needs of the U of A water system.

- 3.5 McGoodwin, Williams and Yates will deliver bound reports with appendices and supplemental materials which shall include maps of the system used in the study and two representative hydraulic models of: 1) the existing system, and 2) the proposed design year model in hard copy and electronic media format. The City of Fayetteville hereby recognizes and agrees that the use of such electronic media will be at the City of Fayetteville's sole risk and without any liability, risk, or legal exposure by McGoodwin, Williams and Yates. Furthermore, the City of Fayetteville shall, to the fullest extent permitted by law, defend, indemnify, and hold harmless McGoodwin, Williams and Yates from all claims, damages, losses, and expenses, including attorney fees, arising out of or resulting from the use of such electronic media.

3.5.1 Deliver a licensed copy of the modeling software to the City of Fayetteville.

- 3.6 After acceptance of the report by the City of Fayetteville, McGoodwin, Williams and Yates will submit a copy to the Arkansas Department of Health for their information.

**SECTION 4.0 INFORMATION AND SERVICES TO BE PROVIDED BY THE CITY OF FAYETTEVILLE**

- 4.1 In connection with the project, the City of Fayetteville's responsibilities shall include, but not be limited to, the following:

- 4.1.1 Giving thorough consideration to all documents presented by McGoodwin, Williams and Yates and informing McGoodwin, Williams and Yates of all decisions within a reasonable time so as not to delay the work of McGoodwin, Williams and Yates.
- 4.1.2 Making provision for the employees of McGoodwin, Williams and Yates to enter public and private lands as required for McGoodwin, Williams and Yates to perform necessary surveys and investigations.
- 4.1.3 Furnishing McGoodwin, Williams and Yates such plans and records of construction and operation of existing facilities (including water usage data), or copies of same, bearing on the proposed work as may be in the possession of the City of Fayetteville. Such documents or data will be returned upon completion of the work or at the request of the City of Fayetteville.
- 4.1.4 Furnishing to McGoodwin, Williams and Yates, without cost, in digital AutoCad file format, the following:
- The city's water map showing all current water lines in the city system.
  - Water atlas sheets with contour information in a separate digital file.
- 4.1.5 Supplying a copy of the ArcView file containing street centerlines with address ranges for the entire city. This data will be used to geocode the location of water usage for proper placement in the mode.



- 4.1.6 Furnish to McGoodwin, Williams and Yates a digital file of water billing information (including street address) by customer for calendar years 2000 and 2001. The data will be furnished in ASCII format in comma-delimited or fixed-length record format.
- 4.1.7 Furnishing pump data for all pump stations and the current control settings for the operation of these facilities.
- 4.1.8 Furnishing a paper copy of a map showing all closed valves in the system which delineate the various pressure planes in the water distribution system.
- 4.1.9 Furnishing the locations of master meters and the usage demands at these locations.
- 4.1.10 Providing a copy of the capital improvements plan (CIP) so that the CIP projects may be included in the model for analysis.
- 4.1.11 Providing assistance in pressure testing during the calibration of the hydraulic model.
- 4.1.12 Provide chlorine residual testing during the calibration of the water distribution system model.
- 4.1.13 Giving prompt written notice to McGoodwin, Williams and Yates whenever the City of Fayetteville observes or otherwise becomes aware of events which may substantially alter McGoodwin, Williams and Yates' performance under this Agreement.

#### SECTION 5.0 COORDINATION WITH THE CITY OF FAYETTEVILLE

McGoodwin, Williams and Yates shall hold conferences throughout the course of the engineering studies with representatives of the City of Fayetteville with the intent that the design, as perfected, shall have full benefit of the City of Fayetteville's knowledge and be consistent with the current policies and construction practices of the City of Fayetteville.

#### SECTION 6.0 OFFICE LOCATION FOR REVIEW OF WORK

Review of the work as it progresses under this Agreement shall be made at McGoodwin, Williams and Yates' or the City of Fayetteville's office, as appropriate to the task at hand.

#### SECTION 7.0 FINAL REPORT

McGoodwin, Williams and Yates shall submit the following documents to the City of Fayetteville for review:



- 7.1. Ten (10) copies of the final engineering report.
- 7.2. One set of the digital water model data on a CD.
- 7.3. One copy of the water modeling H<sub>2</sub>ONET software from MWH Soft, Inc.
- 7.4. An electronic copy of the report including charts, data and graphs. The files will be delivered in one of the following electronic formats: Microsoft Word; Microsoft Excel; Microsoft Access; Microsoft Visio; or AutoCad 2002.

#### SECTION 8.0 SUBCONTRACTING

Subcontracting by McGoodwin, Williams and Yates of any of the services provided herein shall require prior approval by the City of Fayetteville.

#### SECTION 9.0 TIME OF BEGINNING AND COMPLETION

McGoodwin, Williams and Yates shall begin work under this Agreement within ten (10) days of notice to proceed. It is anticipated that the time required to complete the preliminary studies, design and preparation of preliminary design report will be approximately twelve months and is contingent on timely receipt of data from the City of Fayetteville and other parties necessary to develop analysis and design parameters. The City of Fayetteville reserves the right to set priorities for analysis of urgent needs.

#### SECTION 10.0 FEES AND PAYMENTS

In consideration of the performance of the foregoing services, the City of Fayetteville shall compensate McGoodwin, Williams and Yates as follows:

- 10.1 For engineering services set out under Section 3.0, payment shall be based on the actual time required to perform the work by the various classifications of employees at the hourly rates set out in Attachment 1, plus reimbursable expenses.
- 10.2 McGoodwin, Williams and Yates agrees to keep an accurate record of the hours of the personnel working on the project. The schedule of Hourly Rates shown in Attachment 1 will be revised on January 1 of each calendar year.
- 10.3 McGoodwin, Williams and Yates shall be reimbursed for expenses as hereinafter set out when the expense to be incurred is approved in advance by the City of Fayetteville's representative. Reimbursable expenses shall include: 1) travel costs when traveling outside of Northwest Arkansas in connection with the project, 2) purchase of H<sub>2</sub>ONET software to be delivered to the City of Fayetteville, 3) training for McGoodwin, Williams and Yates and/or the City of Fayetteville on the selected software, 4) rental expenses for special equipment needed for completion of the work, 5) purchase of material, and 6) other expenses directly attributable to the project, including any work performed by subcontractors. McGoodwin, Williams and Yates shall charge the City of Fayetteville for reimbursable expenses at actual cost plus ten percent (10%), except that hydraulic model

software and training will be furnished at cost. The cost for reimbursable expenses under this section is estimated to be \$14,000.

- 10.4 The estimated total compensation for the services set out under Section 3.0 is \$205,000, including reimbursable expenses of \$14,000. The basis of this cost estimate is shown in Attachment 2. This total compensation will not be exceeded without prior authorization from the City of Fayetteville. Subject to the City Council of the City of Fayetteville's prior approval, adjustment of this upper limit may be made should McGoodwin, Williams and Yates and the City of Fayetteville agree that there has been a significant change in scope, character or complexity of the services to be performed. It is understood and agreed that the total compensation cost ceiling does not cover unforeseen contingencies such as litigation or other events not normally anticipated.
- 10.5 The breakdown of costs between the various work tasks as given in Attachment 2 is a convenience and is not intended to set a maximum cost for any of the work tasks. Costs may be transferred from one work task to another so long as the maximum cost as given above is not exceeded.

Billing shall be submitted monthly and shall include all costs accrued plus reimbursable expenses. The City of Fayetteville will make every effort to approve and pay such invoices within 30 days of the date of the invoice.

#### SECTION 11.0 CHANGES

- 11.1 The City of Fayetteville may at any time, by written order, make changes within the general scope of the contract in the work and services to be performed. If any such change causes an increase or decrease in the cost of, or the time required for, performance of this contract, an equitable increase or decrease shall be made in the upper limit contract amount, including fee or time of required performance, or both, and the contract shall be modified in writing accordingly.
- 11.2 Changes, modifications or amendments in scope, price or fees to this contract shall not be allowed without a formal contract amendment approved by the Mayor and/or the City Council in advance of the change in scope, cost or fees.
- 11.3 Any claim by McGoodwin, Williams and Yates for adjustment under this clause must be asserted within thirty (30) days from the date of receipt by McGoodwin, Williams and Yates of the notification of change; provided, however, that the City of Fayetteville, if it decides that the facts justify such action, may receive and act upon any such claim assessed at any time prior to the date of final payment under this contract. Failure to agree to any adjustment shall be cause for a dispute concerning a question of fact within the meaning of the clause of this contract entitled SECTION 14.0 - MISCELLANEOUS PROVISIONS, (1) Dispute Resolution. However, nothing in this clause shall excuse McGoodwin, Williams and Yates from proceeding with the contract as changed.

