Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

Aldermen

Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
Ward 3 Position 1 - Robert K. Rhoads
Ward 3 Position 2 – Bobby Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

Final Agenda
City of Fayetteville Arkansas
City Council Meeting
February 1, 2005

A meeting of the Fayetteville City Council will be held on February 1, 2005 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order
Roll Call
Pledge of Allegiance

A. CONSENT:

1. **Approval of the Minutes:** Approval of the January 4, 2005, January 6, 2005, and January 18, 2005 City Council meeting minutes.

   APPROVED.

2. **Appointment of Building Official:** A resolution appointing a building official for the City of Fayetteville in accordance with A.C.A. § 14-56-202(2).

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 17-05.

3. **McClelland Consulting Engineers, Inc. Contract Amendment #1:** A resolution to approve amendment #1 of the contract with McClelland Consulting Engineers, Inc. in the amount of $25,100.00 for the Farmington Waterline Replacement Project.

   PASSED AND SHALL BE RECORDED AS RESOLUTION 18-05.

B. UNFINISHED BUSINESS

1. **Planning Commission Appeal (Crystal Goedereis):** An appeal filed by Crystal Goedereis regarding Planning Commission's denial of RZN 04-1333 (J.B. Hays) for property located at 1882 Starr Drive as submitted by Crystal Goedereis. ***This item was tabled at the January 18, 2005 City Council Meeting to the February 1, 2005 City Council Meeting.***

   THIS ITEM WAS TABLED INDEFINITELY.

2. **OMI Contract Amendment No. 11 (A):** A resolution approving amendment No. 11 (A) to the contract with Operations Management International (OMI) in the amount of $76,693.10 for extending the term of the agreement for operations, maintenance and management services and additional five (5) years; and approving a budget adjustment transferring $76,693.00 from Use of Fund Balance to PCP Operation Contract Fund. ***This resolution was tabled at the January 18, 2005 City Council Meeting to the February 1, 2005 City Council Meeting.***

   THIS ITEM WAS TABLED TO A SPECIAL CITY COUNCIL MEETING ON FEBRUARY 8, 2005.

3. **Highway 71 East Square Redevelopment District #1 Project Plan Amendment:** An ordinance amending the Project Plan for the Highway 71 East Square Redevelopment District Number One, finding the Plan is economically feasible and declaring an emergency. ***This ordinance was left on the first reading at the January 25, 2005 City Council Meeting.***

   THIS ITEM WAS LEFT ON THE SECOND READING OF THE ORDINANCE.

4. **Highway 71 East Square Redevelopment District Project:** A resolution authorizing the preparation of certain documentation for the subsequent approval of the City Council related to the proposed issuance by the City of Fayetteville Tax Increment Bonds (Highway 71 East Square Redevelopment District Project), Series 2005, in a form and amount to provide a project fund of $3,500,000.00 (the "Bonds") for the purpose of financing the costs of acquisition and demolition of certain real property located within the district; and prescribing other matters relating thereto.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 19-05, THIS ITEM WAS ADDED AT THE CITY COUNCIL MEETING.

C. NEW BUSINESS:

1. **Central Emergency Medical Services, Inc. Contract Renewal:** An ordinance waiving the requirements of formal competitive bidding and approving a contract for services in the amount of $250,000.00 between the City of Fayetteville and Central Emergency Medical Services, Inc. to operate and maintain an emergency ambulance service to serve the residents of Fayetteville.

   THIS ITEM WAS LEFT ON THE SECOND READING OF THE ORDINANCE.

2. **Dychem International Contract Extension:** An ordinance to waive competitive bidding and award an extension of a contract with Dychem International through the end of 2005.

PASS AND SHALL BE RECORDED AS ORDINANCE NO. 4674.

D. PUBLIC HEARINGS:

1. **First Class Car Service Certificate of Public Convenience & Necessity:** A resolution granting a Certificate of Public Convenience and Necessity to First Class Car Service for the operation of two (2) limousines within the City of Fayetteville, Arkansas.

APPROVED AND SHALL BE RECORDED AS RESOLUTION NO. 20-05.

E. INFORMATIONAL:

Council Tour: January 31, 2005 – 4:30 pm

MEETING ADJOURNED AT 7:15 P.M.

City Council Meeting · February 1, 2005

Alderman Marr arrived at 6:05 pm.

Subject:	Roll				
Motion To:					
Motion By:					
Seconded:					
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	absent			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Mayor Coody	✓			

Subject:	Consent				
Motion To:		Jordan			
Motion By:		Lucas			
Seconded:					
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	absent			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Mayor Coody				

passed 7-0
Res 17-05 to 18-05

City Council Meeting February 1, 2005

Subject:		Planning Commission Appeal (Crystal Goedersis)			
Motion To:		Table. Indef.			
Motion By:		Reynolds			
Seconded:		~~Thiel~~ Cook			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Mayor Coody	—			

B.1. Unfinished

Table Indef.

Subject:		OMI Contract Amendment No. 11 (A)			
Motion To:		table			
Motion By:		Jordan			
Seconded:		Cook			Matt
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Mayor Coody				

B.2

Table to Special City Council Meeting on Feb. 8, 2005

City Council Meeting February 1, 2005

B.3. Unfinished

Left on the Second Reading

Subject:	Highway 71 East Square Redevelopment District #1 Project Plan Amendment.				
Motion To:		2nd read			
Motion By:		Thiel			
Seconded:		Reynolds			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Mayor Coody	—			

Passed

8-0

19-05

Subject:	Add to the Agenda Financing [illegible] Resolution of Highway 71 East Square Redevelopment District.				
Motion To:		Add to Agenda	Pass		
Motion By:		Jordan	~~[illegible]~~ Rhoads		
Seconded:		Reynolds	Marr		
	Jordan	✓	✓		
	Reynolds	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Marr	✓	✓		
	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Mayor Coody				

City Council Meeting February 1, 2005

C.1. New Business

Left on the Second reading

Subject:		Central Emergency Medical Services			
Motion To:		2nd read			
Motion By:		Lucas			Hickerson
Seconded:		Thiel			
	Jordan	N			
	Reynolds	N			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	N			
	Lucas	✓			
	Mayor Coody	✓			

C.2. New Business

Passed 4674

Subject:		Dychem International Contract Extension			
Motion To:		2nd read	3rd read	Pass	
Motion By:		Rhoads	Jordan		
Seconded:		~~Reynolds~~ Marr	Marr		
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Mayor Coody				

City Council Meeting February 1, 2005 7:15 pm adjourn

Subject:	Public Hearing 1st Class Car Service.			
Motion To:	Approve			Cert. of Public Convenience & Neccessity.
Motion By:	Rhoads			
Seconded:	Reynolds.			
Jordan	✓			
Reynolds	✓			
Thiel	✓			
Cook	✓			
Marr	✓			
Rhoads	✓			
Ferrell	✓			
Lucas	✓			
Mayor Coody				

Approve 8-0. 20-05

Subject:				
Motion To:				
Motion By:				
Seconded:				
Jordan				
Reynolds				
Thiel				
Cook				
Marr				
Rhoads				
Ferrell				
Lucas				
Mayor Coody				

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Aldermen

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City of Fayetteville Arkansas
City Council Meeting
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Council Tour: January 31, 2005 – 4:30 pm

Aldermen

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

Ward 1 Position 1 - Robert Reynolds
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Ward 2 Position 1 - Kyle B. Cook
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Ward 3 Position 1 - Robert K. Rhoads
Ward 3 Position 2 – Bobby Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

City Council
Meeting Minutes
January 18, 2005

A meeting of the Fayetteville City Council was held on January 18, 2005 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Coody called the meeting to order.

PRESENT: Alderman Reynolds, Thiel, Cook, Marr, Rhoads, Ferrell, Lucas, Jordan, Mayor Coody, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance

State of the City Address:

Mayor Dan Coody gave the State of the City Address. A copy of the address is attached.

Election of the Vice Mayor:

Alderman Lucas moved to appoint Alderman Jordan to serve as Vice Mayor. Alderman Marr seconded the motion. Upon roll call the City Council unanimously voted for Alderman Jordan to become Vice Mayor.

Board Appointments by the Fayetteville Housing Authority Board: Robin Ross & Deborah Olsen:

Alderman Marr moved to approve the Housing Authority Board appointments. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

CONSENT:

Approval of the Minutes: Approval of the December 7, 2004, December 28, 2004, January 4, 2005, and January 6, 2005 City Council meeting minutes.

The January 4, 2005 and the January 6, 2005 meeting minutes were pulled from the agenda.

ESRI, Inc. Annual Maintenance Agreement: A resolution approving the annual maintenance agreement in the amount of $28,124.72 with ESRI, Inc. for Geographic Information System (GIS) software maintenance and upgrades.

Resolution 09-05 as Recorded in the Office of the City Clerk.

Hansen Technology, Inc. Purchase Request: A resolution approving a purchase request to Hansen Technology, Inc. in the amount of $55,086.88 for 2005 service and maintenance fees.

Resolution 10-05 as Recorded in the Office of the City Clerk.

Pumping Unit Purchase: A resolution approving the purchase of one (1) portable, hydraulic-powered centrifugal pumping unit from Thompson Pump and Manufacturing Co., Inc. in the amount of $24,431.50.

Resolution 11-05 as Recorded in the Office of the City Clerk.

McClelland Consulting Engineers, Inc. Contract (Wedington Drive): A resolution approving a contract with McClelland Consulting Engineers, Inc. in an amount not to exceed $54,000.00 for survey and preliminary design services for water and sewer relocation for highway improvements to Wedington Drive.

Resolution 12-05 as Recorded in the Office of the City Clerk.

McClelland Consulting Engineers, Inc. Contract (Razorback Road): A resolution approving a contract with McClelland Consulting Engineers, Inc. in an amount not to exceed $22,800.00 for survey and preliminary design services for water and sewer relocation for highway improvements to Razorback Road.

Resolution 13-05 as Recorded in the Office of the City Clerk.

Police Vehicle Purchase: A resolution authorizing the purchase of thirteen (13) Ford Crown Victoria Police Interceptors from the North Point Ford of Little Rock at a total cost of $261,989.00.

Resolution 14-05 as Recorded in the Office of the City Clerk.