## SECTION 12.0 OWNERSHIP OF DOCUMENTS

- 12.1 Engineering documents, including drawings, prepared by McGoodwin, Williams and Yates as part of the services, shall become the property of the City of Fayetteville when McGoodwin, Williams and Yates has been compensated for all services rendered, provided, however, that McGoodwin, Williams and Yates shall have the unrestricted right to their use. McGoodwin, Williams and Yates shall, however, retain its rights in its standard drawing details, databases, computer software, and other proprietary property. Rights to intellectual property developed, utilized, or modified in the performance of the services shall remain the property of McGoodwin, Williams and Yates.
- 12.2 Any files delivered in electronic medium may not work on systems and software different than those with which they were originally produced. McGoodwin, Williams and Yates makes no warranty as to the compatibility of these files with any other system or software. Because of the potential degradation of electronic medium over time, in the event of a conflict between the sealed original drawings/hard copies and the electronic files, the sealed drawings/hard copies will govern.

## SECTION 13.0 POSTPONEMENT OR CANCELLATION OF THE CONTRACT

It is understood that the City of Fayetteville will have the right to suspend or cancel the work at any time.

- 13.1 Postponement. Should the City of Fayetteville, for any reason whatsoever, decide to postpone the work at any time, the City of Fayetteville will notify McGoodwin, Williams and Yates, who will immediately suspend work. Should the City of Fayetteville decide during such suspension not to resume the work, or should such suspension not be terminated within a year, the work shall be canceled as hereinafter provided.
- 13.2 Cancellation. Should the City of Fayetteville, for any reason whatsoever, decide to cancel or to terminate the use of the McGoodwin, Williams and Yates' service, the City of Fayetteville will give written notice thereof to McGoodwin, Williams and Yates, who will immediately terminate the work. If the City of Fayetteville so elects, McGoodwin, Williams and Yates may be instructed to bring a reasonable stage of completion to those items whose value would otherwise be lost. McGoodwin, Williams and Yates shall turn over all data, charts, survey notes, figures, drawings and other records or information collected or produced hereunder whether partial or complete. Upon such termination of McGoodwin, Williams and Yates' services, McGoodwin, Williams and Yates shall be paid for the work completed to the time of termination and for reasonable termination expenses.

## SECTION 14.0 MISCELLANEOUS PROVISIONS

- 14.1 Dispute Resolution. In an effort to resolve any conflicts that arise during the development of the Project or following the completion of the Project, the City of Fayetteville and McGoodwin, Williams and Yates agree that all disputes between them arising out of or



relating to this Agreement or the Project shall be submitted to nonbinding mediation unless the parties mutually agree otherwise.

The City of Fayetteville and McGoodwin, Williams and Yates further agree to include a similar mediation provision in all agreements with independent contractors and consultants (if any) retained for the Project and to require all independent contractors and consultants also to include a similar mediation provision in all agreements with their subcontractors, subconsultants, suppliers or fabricators, thereby providing for mediation as the primary method for dispute resolution between the parties to all those agreements.

- 14.2. Responsibility for Claims and Liability. McGoodwin, Williams and Yates shall save harmless the City of Fayetteville from all claim and liability due to its (McGoodwin, Williams and Yates') negligent activities, or those subcontractors, its agents, or its employees during the time this contract is in force. In the event such liability, claims, actions, causes of action or demands are caused by the joint or concurrent negligence of more than one party, such liability shall be borne by each party in proportion to their own fault.
- 14.3. General Compliance with Laws. McGoodwin, Williams and Yates shall endeavor to comply with federal, state and local laws and ordinances applicable to the work. The project engineer shall be a professional engineer, licensed in the State of Arkansas.
- 14.4. Engineer's Endorsement. McGoodwin, Williams and Yates shall endorse and recommend engineering data furnished by it. All work shall be checked in accordance with accepted engineering practices. NO OTHER WARRANTY, EXPRESS OR IMPLIED, IS INCLUDED IN THIS AGREEMENT OR IN ANY DRAWING, SPECIFICATION, REPORT, OR OPINION PRODUCED PURSUANT TO THIS AGREEMENT.
- 14.5. Opinions of Cost and Schedule. McGoodwin, Williams and Yates has no control over the cost of labor, materials, or equipment furnished by others, or over the resources provided by others to meet project schedules. Therefore, McGoodwin, Williams and Yates' opinion of probable costs and of suggested project schedules shall be made on the basis of experience and qualifications as a professional engineer. McGoodwin, Williams and Yates does not guarantee that proposals, bids, or actual project costs will not vary from McGoodwin, Williams and Yates' cost estimates or that actual schedules will not vary from McGoodwin, Williams and Yates' projected schedules.
- 14.6. Waiver of Subrogation. The parties waive any and all rights against each other, including their rights of subrogation, for damages covered by property insurance during and after the completion of the services. If the services extend to the construction phase of this project, a similar provision shall be included in all construction contracts, subcontracts and supply agreements entered into by the City of Fayetteville and shall protect the City of Fayetteville and McGoodwin, Williams and Yates to the same extent.
- 14.7. No Consequential Damages. To the fullest extent permitted by law, neither party shall be liable to the other for any special, indirect, consequential, punitive or exemplary damages resulting from the performance or non-performance of this Agreement notwithstanding the



fault, tort (including negligence), strict liability or other basis of legal liability of the party so released or whose liability is so limited and shall extend to the officers, directors, employees, licensors, agents, subcontractors, vendors and related entities of such party.

- 14.8. Arkansas Freedom of Information Act. McGoodwin, Williams and Yates agrees that it will provide to the City of Fayetteville, at a cost to be agreed upon, all documents in its possession that are, under this Agreement, the property of the City of Fayetteville and which the City of Fayetteville believes to be subject to an Arkansas Freedom of Information Act request made to it, or, in anticipation of such a request, which it believes necessary for it to possess. McGoodwin, Williams and Yates further agrees that it will request of all subconsultants, retained by McGoodwin, Williams and Yates to perform services under this Agreement, to provide to the City of Fayetteville, at a cost to be agreed upon, all documents in the possession of such subconsultants that are, under this Agreement, the property of the City of Fayetteville and which the City of Fayetteville believes to be subject to an Arkansas Freedom of Information Act request made to the City of Fayetteville, or, in anticipation of such a request, which it believes necessary for the City of Fayetteville to possess. McGoodwin, Williams and Yates will produce all documents or material in the format that are kept by McGoodwin, Williams and Yates, or at the option of McGoodwin, Williams and Yates, in some other format. If a specialized format is requested by the City of Fayetteville, the cost of conversion, if that additional responsibility is accepted by McGoodwin, Williams and Yates, will be borne by the City of Fayetteville at the then-prevailing rates for the parties actually performing the conversion. McGoodwin, Williams and Yates agrees to use due diligence to comply with all the requirements of the Arkansas Freedom of Information Act.

Nothing in this Agreement shall constitute an acceptance of McGoodwin, Williams and Yates or its subconsultants to the application of the Arkansas Freedom of Information Act to McGoodwin, Williams and Yates or its subconsultants or to McGoodwin, Williams and Yates' or subconsultant's books, records, drawings, or other items not constituting the property of the City of Fayetteville under this Agreement, nor a waiver of its rights to object to any requests made to it pursuant to the Arkansas Freedom of Information Act by any person or entity not a party to this Agreement.

#### SECTION 15.0    SUCCESSORS AND ASSIGNS

The City of Fayetteville and McGoodwin, Williams and Yates each binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Agreement, except as above, neither the City of Fayetteville nor McGoodwin, Williams and Yates shall assign, sublet or transfer its interest in this Agreement without written consent of the other, except that it may be assigned without such consent to the successor or either party, or to a related entity, an affiliate or wholly owned subsidiary of either party. Nothing herein shall be construed as creating any possible personal liability on the part of any officer or agent of any public body which may be party hereto.

**SECTION 16.0 COVENANT AGAINST CONTINGENT FEES**

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

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

**SECTION 17.0 INSURANCE**

McGoodwin, Williams and Yates agrees to maintain standard insurance policies through the life of this Agreement, including Workers' Compensation in accordance with the statutory requirements of the State of Arkansas, comprehensive general liability, automobile liability, and professional liability with a limit of \$1,000,000.

**SECTION 18.0 STANDARD OF CARE**

Services provided by McGoodwin, Williams and Yates under this Agreement will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.

**SECTION 19.0 LIST OF ATTACHMENTS**

The following attachments are hereby made a part of this contract:

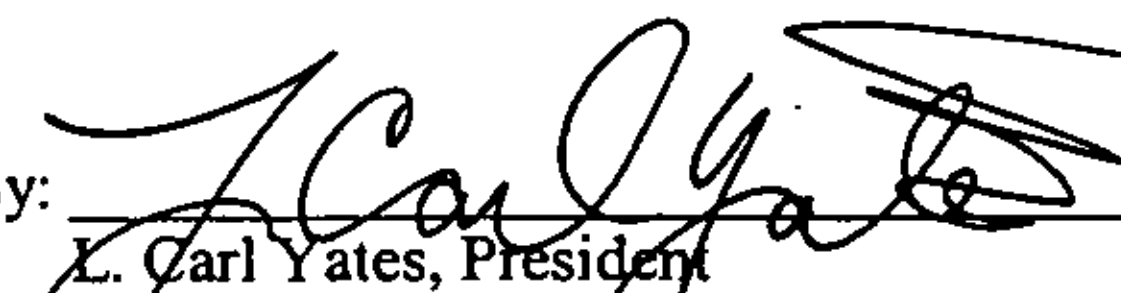
- Attachment 1 - MWY 2002 Schedule of Classification and Rates
- Attachment 2 - Estimate of Engineering Costs

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

CITY OF FAYETTEVILLE, ARKANSAS

McGOODWIN, WILLIAMS AND YATES,  
INC.