Insituform Technologies, Inc. Contract Renewal: A resolution approving a contract renewal with Insituform Technologies, Inc.; and authorizing the expenditure of an amount not to exceed $338,250.00 for sanitary sewer lining services.

Resolution 15-05 as Recorded in the Office of the City Clerk.

South Fayetteville Community Development Corporation Fee Waiver: A resolution to waive the building permit fee and other developmental fees for homes to be constructed by the South Fayetteville Community Development Corporation.

Resolution 16-05 as Recorded in the Office of the City Clerk.

Alderman Jordan moved to approve the Consent Agenda with the January 4 and January 6 meeting minutes removed. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

UNFINISHED BUSINESS:

RZN 04-1330 (Dunnerstock): An ordinance rezoning that property described in Rezoning Petition RZN 04-1330 for property located on the west side of Rupple Road containing approximately 19.84 acres from RSF-1, Residential Single Family, One Unit per Acre to RSF-4, Residential Single Family, Four Units per Acre. ***This ordinance was left on the second reading at the January 4, 2005 City Council Meeting.***

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Rhoads was absent during the vote.

Ordinance 4671 as Recorded in the Office of the City Clerk.

R-PZD 04-1307 (Aspen Ridge): An ordinance establishing a Residential Planned Zoning District titled R-PZD 04-1307, Aspen Ridge located south of 6th Street, west of Hill Avenue, northeast of 11th Street along Town Branch Creek containing approximately 27.969 acres, more or less; amending the Official Zoning Map of the City of Fayetteville; and Development Plan as approved by the Planning Commission. ***This ordinance was left on the second reading at the January 4, 2005 City Council Meeting.***

Alderman Ferrell moved to suspend the rules and go to the third and final reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Alderman Cook stated he would have to recuse from this vote.

Alderman Thiel: I would like to compliment Mr. Broyles, the owners and the other developers of this project. They have gone out of their way; I think Mr. Broyles has inparticularity, visiting with the neighborhood and addressing the impact of the stream. They have also worked with the Audubon representatives on ways they can protect and enhance the water way. I have had and the neighborhood has had a lot of concerns about potential flooding at this project. The more I have visited with Mr. Broyles and looked at this project, we have to depend upon the engineers that they will design this properly. The city has a good staff of engineers that will oversee this project. They have to guarantee that they will not increase the problem; they can't guarantee that they will make it better but they have to guarantee that their project will not increase it. One thing that has been pointed out is that the water way will probably, through this project, stay much cleaner than it has over the past few years. Some of the debris and so forth that gets in this water way contributes to some of the flooding downstream. I think that in itself is valuable that the stream will be kept cleaner. I at this point will probably support this project. I think it will certainly enhance that neighborhood. I am really glad that most of the project is going to be owner occupied; I think that complements that neighborhood.

Mitch Woody: I am all for this project. Most of the residents that live around there feel like it is a lot better to have beautiful town homes than to have what was there before. The Planning Commission, Mayor and city officials have done a lot of hard work to make this project go through. As a former real estate broker from Texas I can appreciate that hard work.

He handed out a packet to the City Council that showed the extension of Brooks Avenue from Phase 2 of Aspen Subdivision. It shows that Brooks Avenue will be built and tie in with Twelfth Street. He said there are 12 families living on Twelfth Street and that they are very happy with the way it is now but progress has to go on. It is a dead end street right now. He is concerned with the possibility of in the future extending Brooks Street all the way to Fifteen Street. Originally when the subdivision was platted to show the street, Brooks Avenue was going all the way to Fifteenth Street, it was vacated back to the property owner in 1993. He said as it stands right now the only options that we have would be to tie it in with Twelfth Street which wouldn't be that bad.

Mr. Woody explained the map that he presented to the City Council and the different routes around this area. He also discussed the traffic study that was completed in this area. He stated he did not feel the numbers were accurate. He stated the engineers are from Little Rock and it is difficult for them to tell what the traffic flow actually is. He stated he is concerned about their numbers.

I am not here to try to put a halt to this. I believe the project should go through rapidly. I just wanted to let everyone know how we feel around the neighborhood. Mayor Coody indicated today that Mr. Dumas and Mr. Pate were going to try to put together a package for the Mayor so the Mayor could contact Pinnacle at some future date and see if they wouldn't agree to donate a strip of land through there for the street. Of course we couldn't ask the developer to come back and put a street in after everything is already done. Mr. Dumas suggested that the City might later put in a street through a street improvement project. It is really needed. I would like to thank the Mayor for working with us and talking to Pinnacle.

Mayor Coody: I did hear from Pinnacle this afternoon and they said the immediate answer was no but they were going to kick it up the chain of command.

Mitch Woody: Whatever you can do in the future. I would hope that the City Council would agree that that street is needed. Thank you so much. I know it is a lot of hard work and this is a great project.

Aubrey Sheppard a resident of the neighborhood: I agree with most everything everybody said. I was asked the last time I was here who has problems with this. I said a lot of people feel that if they take the trouble to come down they do not think they will be listened to. That is a fact. I talked to one lady and she stated if she comes here and tells people how close that water came to her house three different times last year and she decides to move and sell, she might not be able to sell her home because the water goes almost out to the street without getting in her house. Just a little bit of change in the floodplain up stream could make that difference that is something hard to guarantee. It is close to being dangerous anytime you live in a floodplain or very near one. When these houses were built it wasn't a dangerous situation because we didn't have all the paving on the University campus or a lot of things built up there. Each project that is done from now on and as it has been for years will increase, as it has, the potential of flooding downstream. That is why we spoke with Mr. Broyles many times and with this Council about the significance of being sure that we don't increase it at all if possible. We can't keep a 10 inch rain from coming and we can't guarantee it won't get up a little higher than it ever has even now. It is sort of like the global warming argument even if mankind's acts are not causing it then maybe we still need to be sure that what we do choose to do doesn't aggravate it, if it is occurring naturally. We know it is occurring for come reason.

He showed the Council some photographs of the property and the water that floods the property.

Alderman Rhoads: Are these the same photographs that are on your website?

Aubrey Sheppard: One of these is on the website the other one isn't.

Alderman Rhoads: Mr. Sheppard are you contending that you are very certain that because of this development that all these things are going to happen. That people's homes are going to be flooded or that it is just a possibility.

Aubrey Sheppard: Three times last year the water got very near property.

Alderman Rhoads: Are you contenting it is just a possibility or are you fairly certain that it is going to happen?

Aubrey Sheppard: Well, I don't make it rain so I am not going to make it happen but rain comes and if it should come as it did three times last year and get out of the banks then it's basically a slew parallel to the town branch.

Alderman Rhoads: Have you talked to the developers about this issue?

Aubrey Shepperd: Sure. We talked about it first last April as I recall.

Alderman Rhoads: What did they say?

Aubrey Shepperd: They are hoping their engineers get it right so that it can't happen. What I was pointing out, that I am not sure the engineers concluded, was that the over flow when the creek gets up as it did last year, then the water gets out there. If that doesn't occur, water goes down stream faster.

Mayor Coody: Mr. Shepperd what is your recommendation to the City Council? Are you asking the Council to deny the development?

Aubrey Shepperd: Not at all. I am not sure I am doing anything but maybe talking about the future. When you look at developments and when your engineers get plans in, in a water shed area that may not be identified on a map as an over flow or flood plain area it may not say wet land. The Corp of Engineers and the Department of Environmental Quality get their information from what the engineers give them from the site. I think they are hoping that it will not cause any problems. I don't think that they would willingly create that problem. I would ask them to adjust those plans a little bit to see that as much of the flood plain is there to allow the water to flow as it does now. That could possibility help the situation.

Mayor Coody: I know this development has been in the works for about two years and they have done a lot of changing to the plans. They have worked with our storm water engineers and the neighborhood extensively to make something that would be palatable to pretty much everyone.

Aubrey Shepperd: Some of us in the neighborhood have tried to be available every chance we had to visit with them and look at things with them and they have been very good about that, this is not a complaint about that at all. Planning Commission when this was finally announced put one sign on Sixth Street, that didn't show the people that there was development coming anywhere else down the street or anywhere connected to it. So, people didn't know they should come to comment except when they were told it would affect them. There was one story in one of the newspapers that actually mentioned the limits of this development site. I would say we need to notify more people not just adjacent property owners. Thank you.

Mary Bassett, owner of Bassett Mix Real Estate Company stated she appreciated the opportunity to speak. She said she is very familiar with this property and what it looked like before the developers bought it. She stated none of this property was listed. She represented the developers in acquiring it; they went to each tract of land individually and approached them about selling their property. The majority of them got more financial gain by these developers buying their property. They gave more than the appraised value for many of these properties to accumulate the property to make it a whole 30 acres that they could develop in a feasible way and to help in the redefining of south Fayetteville. She stated it is going to be a beautiful project and she is very proud to represent them.

Melissa Terry with Audubon Arkansas: The developers have been very good about working with us. Audubon has tried to be a third party to help broker some of this discussion. I think a lot of the tension that has come up is a natural consequence of some of these downtown areas getting infilled. The reason they weren't in the first place is because they were problematic environmentally. Audubon has over the past year and a half worked with the developer and the neighborhood association. We have invested approximately $200,000 in grant funds along this drainage. We see this as an investment in green infrastructure, a piece of infrastructure that's just as important as the city sewer or cable. This infrastructure has vital long term economic consequences for our community. We will do everything we can to keep working with the parties and I ask for your support as we go along.

Alderman Lucas: You had originally recommended 28 feet for that street with the idea that it would be going on to Fifteenth. Should we go back to 28 feet, does that allow a turn lane or why were you recommending 28 feet?

Jeremy Pate: The initial recommendation for 28 feet would allow on street parking. We were looking initially at the number of traffic that would be generated and the potential for it to get to Fifteenth Street. That would probably become much more of a through connection south to Fifteenth Street. The Planning Commission voted to recommend that go to 24 feet; it is just connecting to Twelfth. As the traffic study indicates only about 4% of the traffic will leave Phase 2 along Brooks and then Twelfth Street to go south. I feel comfortable recommending the 24 foot wide street as the Planning Commission has also indicated.

Alderman Lucas: Does that allow a turn lane later?

Jeremy Pate: It does not.

Larry Smith voiced his concern about the traffic.

Alderman Thiel: We should be very cautious whenever we vacate streets and alleys. This is a good example of no one foreseeing this project. I hope everyone understands that this is not something that we can do without condemning that property and paying money for it. I hope everyone understands that our hands are kind of tied in trying to make this extension.

Alderman Reynolds: Brenda and I have spent a lot of time in this area, we have done a lot of extra clean ups, we have taken tons of trash out of this area. When I heard Mr. Broyles was going to come in and take out these eyesores, which was the worst nightmare this city has ever had, those two parks, I thought it was a blessing for us and for our neighborhoods. For him to take on a project this size, you are not always lucky enough to get a home town guy to do a job like this. I know he is going to do a good job and he is going to do it right. I am going to support the project and I hope the neighbors do too at this point.

Alderman Marr: I want to thank the Audubon, the neighborhood association and the developer for working together because I do believe we need to push infill development in our city. I think it keeps us from annexing and putting in infrastructure outside of the core that cost us a lot more than continuing to invest in areas that are already there. I do realize we are going to have some difficult situations in doing that. I think it takes creativity to get through that, I appreciate the people who have done that. I am thrilled that we are having an infill project in south Fayetteville.

Alderman Jordan: I want to be sure that a 24 foot wide street is going to work. I am a big proponent of planning and what might occur. In your expert opinion we do not need a 28 foot street?

Jeremy Pate: A 28 foot wide street is considered a local street it handles 3,000 to 5,000 vehicle trips per day. That is not something we anticipate in this area. The 24 foot wide street in our Master Street Plan is considered a residential street and is probably more appropriate in this area. Most of the streets are actually a little wider and Twelfth Street is approximately 31 feet wide. It was developed like that to meet our ordinances in the past. The amount of traffic will probably never get to that point. We feel it is an adequate number at this point. It will allow for on street parking. Many of the streets downtown that handle much the same amount of traffic are the same width or narrower.

Alderman Lucas: If we do get the street through to Fifteenth Street will there be room for a turn lane?

Jeremy Pate: Yes that could be accommodated.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Cook recused.

Ordinance 4672 as Recorded in the Office of the City Clerk.

<u>Downtown Master Plan Redevelopment District Number Two Adoption:</u> An ordinance forming the Downtown Master Plan Redevelopment District Number Two pursuant to Amendment 78 of the Arkansas Constitution and authorizing the preparation of a project plan. ***This ordinance was left on the first reading at the January 4, 2005 City Council Meeting.***

Mayor Coody: I suspect this will be tabled at this meeting?

Kit Williams: Mr. Mayor I think you are correct on that, at this point until we have some resolution from the legislative or more likely from the courts I think that the TIF Districts, all of them in the State are kind of up in the air. My recommendation would be that you simply move to table this district indefinitely and then if something changes in the future we can bring it back.

Alderman Jordan moved to table the ordinance indefinitely. Alderman Marr seconded the motion. Upon roll call the motion to table indefinitely passed 6-0. Alderman Ferrell and Thiel were absent during the vote.

Alderman Rhoads: Kit it is my understanding that a lawsuit has been or will be filed in the Jonesboro area?

Kit Williams: I don't know if it has already been filed but there is a $6 million note that they were counting on the 25 mils, so I think there is a big inspiration for someone to file a suit. The person that has the debt now, it looks like it is now his personal debt, that he thought was going to be paid by tax increment financing. I am certain that suit will be filed.

Alderman Rhoads: Will that suit bring about some clarity on the issue and if so roughly how long do you think that might take?

Kit Williams: It kind of depends to some extent of whether or not there are any factual issues at all. I would not anticipate much in the factual issue I think it is all mainly a legal argument. I think it could rapidly go up to the Supreme Court before any final decision would have to be made. I would think it could go there within a year and possibly even quicker. I doubt if it would be quicker than that though.

Downtown Master Plan Redevelopment District Project Plan: An ordinance adopting the Project Plan for the Downtown Master Plan Redevelopment District, and finding the plan is economically feasible. ***This ordinance was tabled at the January 4, 2005 City Council Meeting to the January 18, 2005 City Council Meeting.***

Alderman Marr moved to table the ordinance indefinitely. Alderman Jordan seconded the motion. Upon roll call the motion to table indefinitely passed unanimously.

I-540 Redevelopment District #3 Adoption: An ordinance forming the I-540 Redevelopment District Number Three pursuant to Amendment 78 of the Arkansas Constitution and authorizing the preparation of a project plan. ***This ordinance was left on the first reading at the January 6, 2005 City Council Meeting.***

Alderman Jordan moved to table the ordinance indefinitely. Alderman Marr seconded the motion. Upon roll call the motion to table indefinitely passed unanimously.

NEW BUSINESS:

Planning Commission Appeal (Crystal Goedereis): An appeal filed by Crystal Goedereis regarding Planning Commission's denial of RZN 04-1333 (J.B. Hays) for property located at 1882 Starr Drive as submitted by Crystal Goedereis.

Crystal Goedereis: I would like this item tabled until the City Council can tour the property.

Debbie West 3511 Madison Drive: this summer we bought our home on Madison; this property is right behind us. We heard all kinds of animal noises and got curious and wanted to know what was back there. We talked to the men in the dental lab; they showed us around the property. They were very nice and very friendly. They did tell us they were going to be moving sometime after the first of the year out of the dental lab, that they were getting new offices and that Dr. Hays was going to be developing this land. I failed to mention this at the Planning Commission meeting. I have no reason not to believe those people that that lab is not going to be there forever. Put yourself in my position, would you want any kind of business coming in right behind your home. It was zoned for single family homes when we bought our property. I am asking you to deny his appeal because it is the right thing to do.

Carol Marx a resident of Starr Drive stated that when the St Joseph project was first developed the neighborhood brought up the concern that St. Joseph would actually introduce multi use into the neighborhood. We were told then that our fears were unfounded and that churches are in residential areas throughout Fayetteville. She stated that Crystal mentioned in the Planning Commission meeting that she had no plans to develop this property as long she lived there. I now hear that they are telling the other neighbors that they do plan on developing. I find it hard to accept that Dr. Hays would pay $1.5 million for property that he doesn't plan on developing when he doesn't reside on the property. I am asking you to deny this zoning, it has a far reaching effect, if you do zone it R-O and he decides to sell it they can build office buildings there or trailer parks. This is property that is completely surrounded by residential homes. I am asking you to keep the character of that neighborhood as residential homes. Thank you for hearing my comments.

Mr. Rodney Marx: When Dr Hays bought this property it was already zoned single family one per acre. We feel it is a proper zoning for the area because it is surrounded by that. We live on Starr Drive and most of the houses are 2 and 3 acres where we are and then you have Barrington behind that which is a single family four. We are okay with that too we think that's the proper zone for it. We do not feel like the neighborhood should conform to what he wants to do with the property, he should conform to what the neighborhood is. We ask that you deny the appeal, not rezone this leave it as is.

Alderman Ferrell: Has there been any movement at all by the applicant in the way of a Bill of Assurance?

Jeremy Pate: The only discussions that we have had with the applicant were prior to the Planning Commission meeting in discussing what they would like to do with this property. Concerns were brought about before the Planning Commission and now the Council about what the land use of that property is. With a straight rezoning the use units here that are with the zoning district are the uses that are allowed. That is really the only discussions that we have had with the applicant.

Alderman Reynolds moved to table the appeal until the February 1, 2005 City Council meeting. Alderman Ferrell seconded the motion. Upon roll call the motion to table passed unanimously.

<u>OMI Contract Amendment No. 11 (A):</u> A resolution approving amendment No. 11 (A) to the contract with Operations Management International (OMI) in the amount of $76,693.10 for extending the term of the agreement for operations, maintenance and management services and additional five (5) years; and approving a budget adjustment transferring $76,693.00 from Use of Fund Balance to PCP Operation Contract Fund.

Mayor Coody: I think staff has asked that we table this.

Dave Jurgens, Water and Sewer Department: We do ask that this be tabled. The first generator would have to be in place and in use by June 1 so this is somewhat time sensitive. We are working with OMI to revise the contract.

Alderman Jordan moved to table the resolution until the February 1, 2005 City Council meeting. Alderman Ferrell seconded the motion. Upon roll call the motion to table passed unanimously.

Meeting Adjourned at 7:25 PM.

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Dan Coody, Mayor

____

Sondra Smith, City Clerk/Treasurer

Aldermen

Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
Ward 3 Position 1 - Robert K. Rhoads
Ward 3 Position 2 – Bobby Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

Fayetteville
ARKANSAS

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

City Council Meeting Minutes January 4, 2005

A meeting of the Fayetteville City Council was held on January 4, 2005 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Oaths of Office - 2005 Elected Officials: The following were sworn in as elected officials for a four-year term: Brenda Thiel, Don Marr, Bobby Ferrell and Lioneld Jordan were sworn in as Alderman. Sondra E. Smith was sworn in as City Clerk/Treasurer. Dan Coody was sworn in as Mayor.

Mayor Coody called the meeting to order.

PRESENT: Alderman Reynolds, Thiel, Cook, Marr, Rhoads, Ferrell, Lucas, Jordan, Mayor Coody, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Alderman Rhoads was absent until 6:10 pm.

Pledge of Allegiance

CONSENT:

Approval of the Minutes: Approval of the November 30, 2004, December 7, 2004, December 21, 2004 and December 28, 2004 City Council meeting minutes.

Cliffside Park Land Dedication Requirement: A resolution accepting the Parks and Recreation Advisory Board's recommendation to accept $61,605.00 cash in lieu of the required Park Land Dedication for Cliffside Planned Zoning District (PZD) Development.

Resolution 01-05 as Recorded in the Office of the City Clerk.

Baird, Kurtz & Dobson (BKD), LLP Contract Renewal: A resolution approving the annual contract renewal with Baird, Kurtz & Dobson (BKD), LLP, in the amount $57,000.00 to provide independent audit services to the City of Fayetteville.

Resolution 02-05 as Recorded in the Office of the City Clerk.

Freelance Consulting Services Contract: A resolution approving proposal 04-21 from Freelance Consulting Services in the amount of $56,000.00 to conduct a Wildland Interface Fire Assessment.