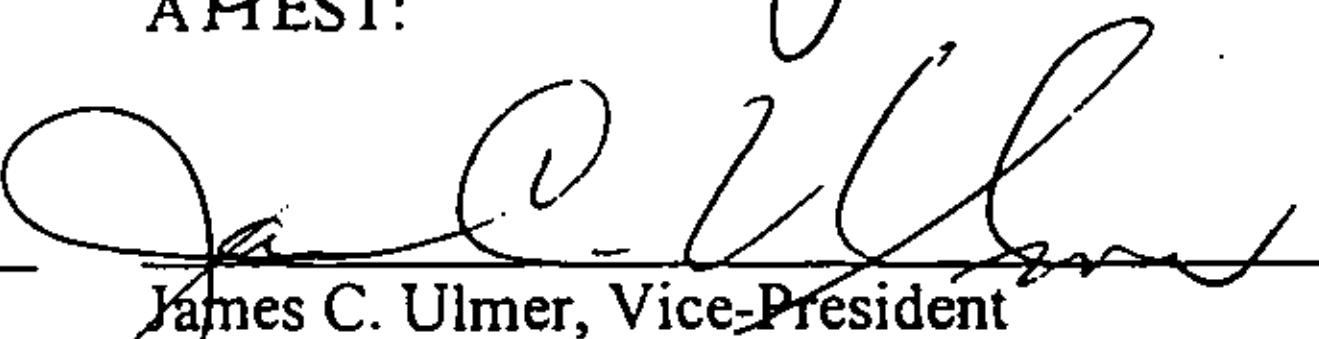
By: \_\_\_\_\_  
Dan Coody, Mayor

By:   
L. Carl Yates, President

ATTEST:

ATTEST:

\_\_\_\_\_  
Heather Inman Woodruff, City Clerk

  
James C. Ulmer, Vice-President



ATTACHMENT 1  
TO AGREEMENT FOR ENGINEERING SERVICES

SCHEDULE OF CLASSIFICATIONS AND RATES FOR 2002

| <u>Classification</u>                        | <u>Hourly Rate</u> |
|----------------------------------------------|--------------------|
| Engineer 6 .....                             | \$142.00           |
| Engineer 5 .....                             | 123.00             |
| Engineer 4 .....                             | 108.00             |
| Engineer 3 .....                             | 91.75              |
| Engineer 2 .....                             | 61.50              |
| Engineer 1 .....                             | 57.75              |
| Architect 2 .....                            | \$ 87.50           |
| Architect 1 .....                            | 78.50              |
| Technician 5 .....                           | \$ 79.25           |
| Technician 4 .....                           | 71.25              |
| Technician 3 .....                           | 57.00              |
| Technician 2 .....                           | 46.25              |
| Technician 1 .....                           | 32.50              |
| Admin 4 .....                                | \$ 65.50           |
| Admin 3 .....                                | 46.75              |
| Admin 2 .....                                | 29.25              |
| Admin 1 .....                                | 22.00              |
| GPS Surveying Equipment (when utilized)..... | \$ 38.75           |

Hourly rate schedules will be adjusted annually each January 1.

McGoodwin, Williams and Yates, Inc.  
Consulting Engineers  
Fayetteville, Arkansas

January 1, 2002

### Engineering Costs

[illegible]

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.  
Fayetteville, AR 72701  
Telephone: (501) 575-8330

## URBAN DEVELOPMENT DEPARTMENT CORRESPONDENCE

To: The Mayor and Council

From: Hugh Earnest   
Urban Development Director

Subject: Internal Oversight Committee Recommendation

### Background

During the budget process for the 2002 budget, the council, in responding to concerns raised by employees, authorized an evaluation of the processes used by the city in determining salary level adjustments for employee grades. In order to accomplish this task, the following steps were taken. A nineteen member employee committee was formed with representation from all departments and divisions of the city. In addition, the Hay group, a Human Resource consulting firm from Dallas that has been working with the city since the late 1980's, was employed to assist in the evaluation of the city's methodology for salary level adjustments. That task, after considerable effort and excellent work by all concerned, was completed and presented to the council on June 25 by Jodie McFadden and Paul Glogowski with the Hay Group.

It should also be noted that the city committee, after numerous discussions, has concluded that there are two issues that are relevant to this topic of Human Resource management/employee relations. They are the salary compensation issue and at least in the opinion of the committee of equal importance, the issue of process and procedure in the management of our Pay Plan. While this was not the original charge to the committee, there is consensus that both issues are important and should be addressed.

### Current situation

The Mayor and Council remanded the report on salaries back to the committee and asked the committee to provide a recommendation or recommendations on steps to be taken in addressing this important issue. The committee has developed a recommended plan of action.

### Recommendation

It is the feeling of the committee that pay adjustments justified by the survey are the ultimate responsibility of Human Resources and the City Council. Changes in the pay plan should be incorporated into the budget process for the 2003 budget. However, the committee believes that the following action steps should be taken by the city as part of



its ongoing effort to improve the management of its most important resource, its employees.

A. A Benefit Valuation Report should be commissioned

It is the committee's opinion that such a report will provide all parties with a complete picture of the compensation package provided to city employees.

B. Review of current city process and procedures in its pay plan administration.

It has been several years since the basic framework of the pay plan has been evaluated, rendering certain mechanisms outdated and inequitable. The technical support from the Hay Group, over an estimated 6 months will identify needed pay plan updates and assist Human Resources in the implementation of needed pay plan changes.

The committee recommended the relationship with the Hay Group be continued at least through completion of the current activities for purposes of continuity and credibility. To accomplish the remaining pay plan analysis, the city will need to approve the expenditure of up to \$50,000 with the Hay Group. The break down of expenses by issue area is as follows:

|                                           |                                                            |
|-------------------------------------------|------------------------------------------------------------|
| Benefit Valuation Report:                 | \$30,000 product delivered in four weeks                   |
| Review of current process and procedures: | \$18,000 (\$3,000 a month retainer to not exceed 6 months) |
| Contingency:                              | \$ 2,000                                                   |

The committee requests that the Council consider this item as part of its agenda meeting on July 30<sup>th</sup>. Four committee members are prepared to summarize the committee's findings and conclusions at the meeting.

CITY OF FAYETTEVILLE

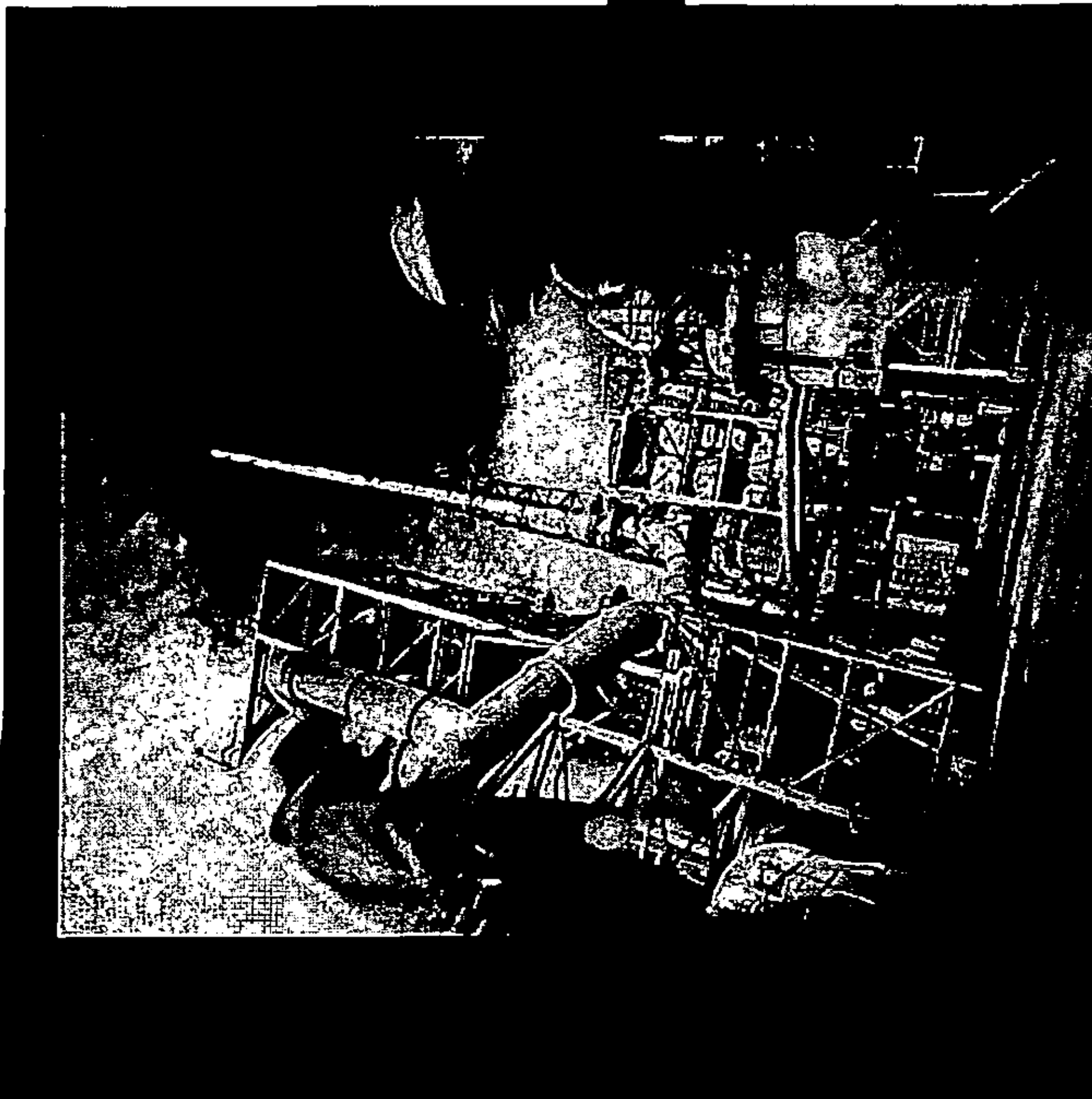
HAY PLAN REVIEW TEAM

Rick Hoyt, Police Department  
Jason Alvarado, Police Department  
Kathy Stocker, Police Department  
Greg Boettcher, Public Works  
Richard Cochran, Street Department  
Dean Matthews, Fire Department  
Gary Dumas, General Services  
Jason Drummond, Solid Waste  
Jamie Bytheway, Utilities Management  
Heather Woodruff, City Clerks Office  
Ted Webber, Administrative Services  
Don Osborne, Water and Sewer Department  
Hugh Earnest, Urban Development  
Constance Fisher, Business Office  
Chris Bosch, Fire Department  
Dennis Ledbetter, Fire Department  
Louise Schaper, Library  
Kim Rogers, Parks Department  
Randy Patrick, Water and Sewer Department



P.A.S.M.I.

# ABC, Incorporated



## Benefit Valuation Report June, 2002

HayGroup®





# Benefit Analysis – Overview

- The first section of this report provides a Summary Overview of ABC, Incorporated Benefit Programs, which outlines in detail the major benefit components, compared to the Hay Group's Industrial Market Database (including Mining and Metals).
- The following sections detail each of the major benefit plan components: Death, Disability, Healthcare, Retirement, and Holiday/Vacation. A separate commentary for each has been provided, in addition to a chart, which illustrates ABC's benefit values at varying pay levels compared to the Industrial Market.
- A benefits prevalence has also been provided, which consists of a written description of ABC's benefits compared to the Industrial Market.
- Recommendations have been included where improvements in your competitive position are needed or where cost efficiencies could result.



P A S M I

# Benefit Analysis – Total Benefits

## • Total Benefits

- Overall, ABC Total Benefits rank above the 50<sup>th</sup> percentile of the Industrial Market. At lower level positions (<\$50,000), ABC is at or just above the 75<sup>th</sup> percentile.
  - This competitive position is mainly driven by the Healthcare programs, which ranked significantly above the 75<sup>th</sup> percentile of the market.
  - Excluding Healthcare, ABC ranks between the 25<sup>th</sup> and 50<sup>th</sup> percentile of the market.

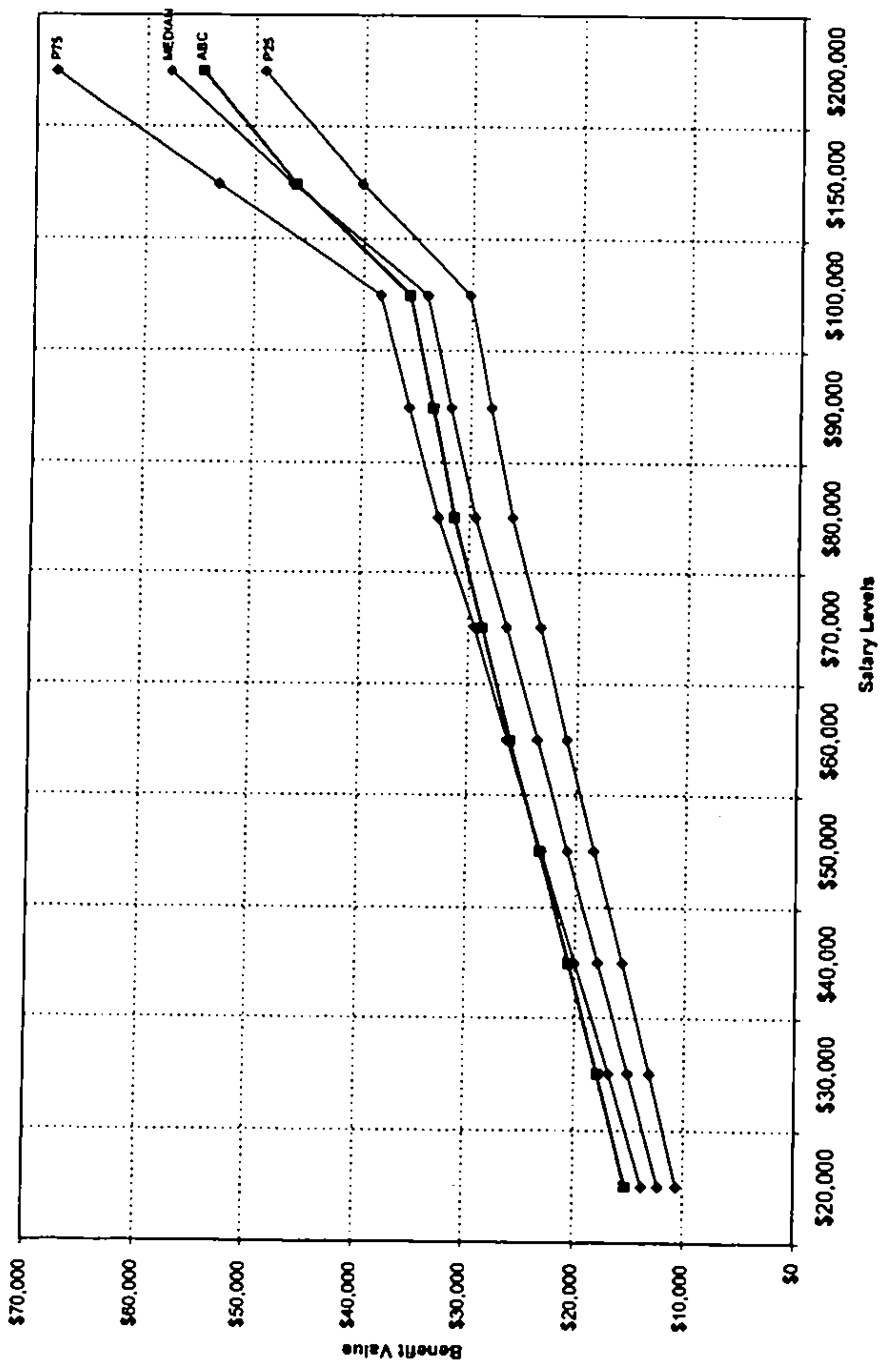
## • Recommendations

- If the objective is a balanced program with each benefit at the 50<sup>th</sup> percentile, attention would be needed in the following areas:
  - Death Benefits – Increase the maximum benefit and offer optional coverages.
  - Disability Programs - Develop a service based salary continuation program and increase the LTD monthly maximum benefit amount.
  - Retirement Programs – Add a targeted or an excess SERP Program for executives.
  - Healthcare – Modify plan design for cost efficiencies and consider adding employee contributions in order to reduce “value” and cost to ABC.



P A S M I N C O

# ABC Compared to All Industrial Benefits Database EMPLOYER PAID TOTAL BENEFITS VALUES







P A S M I I

# Benefit Analysis – Death Benefits

- The ABC Basic Life and AD&D programs rank between the 25<sup>th</sup> and 50<sup>th</sup> percentile of the Market for all position levels. This ranking is driven by:
  - Lower maximum benefit for Basic Life and Supplemental Life (\$250,000 combined versus \$500,000 market average).
  - ABC offers lower Business Travel Accident coverage (\$250,000 for officers and 5x annual salary up to \$150,000 for other employees), versus market benefits of 3x base pay up to \$500,000.
  - Benefit levels for Supplemental Life and AD&D programs rank below the market average (most organizations offer 1x to 4x base options).
  - Lack of a Dependent Group Life program which are prevalent in the market, with 78% of companies offering the program on an employee pay basis.