Resolution 03-05 as Recorded in the Office of the City Clerk.

Multi-Craft Bid #04-88 Award: A resolution awarding Bid #04-88 to Air Works Division of Multi-Craft Contractors, Inc. in the amount of $49,442.00 for the purchase and installation of a 25-ton rooftop heating and air conditioning unit and removal of the existing unit at the Fayetteville Police Department.

Resolution 04-05 as Recorded in the Office of the City Clerk.

Alderman Jordan moved to approve the Consent Agenda. Alderman Reynolds seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent during the vote.

UNFINISHED BUSINESS: None

NEW BUSINESS:

ANX 04-1334 (Harper/Teater): An ordinance annexing that property described in Annexation Petition ANX 04-1334 annexing to the City of Fayetteville, Arkansas, property located north of Zion Road, east of George Anderson Road containing approximately 60.37 acres.

Mr. Williams read the ordinance.

Jeremy Pate, Planning Division stated that the staff recommends approval of this ordinance and the Planning Commission voted 7-1 in favor of recommending the annexation to the Council. Most of the public comments centered on the surrounding streets (which in this location are collector streets, with one minor arterial). The majority of the comments involved requests that, with this development, the gravel streets be improved.

Micki Harrington, speaking for the petitioner, stated she was available for any questions.

Mayor Coody opened the floor for public comment. There was none.

Alderman Marr moved to suspend the rules and go to the second reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Alderman Reynolds moved to suspend the rules and go to the third and final reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

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

Ordinance 4664 as Recorded in the Office of the City Clerk.

RZN 04-1335 (Harper/Teater): An ordinance rezoning that property described in Rezoning Petition RZN 04-1335 for property located north of Zion Road, east of George Anderson Road containing approximately 60.37 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, Four Units per Acre.

Mr. Williams read the ordinance.

Jeremy Pate reported that this property is primarily agricultural and residential and is surrounded to the west, south and north by residential subdivisions. Staff recommends approval of this rezoning and the Planning Commission voted 7-1 in favor of recommending the rezoning.

Alderman Jordan asked if the response time for fire protection is 9 to 11 minutes and if Chief Bosch considers that a good response time.

Chief Chris Bosch, Fire Chief stated that the response time is 9 to 11 minutes and also affirmed that that response time is outside the range of estimated response times. However the fire department is currently looking for property in the Crossover and Old Wire Road area to try to offset the response time for that area. The time is currently calculated from Station #5 (south of Mission Blvd.) and also Station #4 (which is by the N.W. Ark. Mall). The new station is in the capital plan for this year. At this time staff has talked to a couple of property owners regarding property. That area is quite developed and land is expensive. The search is difficult but they are actively looking for property.

Alderman Jordan stated that he feels that response time is a little long.

Alderman Rhoads asked for the Chief's best guess about when the station will actually be built and operating.

Chief Bosch said it depends on how quickly the appropriate property can be located and purchased. His best guess for having the station operational is probably mid-2006. That would be for re-location of Station #5.

Alderman Marr asked Ms. Harrington what her best estimation is for when this property would be developed.

Micki Harrington stated that there are some significant sewer line installations to be done in the area and there was some discussion of a lift station. For that part alone the developer is estimating at least a year. She does not anticipate that this project will be built out before 2006.

Mayor Coody opened the floor for public comment. There was none.

Alderman Rhoads moved to suspend the rules and go to the second reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Alderman Rhoads moved to suspend the rules and go to the third and final reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

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

Ordinance 4665 as Recorded in the Office of the City Clerk.

RZN 04-1329 (Hogeye, Inc.): An ordinance rezoning that property described in Rezoning Petition RZN 04-1329 for property located on the north side of 6th Street across from the Ozark Mountain Smokehouse containing approximately 3.35 acres from R-A, Residential Agricultural to R-O, Residential Office.

Mr. Williams read the ordinance.

Jeremy Pate, Planning Division, said the applicant's original request was to rezone the property to C-1. The staff did not recommend C-1 and at the Planning Commission meeting the applicant changed the request to R-O. The Planning Commission voted 8-0 in favor of recommending this rezoning request. One adjacent property owner stated concerns that this rezoning would allow eating places and other nighttime activities adjacent to their single family home. However, R-O zoning will allow eating places with a conditional use only and would not allow drive-in eating-places. The applicant has stated that their desire is to create an office space on this property.

Mayor Coody opened the floor for public comment. There was none.

Alderman Marr moved to suspend the rules and go to the second reading. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

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

Ordinance 4666 as Recorded in the Office of the City Clerk.

RZN 04-1330 (Dunnerstock): An ordinance rezoning that property described in Rezoning Petition RZN 04-1330 for property located on the west side of Rupple Road containing approximately 19.84 acres from RSF-1, Residential Single Family, One Unit per Acre to RSF-4, Residential Single Family, Four Units per Acre.

Mr. Williams read the ordinance.

Jeremy Pate, Planning Division reported that this property is part of the 254 acre unincorporated area along Rupple Road that was annexed in 2004. The property is situated among other subdivisions and residential lots. Some of the discussion at the Planning Commission concerned the condition of Rupple Road. Staff anticipates that off-site improvements will occur with the development of this property. Also, depending on the amount of development proposed, some assessment is anticipated. The Planning Commission voted 8-0 in favor of recommending this rezoning to the Council and staff also recommends approval.

Mayor Coody opened the floor for public comment. There was none.

Alderman Jordan moved to suspend the rules and go to the second reading. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

This ordinance was left on the second reading.

RZN 04-1331 (Bale): An ordinance rezoning that property described in Rezoning Petition RZN 04-1331 for property located at 3513, 3515, and 3517 West 6th Street containing approximately 0.80 acres from R-A, Residential Agricultural and C-2, Thoroughfare Commercial to C-1, Neighborhood Commercial.

Mr. Williams read the ordinance.

Jeremy Pate, Planning Division reported that there are currently three properties on this acreage, which are split zoned R-A and C-2, with the majority being R-A. The three structures on the property are non-conforming structures in this location and this use in an R-A zoning district. Existing non-conforming structures may remain in that state as long as they don't expand or if the use is discontinued for more than 120 days. The applicant originally requested

C-2 zoning but the Planning Commission voted 5-3 in favor of recommending rezoning of C-1. That is also the staff's recommendation.

Alderman Marr asked Jeremy if this request had come to the staff to rezone the property to C-1 before going to the Planning Commission, would it have been recommended for approval by staff.

Jeremy Pate stated that since the property to the east had been recommended for an R-0 zoning, which is compatible with the future Land Use Plan, staff would likely have recommended an R-0 zoning to the Planning Commission for this property. In response to a question from Alderman Marr, Jeremy stated that the three dissenting votes on the Planning Commission were from Ms. Anthes, Ms. Allen and Mr. Austin.

Mayor Coody opened the floor for public comment.

Gino Franco, representing Ms. Pat Bale, the owner of the property, presented his client's request that the ordinance be amended to change the property's zoning to C-2. The three buildings on the property have been there since 1979. Two are currently occupied and all three were occupied until August of this year. Mr. Franco reviewed past uses of the buildings. His client's business is Advanced Flooring Company, which has been in business in Fayetteville for about 42 years and on this property since 1979. Although he understands the need for the City to look to their future Land Use Plan, his client would like to be able to use the buildings currently on the property to their intended use.

Alderman Thiel said the report notes that the property has been occupied since 1979. The fact that the buildings were partially zoned as R-A was not known until Nov. 04. However, taxes have been paid on commercial property. She asked if that was true of all the property.

Jeremy Pate said he hadn't checked with the County, but Ms. Bale's understanding is that it has been treated as commercial property all along.

Gino Franco, in response to a question from Alderman Rhoads, said they could rent the property under a C-1 zoning, but their options would be expanded under C-2.

Alderman Thiel asked if the carpet business in one of the buildings right now would be in compliance if the property were rezoned as C-1.

Jeremy Pate said the uses of the property currently are non-conforming. They can continue to be non-conforming, and even change the business with a certificate of zoning compliance, as long as there is not a period of more than 120 days when the property is not in use.

Alderman Thiel moved to suspend the rules and go to the second reading. Alderman Rhoads seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Alderman Ferrell moved to suspend the rules and go to the third and final reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Alderman Lucas said though this is a difficult decision, she is opposed to the rezoning. She worries about the strip zoning already in the area and feels this will create more strip zoning. She agrees with the staff. The rezoning is not needed because the businesses can continue as is under the present zoning.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 5-4. Alderman Rhoads, Ferrell, Reynolds and Thiel voting yes. Alderman Marr, Lucas, Jordan and Cook voting no. Mayor Coody voted yes thus breaking the tie.

Ordinance 4667 as Recorded in the Office of the City Clerk.

RZN 04-1332 (Hays): An ordinance rezoning that property described in Rezoning Petition RZN 04-1332 for property located at 1760 Starr Drive containing approximately 5.99 acres from RSF-1, Residential Single Family, One Unit per Acre to RSF-4, Residential Single Family, Four Units per Acre.

Mr. Williams read the ordinance.

Jeremy Pate, Planning Division reported that this property is located in a portion of an island annexed by the City in 2004. After hearing comments from neighboring residents at the Planning Commission meeting, the applicant changed his request from RMF-12 to RSF-4. Staff was not in favor of the RMF-12 request. Staff does recommend approval of the request to rezone the property to RSF-4. The future Land Use Plan identifies this area for residential use and the zoning is compatible with adjacent densities and land use. The Planning Commission voted 8-0 in favor of recommending the rezoning.

Mayor Coody opened the floor for public comment.

Crystal Goedereis, representing the applicant, said the applicant wanted to thank the Planning Commission and staff for helping them work through the process involved in this rezoning request and also wanted to express thanks to the Barrington Park POA. She said she was available for any questions.

Amy Glass, president of the Barrington Park Association said the group is in support of the rezoning.

Alderman Rhoads moved to suspend the rules and go to the second reading. Alderman Thiel seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Alderman Thiel moved to suspend the rules and go to the third and final reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

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

Ordinance 4668 as Recorded in the Office of the City Clerk.

R-PZD 04-1307 (Aspen Ridge): An ordinance establishing a Residential Planned Zoning District titled R-PZD 04-1307, Aspen Ridge located south of 6th Street, west of Hill Avenue, northeast of 11th Street along Town Branch Creek containing approximately 27.969 acres, more or less; amending the Official Zoning Map of the City of Fayetteville; and Development Plan as approved by the Planning Commission.

Mr. Williams read the ordinance.

Jeremy Pate, Planning Division reported to the Council that this is an infill project to construct 220 condominium units in two phases. The proposal also provides for a dedication of land for a public park and for a trail and construction of a trail. There is also provision for green space and tree preservation areas along Town Branch Creek and for improvement of adjacent streets where needed. Staff is recommending approval of this PZD rezoning request. The rezoning is more compatible with surrounding neighborhoods, which consist of single-family homes, industrial and commercial property. Surrounding neighbors have voiced positive comments concerning the developer's willingness to meet with them and address their concerns. The Planning Commission voted 8-0 in favor of recommending the PZD request with specific conditions of approval as noted in the staff report.

Hal Forsyth, petitioner, said they have been working on this project for two years. They have worked extensively with landscape and building architects and engineers on the project and have also consulted with an environmental scientist, a traffic engineer, an arborist and a landscape designer. They have worked to provide new construction of entry-level and single-family housing that has not been available on the south side of Fayetteville in many years. Their goal is to jump start the city's goal of revitalization of this urban area.

Hank Broyles, petitioner, said he appreciated the professionalism of the planning staff. This is an infill project and infills require more time, effort and risk than annexation. The property is currently zoned RMF-24, which allows for more units than is planned for this development. This will reduce the traffic impact and allow the property to exceed 51% green space. The site plans have been adjusted over the years to meet the concerns of the neighbors. One of the major concerns of the neighbors was flooding and the plans have been altered to include ponds and a lake, which will create the ability to capture and hold enough water to meet flood prevention guidelines.

Alderman Thiel asked the petitioner to clarify the exact amount and location of land along Town Branch Creek that would be deed restricted against any further development in the future to mitigate the wetlands.

Matt Crafton, an engineer for Crafton Tull and Associates, said they are working with the Corps of Engineers to offset the impact to the existing wetlands. As noted in their letter and as identified by their environmental scientist, they will be impacting (or filling in) about 6.27 acres of existing wetlands. To offset that, they will deed restrict the 2.4 acres of land along the creek. In addition to that the City requires approximately 4 acres for tree preservation. The 2.4 acres lies within the 4 acres. There will be no development within that tree preservation area.

Alderman Thiel asked if the retention ponds will be filtered or if there will be some protection for what goes into the creek from the ponds.

Matt Crafton said before construction begins, they would install erosion control to prevent any construction erosion from entering into the creek. The four detention/retention ponds will hold water at all times. Anything on the ground (pesticides, trash, etc.) will settle into those ponds and the release structures that will detain the water will act as a filter before the water exits the ponds and goes into the creek. In addition, the outlets from the ponds to the creek will be protected with articulated block, which will allow the storm water to reach the creek with minimal impact.

Alderman Thiel said she thinks the project is a good development for that part of town but her main concern is the flooding. She asked who is responsible if the project is built out and flooding downstream is increased.

Matt Crafton said the developer is required to design detention ponds that will prohibit water from leaving the site any faster or at any greater volumes than are currently leaving the site. The way they have designed and estimated the system they will be releasing less storm water than is exiting the site now. However, they cannot control what might happen up stream. In response to a question from Alderman Ferrell, Mr. Crafton said they cannot prevent mass catastrophes created by nature, but have to do their best to design so that the development is not the cause of any flooding.

Mayor Coody opened the floor for public comment.

Geary Lowery, citizen, said the project looks wonderful and he supports infill as opposed to annexation. He hopes that staff will make certain that all contracts, bills of assurance, etc. are fulfilled.

Aubrey Sheppard, member of the Town Branch Neighborhood Association, said some of the neighbors question the density of some portions of the development. They are pleased with the look of the buildings, the park, etc. A major concern is flooding. Having lived in the area for 8 years, he knows that the flood plain actually extends further back than what is identified by the Corps of Engineers. The flood area is wider at the top and narrows at the end. Those neighbors whose houses are near what has been the maximum flood level up to this point have concerns, not that the development would put more water into the stream but that it will decrease the ability of the stream to use the full width of the existing overflow area. He also expressed concern about the outlet of 12th Street and the problem of traffic.

Alderman Thiel asked the engineer for the project to address some of the concerns Mr. Sheppard raised.

Matt Crafton said the Corps of Engineers has studied and defined the flood plain in the area and that is what the developers have used in the design of the project as required by City ordinance. They are keeping out of that flood plain except for a very small part of the north part of the project. All elevations are more than the required two feet above the flood plain, in most cases 3 to 5 feet above the flood plain.

Alderman Reynolds thanked Hank Broyles for coming into South Fayetteville with a project like this and for cleaning up an area that has been a blight and problem for the police department and the citizens.

Alderman Lucas asked if some of the streets outlined in the plan meet City standards and will be City streets.

Matt Crafton said they will be asphalt streets with curb and gutter and will be dedicated right-of-way to the City of Fayetteville. They are not standard in that the width of the boulevard sections varies but they will be city streets.

Alderman Lucas asked planning staff to tell the Council about some vacations that will be needed later if this project is approved.

Jeremy Pate, using the map of the area, identified for the Council the areas where some of the rights-of-way's are located that may need to be vacated. These will come through as a formal vacation request through the Planning Commission. In response to a further question from Alderman Lucas regarding park land dedication, he stated that if there are existing residential structures on a property that are removed, those residential lots are credited the standard fee for that development.

Alderman Marr said he is in support of the project and feels it meets several of the City's goals, including affordable housing for all income levels and revitalization of South Fayetteville.

Alderman Thiel asked what street improvements to current city streets are being required of the developers.

Jeremy Pate said the staff report itemizes seven different areas where street improvements will occur. These areas include broken pavement on 11th Street which will have to be removed and replaced. A continuation of an existing sidewalk on the north side of 11th Street to connect to the proposed sidewalk within the development and completion of curb and gutter on the south side of 11th Street. Widening the intersection of Hill Avenue and 6th Street to include a turn lane including the cost of relocating traffic signals and any other necessary costs to add that left turn lane signal to the existing signal system. Improvement of the portion of Hill Avenue adjacent to the subject property including 6 ft. sidewalks and construction of a secondary means of access in Brooks.

Alderman Ferrell said he is in favor of the development. It will provide many jobs over a significant period of time and it also adds infill.

Alderman Jordan said a similar project called the Crowne development came through in this area at an earlier time. Neighbors had concerns, as did he, regarding flooding, drainage, etc. but the development has actually improved the area.

Mayor Coody asked if there is assurance that the final design will not be changed in the future.

Jeremy Pate said the PZD ordinance ties the developers to specific site plans and development standards. The ordinances do not currently include residential design standards. But since these designs are included in the overall development package, staff would anticipate that these would be the units that would be permitted. Should significant changes in site plan elevation or any other conditions of approval be made, the developer would have to come back to the Planning Commission for approval.

Alderman Marr asked if, for instance, the design of the unit was changed from brick to siding, would that change the PZD plan and bring the development back for review.

Jeremy Pate said since that would be a significant change in the overall character of the development; it would at least be brought back to the subdivision committee, and possibly to the Planning Commission for review.

Alderman Ferrell moved to suspend the rules and go to the second reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed 7-1. Alderman Marr, Rhoads, Ferrell, Lucas, Jordan, Reynolds and Cook voting yes. Alderman Thiel voting no.

Mr. Williams read the ordinance.

Alderman Thiel said that even though the developers are in a hurry, she would really like to wait on this. She would feel more comfortable if neighbors are given more time to bring forward concerns.

Alderman Reynolds said this is a big advance for the neighborhood and a big advance for the City in cleaning up south Fayetteville. He hasn't had any other calls from citizens in the ward and those he has talked to are for the development.

Hal Forsyth, in response to Alderman Rhoads question about the significance of having this approved today said they would like to get started after a long process.

Mayor Coody noted that there had been significant public input on this item over the past couple of years. There have been several meetings to resolve concerns.

Alderman Rhoads moved to suspend the rules and go to the third and final reading. Alderman Ferrell seconded the motion. Upon roll call the motion failed 3-5. Alderman Rhoads, Ferrell and Reynolds voting yes. Alderman Marr, Lucas, Jordan, Thiel and Cook voting no.

This ordinance was left on the second reading.

<u>VAC 04-1324 (Elder/Salem Townhouses):</u> An ordinance approving VAC 04-1324 submitted by Engineering Services, Inc. for property located on the north side of Wedington Drive west of Salem Road as described on the attached map and legal description.

Mr. Williams read the ordinance.

Jeremy Pate, Planning Division reported to the Council that the applicant is requesting a vacation of a portion of the utility easement currently occupied by overhead electric and cable lines. No objections to this vacation were submitted and staff is recommending approval with the condition, as listed in the ordinance, that all existing utilities will be relocated underground prior to their disconnection. Planning Commission voted 8-0 in favor of recommending the vacation request to the Council. No public comment was received.

Alderman Lucas said that although she is generally not in favor of vacations, with the relocation of the utilities underground she doesn't feel the City would be losing anything.

Alderman Jordan moved to suspend the rules and go to the second reading. Alderman Marr seconded the motion. Upon roll call the motion passed 7-0. Alderman Thiel was absent during the vote.

Mr. Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Mayor Coody opened the floor for public comment. There was none.

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

Ordinance 4669 as Recorded in the Office of the City Clerk.

<u>U.S. Department of Justice Grant:</u> A resolution authorizing the Fayetteville Police Department to accept a Grant from the U. S. Department of Justice in the amount of $164,900.00 to define and initiate anti-methamphetamine strategies and assist the Washington County Drug

Court; approving an increase in police staffing by one (1) officer; and approving a budget adjustment recognizing the grant revenues.

Captain Tracy Risley, Fayetteville Police Department, said the Department of Justice chose Fayetteville Police Department as a lead agency to apply for this grant. The process began in August of 2004, leaving a short turnaround for submission of the application. The objectives of the grant are to raise public awareness about methamphetamine, train and equip officers for enforcement, and to form partnerships in the community. The position requested will handle the statistical end of the program. A committee has been formed with members throughout the judicial district who will help implement strategies and discuss problems that will occur throughout the grant process. The meth problem in this area is at what he considers epidemic proportions. It is no longer simply a law enforcement problem but is a community problem. It will take community effort to solve the problem. Part of the benefits of this grant will be partnering with the judicial system to work on the problem.