# Benefit Analysis – Death Benefits

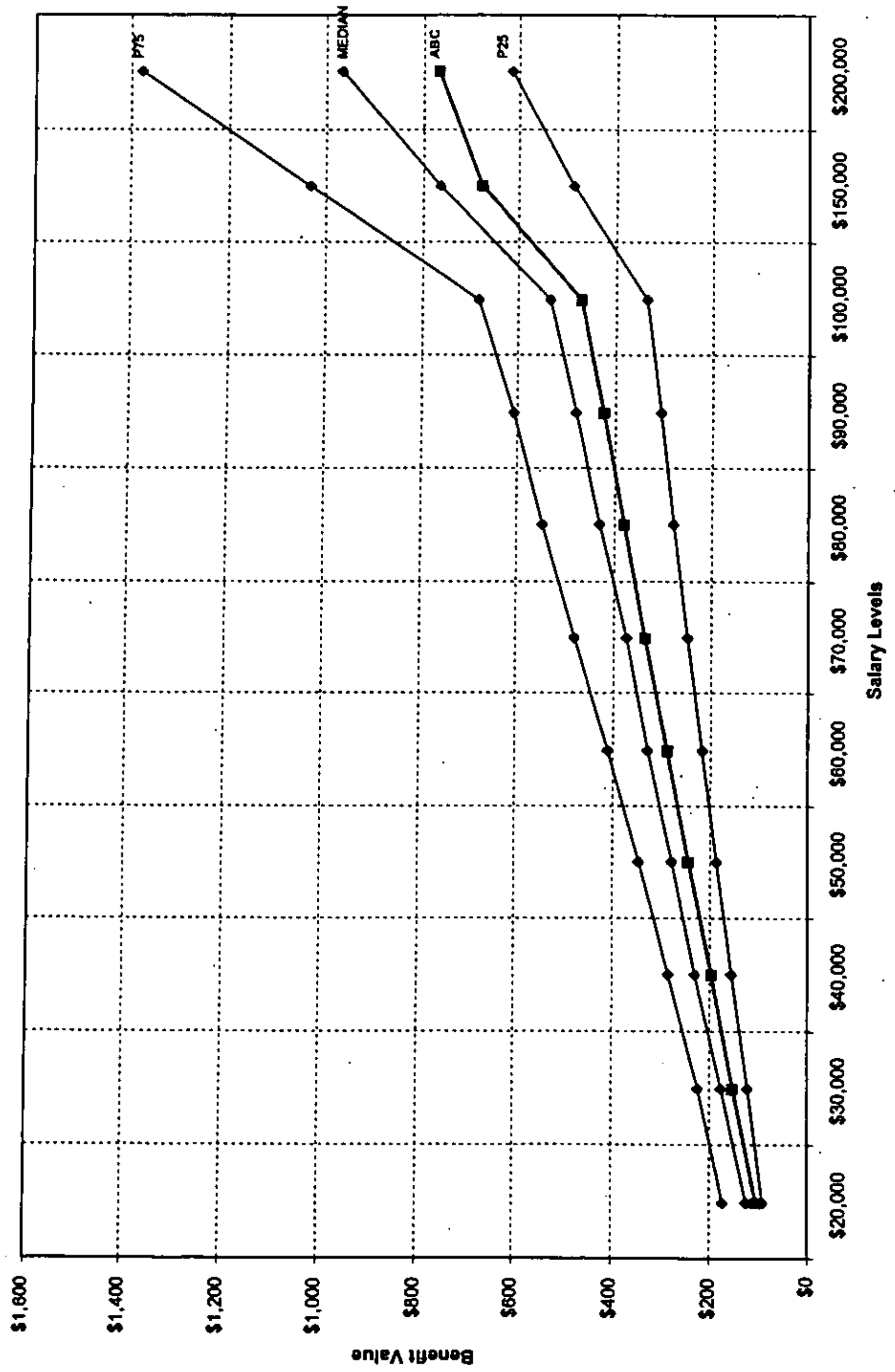
## • Recommendations

- Consider increasing the maximum coverage for Basic Life and Supplemental Life to \$500,000 to increase market competitiveness.
- Increase the Business Travel Accident Plan at least for executives to a maximum coverage level of \$500,000.
- Optional “employee pay all” benefits programs can be enhanced at ABC by making the following changes. These add no real “value” but are employee attractive without adding additional employer costs:
  - Offer an employee pay all Dependent Life program to enhance the overall flexibility of programs, from an employee perspective; and
  - Increase the optional amounts available on an employee-pay-all basis for Supplemental Life and AD&D



P A S M I

# ABC Compared to All Industrial Benefits Database EMPLOYER PAID DEATH BENEFITS







P A S M I C O

# Benefit Analysis - Disability Benefits

- **Disability Benefits**

- Overall, ABC's Disability benefits rank at or slightly above the 25<sup>th</sup> percentile of the Industrial Market.
- ABC's Short-Term Disability Plan is a Salary Continuation program, which covers 100% of base salary for the 1<sup>st</sup> 20 days, 70% for the next 20 days, and 60% for the remainder of 6 months. The plan is not based on length-of-service. The majority of companies that offer this type of program in the market have programs with varying weeks and percentages of benefit paid based on length-of-service.
- ABC's Long-Term Disability plan covers 60% of base salary with a monthly maximum of \$3,000, while the Industrial Market offers a plan that delivers 60% of base salary with an average monthly maximum of \$7,500.



P A S M I I

# Benefit Analysis - Disability Benefits

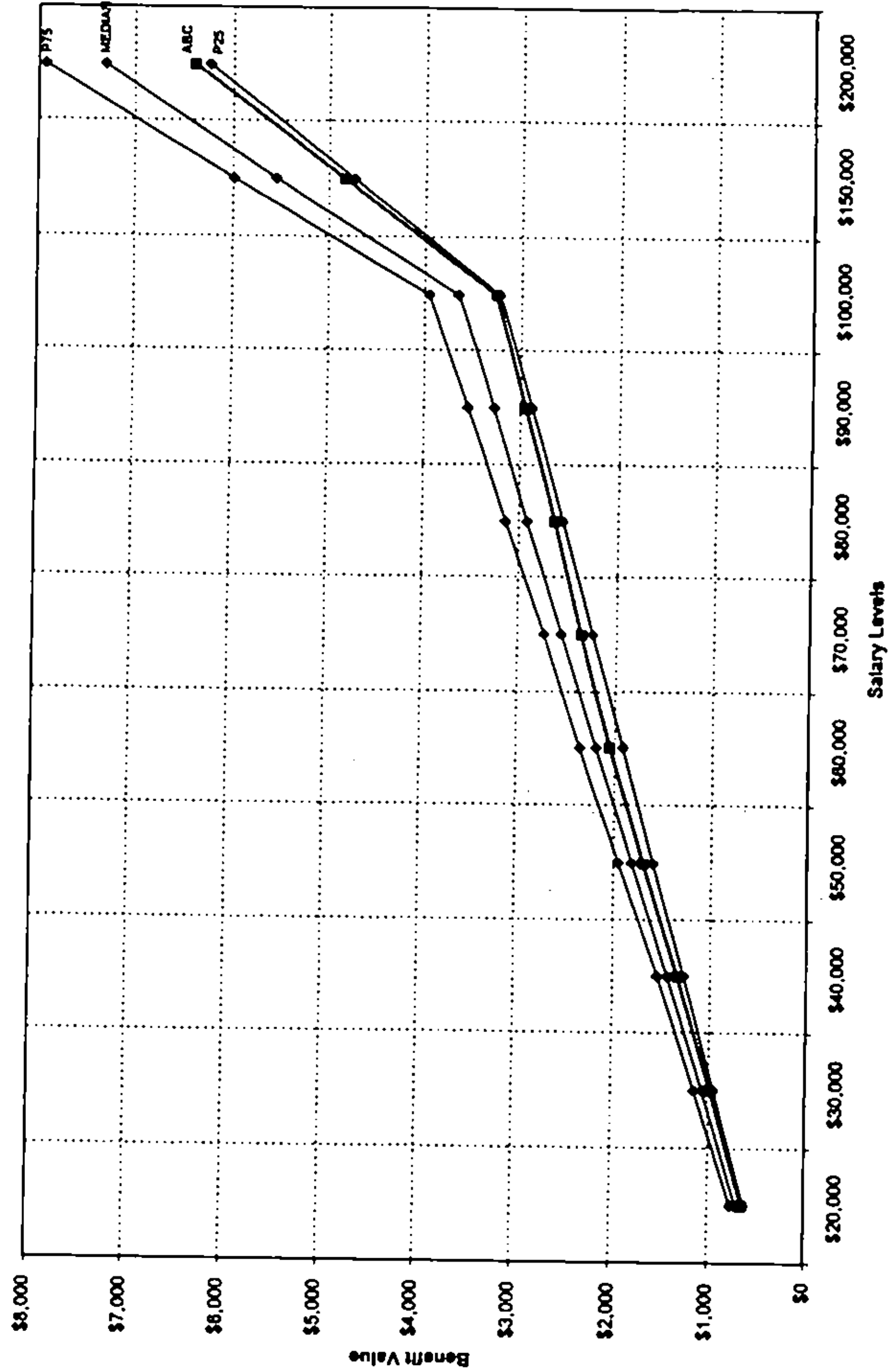
- **Recommendations**

- Increase LTD maximum monthly benefit amount from \$3,000 to \$7,500. This would provide 60% coverage for all salaries up to \$150,000 instead of the \$60,000 now covered by your current plans.
- Adopt a tiered, service based Salary Continuation program, with longer-term employees receiving greater benefit levels.