Judge Mary Ann Gunn introduced Lisa Dennis, prosecutor for the Washington County Drug Court and Mike Hodson, public defender. She indicated that partnering with Fayetteville's 4th Judicial Drug Task Force is an honor and privilege.

Mayor Coody opened the floor for public comment.

Carol Tarvin, licensed social worker at Decision Point drug and treatment center, said she has been involved in the treatment end of the methamphetamine epidemic for three years. She is pleased to see the increase in funding and concern in the community and urged the Council to support this grant and to investigate additional resources.

Captain Tracy Risley, in response to a request from the Mayor, further discussed the problems that are occurring in the area. He talked about legislation passed in Oklahoma in 2003 that banned the purchase of ephedrine products over the counter, making it possible to purchase these products only at a pharmacy under strict conditions. With implementation of this legislation, meth labs worked by the police in Tulsa decreased by 50% in one year. This, however, has effectively pushed the problems into Arkansas, with people coming across the state line to purchase the products.

Alderman Marr moved to approve the resolution. Alderman Reynolds seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 05-05 as Recorded in the Office of the City Clerk.

<u>**Waive Requirements of §34.27 for The Project for Victims of Family Violence, Inc.:**</u> An ordinance to waive the requirement of §34.27 of the Fayetteville Code, authorize the sale of 1.5 acres for an appraised value of $30,000.00 to the non-profit corporation, The Project for Victims of Family Violence, Inc. and to declare an emergency.

Mr. Williams read the ordinance.

Mayor Coody, responding to a question from Alderman Ferrell, said the appraisal of the property was performed approximately seven months ago.

Alderman Ferrell, quoting the ordinance about remaining acreage being sold to developers, asked if the City is thinking about that down the road.

Mayor Coody: Yes.

Mayor Coody opened the floor for public comment.

Judy Selle, Director of Peace at Home Family Shelter, said they have been partnering with the City since the late 1970's. They have totally outgrown the facility they are currently housed in, which is owned by the City. The number of women and children being helped by the group has increased by 35% just in the last year. The Donald W. Reynolds Foundation has expressed their support of the program. She appreciates the Mayor's tenacity and support for this project and his assistance with these negotiations.

Alderman Lucas moved to suspend the rules and go to the second reading. Alderman Thiel seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Alderman Thiel moved to suspend the rules and go to the third and final reading. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

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

Ordinance 4670 as Recorded in the Office of the City Clerk.

Alderman Marr moved to approve an emergency clause. Alderman Jordan seconded the motion. Upon roll call the motion to approve an emergency clause passed unanimously.

<u>The Project for Victims of Family Violence, Inc. Lease of 1.5 Acres:</u> A resolution to approve a forty-year lease of 1.5 acres of city property to The Project for Victims of Family Violence, Inc.

Mayor Coody noted that this property would be used as a buffer around the facility. The Donald W. Reynolds Foundation wants the Project to actually own the land it sits on.

Mayor Coody opened the floor for public comment. There was none.

Alderman Marr moved to approve the resolution. Alderman Lucas seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 06-05 as Recorded in the Office of the City Clerk.

The Project for Victims of Family Violence, Inc. Lease of .69 Acres: A resolution to approve a lease of about .69 acres of city property to The Project for Victims of Family Violence, Inc. for a sewer area and a 70-foot wide access easement.

Mayor Coody explained that the Project would need a septic tank because the area does not have sewer. The City hopes there will be sewer in the area in the near future and the facility will hook up to the sewer system at that time. The acreage would then revert back to City ownership.

Kit Williams: As well as the access, which is about another .36 acres, it would also revert back to the City once the interior street connection is available. That's part of the lease agreement that has been signed by the Project for Victims of Family Violence.

Mayor Coody opened the floor for public comment. There was none.

Alderman Jordan moved to approve the resolution. Alderman Lucas seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 07-05 as Recorded in the Office of the City Clerk.

PUBLIC HEARINGS:

Mayor Coody opened the Public Hearing.

Raze and Removal (408 E. Center Street): A resolution ordering the razing and removal of the dilapidated and unsafe structures owned by Jewell Carr located at 408 East Center Street in the City of Fayetteville, Arkansas.

Mayor Coody: I want to ask the staff to step forward and make a presentation, please.

Yolanda Fields, Code Compliance Director: Mayor and Council, my name is Yolanda Fields. I'm the Code Compliance Director. I have distributed to you photos which are the same pictures that we are actually viewing on our Power Point. The Mayor has already stated the location of the property is 408 E. Center. We have been working on this project for quite awhile. We had some issues with some funding but we have the money now. As you can see, based on the pictures, we have some problems here definitely. We have open spaces; we have broken windows; the roof is about to collapse in certain areas. We have had a lot of calls from neighbors that are very concerned because they have seen individuals in the structure. It is not a safe situation. It is a breeding ground for criminal activity. We've also had lots of calls from the police department wanting to know what we are doing about this. So, staff recommends raze and removal of this particular property.

Mayor Coody: Thank you. Any questions for staff on this item?

Alderman Thiel: Obviously no one lives on this property and hasn't for quite some time. I mean officially living there.

Yolanda Fields: No. But we have had reports that there is some movement in the building. Actually there are two buildings on the site so there is lots of space.

Alderman Ferrell: What's the reply of the owners on this?

Yolanda Fields: At this particular time, after visiting with them today, they feel that they will – if this is approved, then they will move on it and take care of it themselves. If they don't, we will give them the appropriate time, 30 days notice, and then we will send out our notice to say that we're moving on the property within 30 days and if it hasn't been taken care of then we will bring this location down.

Mayor Coody: And file a lien on the property.

Yolanda Fields: Yes.

Alderman Marr: They believe that this structure is unsafe and should be dealt with and they're just not doing it at this point?

Yolanda Fields: They are planning their process.

Alderman Marr: How long has this raze and removal been in process?

Yolanda Fields: We've been working with individuals since December of 03.

Alderman Marr: 03?

Yolanda Fields: Yes. We've tried to provide every opportunity.

Alderman Marr: Thank you for pursuing that.

Alderman Thiel: I just want to say something about this process. The lien that is applied to this property, we're doing that on all these raze and removals that are coming before the Council. Are we seeing any of that back yet or is that still being tied up until the property is sold?

Yolanda Fields: It definitely is tied up until there is some transaction tied to the property.

Alderman Thiel: And that was probably part of the funding problem of not getting this moved on faster because there are limits to how much funds we can spend on doing these. We all want to see this happen, but by not getting the money back once the property is sold because a lot of these properties that we've done this to haven't been sold.

Yolanda Fields. Definitely. Our budget consists of $25,000 a year.

Mayor Coody: Did we talk about putting a lien on the tax roles to where they would be filed with the property taxes at one time?

Kit Williams: We can look at that and see if that's allowed under the statutes. If it is, we can do that and then a tax lien would happen and eventually the property would then be sold if the taxes were not paid. But still it's a long process to get money back.

Alderman Thiel: But that does concern me. I mean, that's just an obligation. Each year we're adding, a cost to the City that's not being reimbursed in this process and that is a concern.

Alderman Marr: May I ask a question, because in my first term. This is the third piece of property we have done. One property was the space down off of School Street near Dickson. They actually did that. We didn't have a cost to that so there's no lien or expense to the City?

Yolanda Fields: No.

Alderman Marr: The other one was right over here off of Center Street. The gentleman wanted to save the wood to the home and he ended up removing that one himself. So at this point, the only outstanding one would have been which one? This one?

Yolanda Fields: This one. We have had to date; I think we have almost twenty that individuals have taken care of on their own, through our process that we have implemented.

Alderman Marr: Right. With us moving forward and actually doing things, I don't believe that we're having these huge expenses, because when people see that we are taking our codes serious, then they are then following the code. So I am glad we're doing it.

Mayor Coody: Any other questions? Go ahead.

Alderman Reynolds: Does this Jewell Carr or Sandra Root Taylor live in Fayetteville? Are they residents?

Yolanda Fields: Carr is deceased and Taylor has actually been contacting the individuals that are dealing with the property and they have stated that they do plan to take care of this on their own.

Mayor Coody: All right. I want to open this up to the public hearing portion of this. Is there anyone from the public who would like to be heard on this item? I am going to close the public hearing now.

Alderman Jordan moved to approve the resolution. Alderman Marr seconded the motion. Upon roll call the resolution passed 7-1. Alderman Marr, Rhoads, Lucas, Jordan, Reynolds, Thiel and Cook voting yes. Alderman Ferrell voting no.

Mayor Coody Closed the Public Hearing.

Resolution 08-05 as Recorded in the Office of the City Clerk.

Public Hearing

Mayor Coody opened the Public Hearing

Downtown Master Plan Redevelopment District Number Two Creation: A Public Hearing to allow all members of the public and representatives of taxing entities to present their views on forming the Downtown Master Plan Redevelopment District .

Mayor Coody Opened the Public Hearing

Mayor Coody: This Public Hearing concerns the boundaries of the district. Is there anyone that would like to address us on the public hearing part of the boundaries of this district?

Tim Conklin: Mayor. Council. My name's Tim Conklin, Director of Planning Management. If you would like, I have a brief PowerPoint presentation that outlines the boundaries in the project plan. That may be a good starting point for the public to understand where the boundaries are located, if they have not received a copy of those boundaries, and also the projects within that.

Mayor Coody: Please.

Tim Conklin: Okay. Thanks. Approximately a year ago, the City of Fayetteville conducted a charrette to develop a Downtown Master Plan for approximately 350 acres within our downtown area. It was very well received. This plan was adopted in the fall of last year. Tonight we have the public hearing for the formation of the boundary and then an ordinance that would create the boundary and then a second item would be adoption of a project plan. Last week, as you recall, you approved the Highway 71 East Square Redevelopment boundary, readopted that and approved the project plan. Public improvements where also included within that Redevelopment District. The boundary this evening that we are discussing is west of the Highway 71 East Square Redevelopment District. It's the area that is shaded in pink. The red boundary that you see in this image is the Downtown Master Plan boundary. This would almost complete the entire area as a Redevelopment District if the City Council adopts this boundary and approves a project plan, except for a small portion in the southwest corner, which is part of a potential South Fayetteville TIF district. The northern boundary, which is somewhat hard to read in this map, is Maple Street, the western boundary, Arkansas Avenue and University Avenue. It goes south of 6th Street, follows Highland Avenue, goes down to Block Street over to Spring and then down Church Street and back over to the west. That is the general boundary descriptions.

There are four proposed projects in this Downtown Master Plan Redevelopment District. The first one is looking at the location and construction of parking decks to service this area, improvements to the streetscape, street trees, sidewalks, street lighting, continuation of trail corridors and then infrastructure that would support a cultural and arts district. With regard to parking decks, I would like to make sure that the public is aware that the proposals within this Redevelopment District project plan are from the Downtown Master Plan. There has not been a specific site for parking decks selected. The image that's in the Redevelopment project plan is what was adopted in the Downtown Master Plan. The recommendations as part of the

Downtown Master Plan was to look at how to manage parking within our downtown and what opportunities would we have vertical parking decks versus demolishing additional buildings and creating more surface parking lots within our downtown. Since there is not a site that has been selected and the City currently is partnering with the University of Arkansas to look at the feasibility of some type of joint parking facility, a location is not proposed within this Redevelopment District Project Plan. With that said, any location or program that's developed would be an amendment to the project plan and notification would be re-sent and the City Council would have to approve an amendment to the project plan. But once again, looking at how we manage parking within our downtown, I've thrown some graphics up here, some photos of parking decks, ideas how to build them where they do not detract from neighborhoods and how they add to the overall street.

Sidewalks, street trees and street lighting, we continued, within the Highway 71 East Square Redevelopment District we had Block Street identified in this area. We continued Block Street to the North to Dickson Street. We included Lafayette Street, West Avenue and Mountain Street. Those are the streets that we looked at as potential projects as a first phase within this Redevelopment District. With regard to street standards, we would have to develop street standards for each street, they may not all look the same. Most likely they would not look the same. I don't think we're going to replicate Dickson Street on every street in the downtown, but looking at how they function and what type of improvements would need to be planned within those streets, that's something that would also come back to the City Council. But for the project plan, we did identify these streets.

With regard to the trail corridor, that was discussed as part of our Downtown Master Plan. We included that project for the continuation of the Center Prairie Trail, north of Center Street behind Nadine Baum and up to Maple Street for potential funding and construction of that trail corridor. So that also is included within this project plan.

With regard to a cultural and arts district, there is language within the project plan that describes the role of doing the public improvements to support the cultural and arts district. There has been general discussion with regard to the Walton Arts Center expanding and potentially adding a 2,500 seat performance hall. The infrastructure that is needed to support an arts district, making the downtown walkable, people park once, get out of their car and having adequate sidewalks, streetscape, street lighting. The typical type of improvements that you would see in a very walkable downtown arts district has been included in the project plan. Public infrastructure that supports cultural and arts is included. We do have estimated costs within this; basically we looked at some costs per decked parking, costs per linear foot of streetscape improvements and trails. We have shown $7.8 million for the parking deck, streetscape improvements about $6.6 million and trails, $600,000. These are preliminary numbers. Once again we have not designed a parking deck for the streetscape improvements. We looked at what the City spent to construct the streetscape improvements on Dickson Street and used that as an estimate of project costs of around $15,235,000.

Mayor Coody: I want to interject right here. One thing that I think needs to be made clear is that that $7.8 million for the parking assumes that there wouldn't be any private or public partnership there, as could be the case. This is a worst-case scenario. Also, the same for the streetscape improvements, the 1.4 miles for $6.6 million would be as if we replicated all the work that we did on Dickson Street, which is not the plan. We wouldn't do anything that expensive. You plugged in those numbers directly out of the Dickson Street costs, is that right?

Tim Conklin: Yes. And I would like to stress, it is very important that the Council and public understand that this project plan is taking the public improvements that were identified as part of our Downtown Master Plan process. The purpose of tonight is to talk about creating or forming the rest of the Redevelopment District boundary that would cover the Downtown Master Plan and then begin the discussions for the type of infrastructure projects as recommended. Those will have to be further designed and then brought back forward as plan amendments to this Council. Staff is recommending that we establish the boundary and establish a starting point for the type of public projects we are looking for in our downtown area. So, my guess is that we will see amendments, not only to this project plan, to other project plans as we further define the projects and understand the scope of the projects and the cost of these projects. But this is a starting point for this evening. Within the project plan there is a statement that it does not plan to relocate or displace any persons within the Redevelopment District.

This project plan has not identified at this time. Any changes to the project plan would have to go through the amendment procedure that is required under State law. So I just want to make sure everybody understands that. Why a Redevelopment District? Last January we began the process for our Downtown Master Plan, there was a lot of discussion about how do we fund the vision for our downtown and the recommended improvements that are needed to actually make the vision a reality. The Redevelopment District, TIF legislation was modified last year. It allowed cities to begin looking at creating these Redevelopment Districts. Redevelopment Districts are mentioned throughout the Downtown Master Plan that has been adopted. Staff is bringing this portion of our Downtown Master Plan forward to the Council for adoption. This will complete the Downtown Master Plan area as a TIF district, except for a small portion in the southwest corner. It will complement what was approved last week with the Highway 71 East Square Redevelopment District. That's basically my presentation. I'll be more than happy to answer questions throughout this public hearing or after the public hearing.

Mayor Coody: Does anyone have any questions for Tim on the project boundary or the plan right now?

Alderman Thiel: The infrastructure to support a cultural arts district, what exactly does that mean? Can this TIF actually fund construction of the addition to the Walton Arts Center?

Tim Conklin: If that was something that was proposed. That would have to come back as a project plan amendment. We, at this time, do not have enough information to put in a project plan, estimated costs of such a project.

Alderman Thiel: But that could be done?

Tim Conklin: The language was put in there to allow the City Council to look at public projects that would help create and support a cultural arts district.

Alderman Thiel: Is the school supportive of this project plan?

Tim Conklin: There is a representative from the School District here this evening. Rather than for me to state what the School District is in support or neutral on this, I will let the School District answer that.

Mayor Coody: Any other questions for staff right now? All right, we're going to be opening up the discussion for the public on the boundary of this district. Is there anyone that would like to discuss the boundary itself? We do need to have everybody sign in.

Linda Ralston: We'll have an opportunity to talk about other things, if this gets passed or as this furthers on, then we'll have the chance to talk about other things, correct?

Mayor Coody: Yes, this is just the boundary right now. We'll talk about the plan after this part.

Linda Ralston: My only reaction in seeing the map was the same reaction I had when I saw the first TIF district. Which, I think there's some differences between the two. As I look over at the map I go wow that's 226 acres approximately? To me it strikes me that's a big area. That's my main comment. I'm still puzzled on why the districts have to be so large. I know we're trying to complement the Downtown Master Plan. We're trying to catch up with Rogers and all that stuff. I love my town and I want it to be the best it can be. I'm not sure that we need to take big chunks and divert tax money and that we have to have districts this big.

Mayor Coody. Great. Anyone else like to address us on the boundary itself?

Kit Williams: Of course, this is the boundary and the creation. This would be the ordinance that would be creating the district and designating its boundaries.

Linda Ralston: If I could go ahead then, Kit, bouncing off of that and then you won't hear me as much later. My main concern on the creation of the district really comes back to the spirit, as some people have called it or the intent of the legislation in the first place. The Legislature will be convening very quickly and it seems to be common knowledge that this will be certainly on the agenda, as far as modification, clarification of the TIF legislation. My main comment then, in that regard is I wish we could just kind of slow this process down a little bit, get more people involved, get more comments, fine tune things and listen to what the Legislature has to say. Let's not follow the rush of Rogers and let's see what the Legislature does as far as clarifying the intent or the spirit of the legislation. I believe that all of you, as members of the Council, representing all of us, want to follow the intent of the law. I'm sure that you all can nod yes on that. Thank you.

Mayor Coody: Just as a point of clarification, this TIF district here wouldn't have anything to do with what Rogers is doing. I might also add that is what we will do. We will take questions, make a list of all the questions and then answer all the questions at once. I think that's what the City Attorney has said would be the best way to handle this public hearing.

Cyrus Young: So not only are we misleading, thank you Kit, what you all are doing is considering forming a TIF. The boundaries just happen to go along with the TIF. I have a couple of technical questions. The City Council as I understand will issue the bonds, since they will be the TIF district. I don't know whether this is true or not. I can't go on. That's the problem with this procedure. The school tax, the base is established. My understanding is that the school continues to get its portion of the base. The question is, the increment above that – does the school get their tax off of that or does that increment from the school tax go to the TIF? I think this City Council needs to consider seriously what happens when the entire City of Fayetteville is a TIF district. That affects the county funding, school funding, and when the City passes a millage for property taxes, it would freeze the City's millage, along with everyone else's millage. It would freeze all this governmental agency's funding. So you need to consider that's what you're going to be doing. You're going to be freezing the tax structure of everyone in this county.

The next issue is blighted areas. That's supposedly what this legislation is put together for. The question is how many revitalization and redevelopments are we going to do in Fayetteville? That's part of what this is all about. That's the question whether or not this area is even blighted, at least certain areas of it. By establishing this TIF district for the purpose of eliminating, and initiating revitalization you will be saying that the other revitalizations such as the Walton Arts Center has been a failure. Mayor Coody stated in the previous TIF that you established that this legislation was established to do what private entities were not able to do. So, I think it's incumbent upon the City Council to cite specifically business owners or business organizations that have tried to build parking decks and have gone to lending institutions and were rejected. Especially since the City has allowed business owners down there on Dickson Street to not have to provide their own parking when they built their businesses or expanded their businesses. I think its incumbent upon this Council to cite specifically, not generalities and "well we guess and everyone knows this," but cite specific examples of business people who have failed to do these projects so that now the City has to form a TIF district in order to do these projects. Thank you.

Mayor Coody: Who else would like to address us tonight?