PASMINGCO

# ABC Compared to All Industrial Benefits Database EMPLOYER PAID DISABILITY BENEFITS







P A S M I I

# Benefit Analysis - Healthcare Programs

- **Healthcare Benefits**
  - ABC's Healthcare program is significantly above the 90<sup>th</sup> percentile of the Industrial Market. This high ranking is driven by:
    - 100% employer paid premiums for both individual and dependent coverage
    - Low annual deductibles
    - Low out-of-pocket maximums
    - Richer out-of-network coverage, with little difference between in or out-of-network benefits
    - Low prescription drug co-pays for both retail and mail-order prescriptions
    - Retiree Medical premiums paid 100% by ABC for individual and dependents
    - Dental premiums paid 100% by ABC for individuals and dependents



# Benefit Analysis - Healthcare Programs



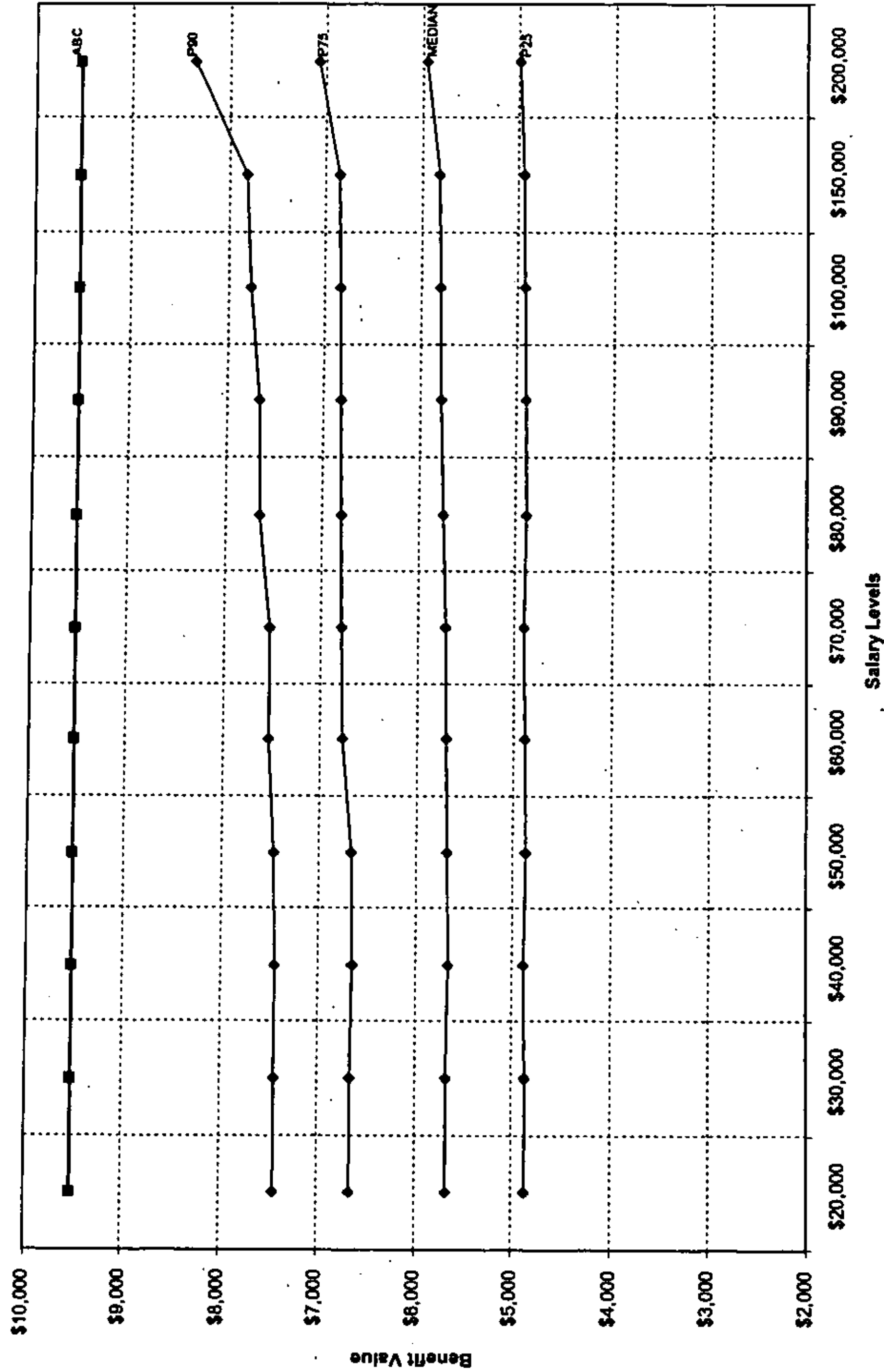
- **Recommendations**

- Review overall program design for cost control efficiencies, (e.g. reduced coverages for out-of-network charges, higher deductibles, shared premium costs, etc.).
- Include coverages for preventive care tests, etc. in order to diagnose health issues earlier, therefore lowering future potential high medical costs.



P A S M I

# ABC Compared to All Industrial Benefits Database EMPLOYER PAID HEALTHCARE BENEFITS







P A S M I N G C O

# Benefit Analysis - Retirement Plans

- **Retirement Benefits**

- ABC's Retirement benefits rank at or slightly above the 25<sup>th</sup> percentile for all positions under \$70,000. Market competitiveness increases to between the 25<sup>th</sup> percentile and the 50<sup>th</sup> percentile as positions increase. This is due to the current Social Security integrated formula

Additionally, the

- 401(k) match is not guaranteed and has been relatively low due to the profit sharing focus used to determine match funds.
- ABC does not offer a SERP program, which would provide additional benefits to executives who earn in excess of the IRS compensation limit.

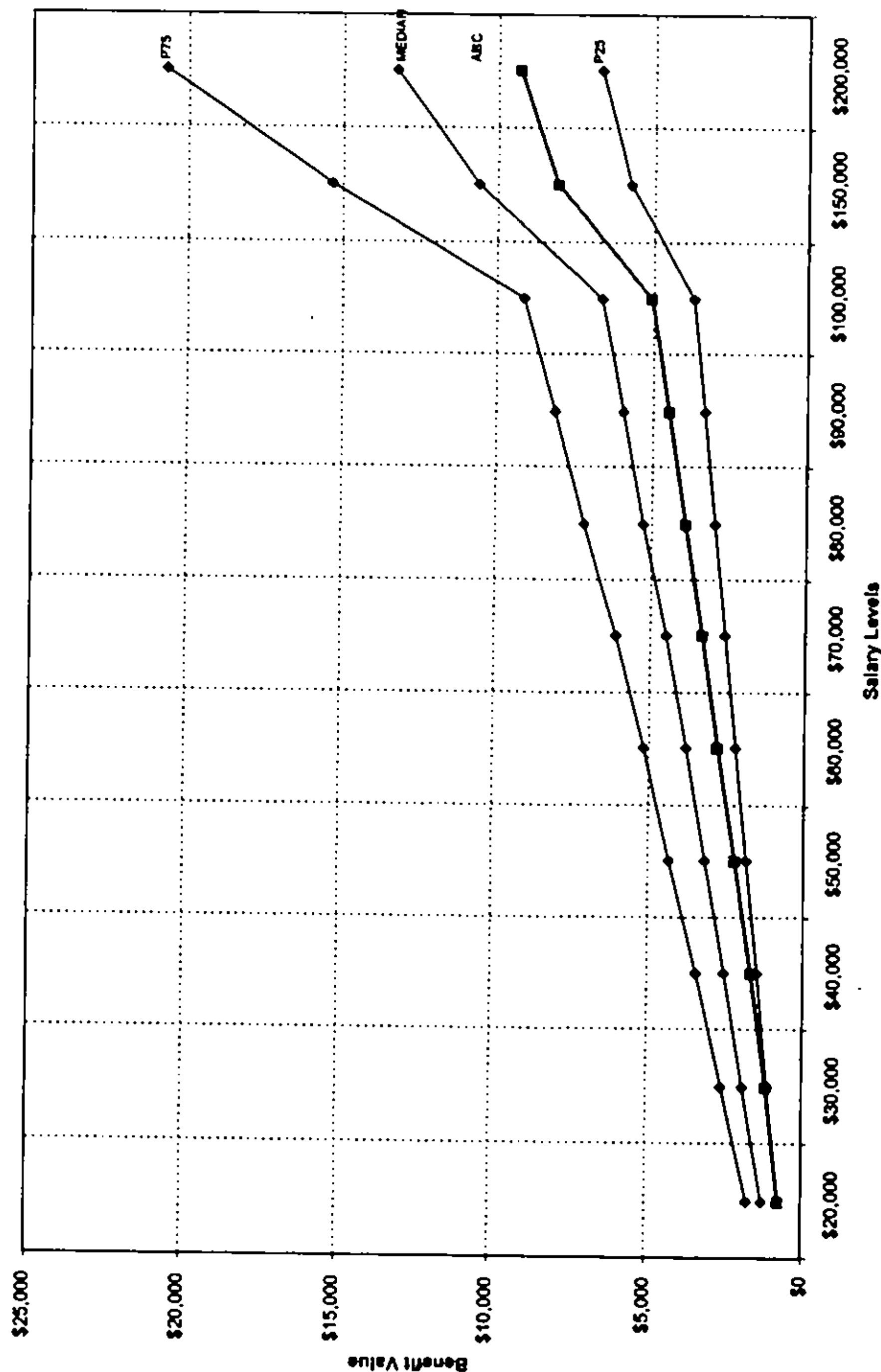


# Benefit Analysis - Retirement Plans

- **Recommendations**

- Consider redesigning the Retirement plan formula in order to meet the current IRS safe harbor rules. This would be more administratively efficient and easier to communicate to employees.
- Consider establishing a standard guaranteed match for the 401(k) plan, with a separate Profit Sharing contribution based on pre-established company business results.
- Implement, at least, an excess SERP plan for executives.

# ABC Compared to All Industrial Benefits Database EMPLOYER PAID RETIREMENT BENEFITS







# Benefit Analysis –Holiday/Vacations

- **Holiday/Vacation Benefits**

- ABC's Holiday/Vacation benefits are at the 50<sup>th</sup> percentile for most positions. Market position drops slightly below the 50<sup>th</sup> percentile at upper levels (>\$80,000).
- ABC offers 11 paid holidays, including 1 floating day versus the Market which offers 10 paid holidays and floating days.
- The ABC vacation schedule has a maximum of 20 days at 15 years and above versus a maximum of 25 days at 25 years in the market.

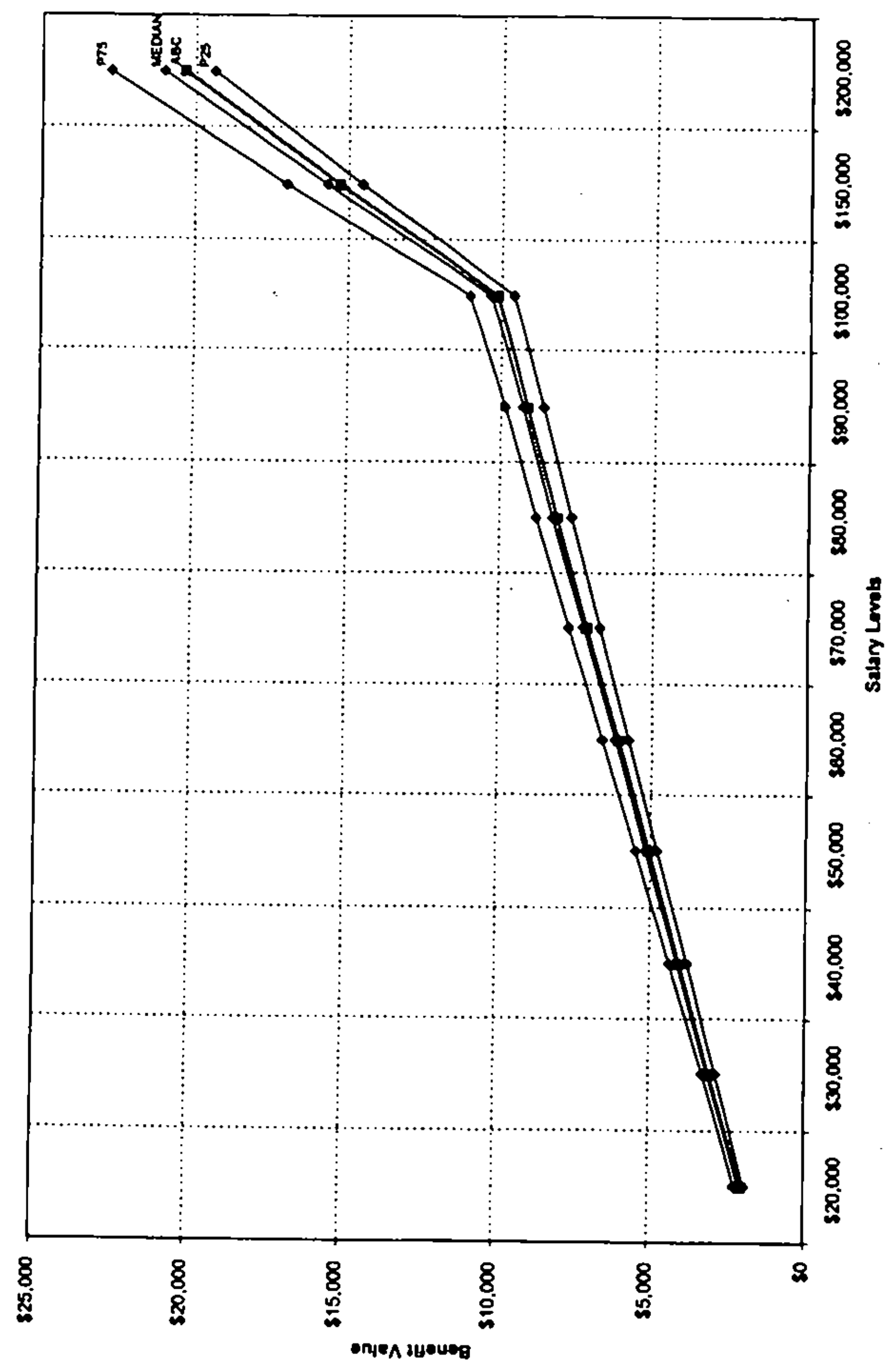
- **Recommendations**

- No changes to the Holiday/Vacation programs are recommended.



PASMICO

# ABC Compared to All Industrial Benefits Database EMPLOYER PAID HOLIDAYS / VACATIONS







**DRAFT TENTATIVE AGENDA  
CITY COUNCIL  
AUGUST 6, 2002**

A meeting of the Fayetteville City Council will be held on August 6, 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**

**B. OLD BUSINESS**

- ROW.*
1. \* *Service Agreement for Johnson Service & area* *Letter for Beuthe.*
21. **RZN 02-15.00:** An ordinance approving rezoning request RZN 02-15.00 as submitted by Dave Jorgensen *for* behalf of Larry Garriott for property located north of Persimmon Street and west of 46<sup>th</sup> Street. The property is zoned A-1, Agricultural and contains approximately 57.82 acres. The request is to rezone to R-1, Low Density Residential; and to accept the attached Bill of Assurance. The ordinance was left on the second reading at the July 16, 2002 meeting.

Don't have

Don't have

32.

**OUTDOOR MUSIC ESTABLISHMENT:** An ordinance adding a definition of "Outdoor Music Establishment" to Chapter 151 Definitions of the Unified Development Ordinance and adding Section 163.30 to the Unified Development Ordinance to make an Outdoor Music Establishment a Conditional Use in specified zoning districts. The ordinance was left on the second reading at the July 16, 2002 meeting.

Don't have

*Raze & Removal - Roberts Road. / pull records.*

**C. NEW BUSINESS**

1. **RZN 02-17.00:** An ordinance approving rezoning request RZN 02-17.00 as submitted by Dave Jorgensen on behalf of Bleaux Barnes and Sam Mathias for property located south of Deane Street, west of Sang Avenue and east of Porter Road. The property is zoned R-1, Low Density Residential and contains approximately 21.03 acres. The request is to rezone to RMF-6. ~~Low Density~~ Multi-Family Residential.
2. **S/W ADDITIONAL PERSONNEL:** A resolution authorizing an increase in Solid Waste and Recycling to permit an additional driver to the Division personnel compliment.
3. **MCCLELLAND ENGINEERING:** A resolution authorizing change order number 1, to the engineering services agreement with McClelland Engineering allowing for additional public participation activities for the Wilson Springs Business Park extending time frames established in the contract and adding the amount of ~~\$~~32,388.47.

move to 4.  
Insert

**GARLAND AVE:** A resolution approving an agreement with the Arkansas Highway and Transportation Department regarding design and funding for the replacement of the South Garland Avenue Bridge.

Gregg B.

Mc Goodwin - Jim. Brawns.  
network analysis.

This is  
copy not  
original

Hugh. Hay group - benefit survey.

**TENTATIVE AGENDA  
CITY COUNCIL  
AUGUST 6, 2002**

A meeting of the Fayetteville City Council will be held on August 6, 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**

- 18
- 2. RAILROAD RIGHT-OF-WAY:** A resolution approving the sale of 7.68 acres of abandoned railroad right-of-way between Garland Avenue and South School Ave. to the University of Arkansas for \$82,300 in conjunction with expansion of the "Genesis Center" and use of this corridor predominately for trail purposes. Income from this transaction will go toward the purchase of the Meredith property on Nonamaker Street.

- 1
- 3. PRUNING AND TREE REMOVAL:** A resolution authorizing the Mayor and staff to work with local public utility companies to seek long-term solutions to the problems arising from the pruning and removal of trees near overhead lines.

- 12
- 4. GARLAND AVE:** A resolution approving an agreement with the Arkansas Highway and Transportation Department regarding design and funding for the replacement of the South Garland Avenue Bridge.

**B. OLD BUSINESS**

- 1. RZN 02-15.00:** An ordinance approving rezoning request RZN 02-15.00 as submitted by Dave Jorgensen of behalf of Larry Garriott for property located north of Persimmon Street and west of 46<sup>th</sup> Street. The property is zoned A-1, Agricultural and contains approximately 57.82 acres. The request is to rezone to R-1, Low Density Residential; and to accept the attached Bill of Assurance. The ordinance was left on the second reading at the July 16, 2002 meeting.
- 2. OUTDOOR MUSIC ESTABLISHMENT:** An ordinance adding a definition of "Outdoor Music Establishment" to Chapter 151 Definitions of the Unified Development Ordinance and adding Section 163.30 to the Unified Development Ordinance to make an Outdoor Music Establishment a Conditional Use in specified zoning districts. The ordinance was left on the second reading at the July 16, 2002 meeting.



# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

## TENTATIVE AGENDA CITY COUNCIL AUGUST 6, 2002

A meeting of the Fayetteville City Council will be held on August 6, 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. **RAILROAD RIGHT-OF-WAY:** A resolution approving the sale of 7.68 acres of abandoned railroad right-of-way between Garland Avenue and South School Ave to the University of Arkansas for \$82,300 in conjunction with expansion of the "Genesis Center" ~~and use of this corridor predominately for trail purposes.~~ Income from this transaction will go toward the purchase of the Meredith property on Nonamaker Street.
3. **PRUNING AND TREE REMOVAL:** A resolution authorizing the mayor and staff to work with local public utility companies to seek long-term solutions to the problems arising from the pruning and removal of trees near overhead lines.
4. **GARLAND AVE:** A resolution approving an agreement with the Arkansas Highway and Transportation Department regarding design and funding for the replacement of the South Garland Avenue bridge.

*Remove from Consent*

### B. OLD BUSINESS

1. **RZN 02-15.00:** An ordinance approving rezoning request RZN 02-15.00 as submitted by Dave Jorgensen of behalf of Larry Garriott for property located north of Persimmon Street and west of 46<sup>th</sup> Street. The property is zoned A-1, Agricultural and contains approximately 57.82 acres. The request is to rezone to R-1, Low Density Residential; and to accept the attached Bill of Assurance. The ordinance was left on the second reading at the July 16, 2002 meeting.

*need to take at meeting of applicants request.*

2. **OUTDOOR MUSIC ESTABLISHMENT:** An ordinance adding a definition of "Outdoor Music Establishment" to Chapter 151 Definitions of the Unified Development Ordinance and adding Section 163.30 to the Unified Development Ordinance to make an Outdoor Music Establishment a Conditional Use in specified zoning districts. The ordinance was left on the second reading at the July 16, 2002 meeting.
3. **RAZE AND REMOVAL:** A resolution approving a raze and removal of house at 1200 S. Roberts as per Ordinance 3948. The item was tabled at the July 18, 2002 meeting.

#### C. NEW BUSINESS

1. **RZN 02-17.00:** An ordinance approving rezoning request RZN 02-17.00 as submitted by Dave Jorgensen on behalf of Bleaux Barnes and Sam Mathias for property located south of Deane Street, west of Sang Avenue and east of Porter Road. The property is zoned R-1, Low Density Residential and contains approximately 21.03 acres. The request is to rezone to RMF-6, Low Density Multi-Family Residential.
2. **S/W ADDITIONAL PERSONNEL:** A resolution authorizing an increase in Solid Waste and Recycling to permit an additional driver.
3. **MCCLELLAND ENGINEERING:** A resolution authorizing Change Order No.1, to the engineering services agreement with McClelland Engineering allowing for additional public participation activities for the Wilson Springs Business Park extending time frames established in the contract and adding the amount of \$32,388.47.
4. **McGOODWIN, WILLIAMS AND YATES:** A resolution awarding the engineering contract to the firm of McGoodwin, Williams and Yates for the Water Transmission and Distribution System Master Plan Study in the not-to-exceed amount of \$5,000.00 and approval of an engineering contract contingency amount of \$20,000.00.
5. **PAY PLAN:** Discussion and possible action regarding the Pay Plan.

*Consent*

*used Res for \$  
see high for packet.*

*2-10-02  
g-11*

# NORTHWEST ARKANSAS EDITION

# Arkansas Democrat Gazette

## AFFIDAVIT OF PUBLICATION

I, *Diane Williams*, do solemnly swear that I am  
Legal Clerk of the Arkansas Democrat-Gazette newspaper, printed and  
published in Lowell, Arkansas, and that from my own personal knowledge  
and reference to the files of said publication, the advertisement of:

*Final Agenda* was inserted in the regular editions on  
*Aug. 3, 2002*.

\*\* Publication Charge: \$ *128.16*

Subscribed and sworn to before me this

*5* day of *August*, 2002.

*Tammy Allen*  
Notary Public

My Commission Expires:

Official Seal  
TAMMY ALLEN  
Notary Public-Arkansas  
WASHINGTON COUNTY  
My Commission Expires 11-05-2011

\*\* Please do not pay from Affidavit.  
An invoice will be sent.

RECEIVED

AUG 09 2002

CITY OF FAYETTEVILLE  
CITY CLERK'S OFFICE



**FINAL AGENDA  
CITY COUNCIL  
AUGUST 6, 2002**

A meeting of the Fayetteville City Council will be held on August 6, 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. RAILROAD RIGHT-OF-WAY:** A resolution approving the sale of 7.68 acres of abandoned railroad right-of-way between Garland Avenue and South School Ave to the University of Arkansas for \$22,300 in conjunction with expansion of the "Genesis Center". Income from this transaction will go toward the purchase of the Meredith property on Nonemaker Street.

**3. GARLAND AVE:** A resolution approving an agreement with the Arkansas Highway and Transportation Department regarding design and funding for the replacement of the South Garland Avenue Bridge.

**4. McGOODWIN, WILLIAMS AND YATES:** A resolution awarding the engineering contract to the firm of McGoodwin, Williams and Yates for the Water Transmission and Distribution System Master Plan Study in the not-to-exceed amount of \$205,000.00 and approval of an engineering contract contingency in the amount of \$20,000.00.

**B. OLD BUSINESS**

**1. RZN 02-15.00:** An ordinance approving rezoning request RZN 02-15.00 as submitted by Dave Jorgensen of behalf of Larry Garrison for property located north of Persimmon Street and west of 48th Street. The property is zoned A-1, Agricultural and contains approximately 57.62 acres. The request is to rezone to R-1, Low Density Residential; and to accept the attached B&I of Assurance. The ordinance was left on the second reading at the July 16, 2002 meeting.

**2. OUTDOOR MUSIC ESTABLISHMENT:** An ordinance adding a definition of "Outdoor Music Establishment" to Chapter 151 Definitions of the Unified Development Ordinance and adding Section 183.30 to the Unified zoning districts. The ordinance was left on the second reading at the July 16, 2002 meeting.

**C. NEW BUSINESS**

**1. RZN 02-17.00:** A resolution approving rezoning request RZN 02-17.00 as submitted by Dave Jorgensen on behalf of Bleaux Barnes and Sam Mathias for property located south of Deane Street, west of Bang Avenue and east of Porter Road. The property is zoned R-1, Low Density Residential and contains approximately 21.03 acres. The request is to rezone to RMF-6, Low Density Multi-Family Residential.

**2. BAW ADDITIONAL PERSONNEL:** A resolution authorizing an increase in Solid Waste and Recycling to permit an additional driver.

**3. MCCLELLAND ENGINEERING:** A resolution authorizing Change Order No. 1 to the engineering services agreement with McClelland Engineering allowing for additional public participation activities for the Wilson Springs Business Park extending time frames established in the contract and adding the amount of \$32,388.47.

**4. PRUNING AND TREE REMOVAL:** A resolution authorizing the mayor and staff to work with local public utility companies to seek long-term solutions to the problems arising from the pruning and removal of trees near overhead lines.