John Lewis: I'm John Lewis. Mayor. Ladies and gentlemen. I first of all want to congratulate you on commissioning a plan for our downtown area and pursuing that plan. I think it was a great plan. I want to talk for just a minute about history because I think it's important. I won't get bogged down there and I won't dwell on it but I want people to understand that some of us have been working on the redevelopment of downtown for thirty years. One of the reasons, in fact the catalyst that got us started working on downtown happened in 1972 when I was on the school board. The tradition had always been from when I was in high school and before that that the homecoming parade would be around the square. In 1972 at homecoming, that did not occur. I called Harry Vandergrift and asked why and he said, "I don't know, but I'll find out." He called me back in ten minutes and he said the high school kids are ashamed of downtown Fayetteville. So a lot of us got started on redeveloping a blighted area and there are parts of it that still are. To my knowledge we've had three charities and out of those charrettes came a lot of information and there came a lot of progress. The Town Center came out of it. One of the early charrettes analyzed the 500 acres that they said comprised downtown Fayetteville. They said there had been a loss of 3,500 dwelling units in downtown Fayetteville and if you lose that purchasing power in an area, you're going to create unemployment and a blighted area. We have made strides to help the downtown. I think today it's much more important than ever that a community have uniqueness. I think it's important for Fayetteville, in our future, because the University of Arkansas is ours, it's everybody's but it's ours, it's ours to take care of, that we take the steps to create a cultural district, enhance the cultural district, to enhance the creativity of our community. I think that's what we're doing. I think a TIF, with the objectives that were outlined furthers the goals of our community far, far into the future. Create employment, augment the University of Arkansas, create a unique city, create a livable city, and create a quality city. In every charrette that came, the professors and the developers that came with every single charrette said our first recommendation is for you to do a TIF district and do the infrastructure improvements and if you do those, development will follow. Our response was, it's against the law. You can't do a TIF. TIF is not a new idea. We've been financing infrastructure and community improvements with TIF's for decades. It's just a way for us to improve our community, a part of our community that really desperately needs it to be competitive to compete with the world.

Looking at the trail that's planned, if we could link that trail with the Research and Technology Park and Dickson Street, our downtown area, our library and our Walton Arts Center, suddenly we really have the nucleus of a high quality community. I want to commend you on what you have done and ask you to continue with this study and creation of this TIF because I think it's vitally important to the development of our community. Thank you.

Mayor Coody: Thank you, sir. Anyone else want to address us tonight?

Mike Johnson: Mr. Mayor. Members of the Council. I'm Mike Johnson. It's a pleasure to follow John because I'm a new resident of the community. I moved to Fayetteville specifically because it's Fayetteville. I didn't move to Springdale, I didn't move to Rogers, Bentonville or the rest of them. I don't want to be like them. I want to be like Fayetteville. I commend you and the staff for what you did in late December. I commend you for what I hope we're about to do tonight. I commend you for what you're going to do Thursday night, hopefully and I commend you for what's coming, hopefully later this month. Because I see what's happening with downtown Fayetteville, the square, the cultural district, the renewed partnership with the University, what I hope you do with the north gateway (my term the I-540 area) and what I hope you're going to be doing with the south gateway, which we talked a little bit about tonight, frames Fayetteville continuing to be Fayetteville far into the future. Some of the things John talked about can go on into the future and people can talk about those 50 to100 years down the road, about what you did during this period of time to establish the base to do that. The TIF, this particular TIF ability is brand new; nobody really knows where it's going. But if we don't put a stake in the ground, if we don't establish the basis to benefit from it, we won't be able to benefit from it if things happen to change. You're got to get there; you've got to put your oar in the water if you're going to row. If you can just sit there and drift, we can sit there and drift. The one thing that I have a concern about is us having a very strong partnership with our School District. We have a great set of schools. I think all of us want to kind of hold them harmless, want to protect them. But I think we can do that in a strong partnership with them and have these, at least these four TIF's north gateway, south gateway, and the two in the center tie the whole community together. I commend you for what you're doing. I think time is of the essence. We have twenty-five years to develop this as a max down the road. But if we don't do something now, we won't start on that journey and have that ability to bring things back to the Council. It's a pleasure to be a resident. It's a pleasure to be a homeowner in Ward 2 and I really appreciate the opportunity and I commend you for what you're doing.

Mayor Coody: Thank you, Mr. Johnson.

Steven Mansfield: Mr. Mayor. Members of the Council. My name is Steven Mansfield. I'm with Mansfield Property Management here in Fayetteville. I'll keep my comments just to the district boundary and will come back and offer some comments in regard to the plan later on. Basically, I wanted to address the size. I've heard a couple of comments with regard to size. A TIF district such as this cannot simply be or simply cover those areas that you might consider to be blighted or in need of redevelopment. The whole concept of the TIF district is that the increment from projects within the district will be used to redevelop those either blighted areas or areas that need to be improved. So with regard to comments that others may have, I think it's important that we make sure the boundaries are large enough, big enough to be able to support the ideas and concepts within the plan. I believe that this particular boundary does just that. There's twenty-five years within this TIF district plan to spend the money in this area and there certainly will be change. Our vision for Fayetteville goes out quite a ways and it's necessary to encompass that today as we set forward on building this TIF district and the plan to develop and complete and the Downtown Master Plan. As far as the layout goes, I think it makes a lot of sense with regard to providing a vehicle to complete the plan that was started by Dover Kohl and matching the area to the rest of the Downtown Master Plan is a significant step in making sure that vision actually occurs in the future. I want to commend you for getting to this level and hope very much that this plan is adopted. Thank you.

Mayor Coody: Thank you, sir. Anyone else like to address us on this issue tonight?

Joe Robson: My names Joe Robson.

Mayor Coody: It's been a long time, Joe. How've you been?

Joe Robson: I've been okay. I have questions and I guess that's what we're here for. Whether or not it's specifically related to just boundaries or whether it's the whole concept of a TIF, I've heard different things said here but I'll address the boundaries because it affects me.

Kit Williams: Well, it's the boundary and the creation of the TIF but not the project plan. There'll be another public hearing in a minute on that.

Joe Robson: Okay, regarding the boundary, because it's the easiest for me to deal with it anyway. I live on University Avenue and while the boundary line goes down the middle of the street, I am assuming it would affect one side of the street and maybe not the other? University Avenue is an old neighborhood almost anything you did on it would do a lot of damage. There are hundred year old trees on both sides of the street. If you put sidewalks there or whatever you did there, short of lighting, lighting would be an improvement. As a matter of fact, we have one light in front of Bruce Walker's house, the next one is down there by Wes' Barbeque, and the one at Putman's been out for a long time. This street's short of lighting anyway, but those kinds of things can be fixed without a TIF. Mr. Johnson moved to Fayetteville just like a lot of people moved to Fayetteville, because it's a nice place. I wouldn't want to say because it's not Springdale necessarily, but people come to Fayetteville because it is Fayetteville. They've come here whether or not there is a TIF. There's going to be blighted neighborhoods with or without a TIF. In this case, as I understand it, University Avenue as an example is not even going to receive any of those improvements anyway. I don't need to worry about sidewalks because they're not even going to get around to that. I don't know how true that is and for how long that's going to be true but it's a two-edged sword for me. Even if you did start improving it in that way, boy some folks are going to be mad cause they're going to lose big old maple trees and some of the things that make those neighborhoods desirable to live in. Now on to the philosophical questions if you will, on TIF's and what these things mean. Is an increment, by definition, is that the added amount of value to the assessed property or is the increment the amount of taxes that would be collected by the TIF? Can anybody answer that for me now or is this not the time to get answers?

Mayor Coody: We'll answer it in just a few minutes. We want to get all the questions and then we'll answer them all.

Joe Robson: Okay. I'm looking at Table 1 on I think this is the December 3rd document of 2004 so it's fairly recent and has a table in here that shows the frozen assessments. The frozen assessments for this year, 2005, are $15 million. There's $15 million in assessed property within that district, is that right? Because I have to proceed not knowing whether I actually have foundations for my concerns or not. If I do, they're profound concerns. It's stunning to me when I look at the total increment, if an increment is the increase, then the total increment over 25 years is $1.1 trillion. Is this a typo?

Mayor Coody: I would think that'd be a typo, yes.

Kit Williams: Why don't you let Tim answer this?

Tim Conklin: It's billion, not trillion, in paragraph two, it should be billion.

Joe Robson: So this is a typo?

Tim Conklin: Yeah. The trillion is a type.

Joe Robson: Okay. I was going to say, is this Fayetteville or Washington DC? I'm glad to hear that. It sounds like so much money. In either case, even when it's billions, another concern of mine is who regulates this? Do you guys do that? So it's not like the TIF is another quasi-governmental entity, which has its own powers, you guys are in control of that? The increments, then are the additions in the taxes that will be collected? Is that what the term increment means?

Tim Conklin: Yes. The way the redevelopment functions is that once you establish, create the district boundary, approve the project plan, your property tax base value is frozen. So you're paying a certain amount of property tax for 04 and this year as that property tax increases, that increase in property tax goes into the Redevelopment District. It is shared with the Redevelopment District and the School District.

Joe Robson: Okay. Is the increment then the tax increase? Or the property value increase?

Tim Conklin: It's the property value increase. The millage rate does not change unless the school board or City Council or county changes the millage rate. As you redevelop or improve property the value will go up. The property tax that's generated by the increased value goes back into the Redevelopment District. It's basically redirecting the property tax into the district to fund projects.

Joe Robson: I understand that. I'm just trying to get some of the nomenclature here. The term increment then is the additional value of the property itself – projected?

Tim Conklin: That is correct.

Joe Robson: Table 1 and the projections that are made on it shows that in the twenty-five years, from 2005 the incremental appraisal, appraised property value increase in that year alone that reaches the $15 million. By the year 2012, which is seven years from now the added value, there would have been a doubling in the value of the property unless I'm misconstruing some of this information. You go from an incremental increase in property value in the first year of $1.3 million to $1.37 million for that year alone. I have some of the concerns that some other people have expressed regarding that money then does not become available, that increase and the increases in the taxes on that increased value does not go to the City or the County and especially to the schools, it goes to the TIF. By the end of 2029, when this whole thing is projected to have played out, the increase will have been $131 million; there will be an increase in value of $131 million. If you look at the increment, and I don't know if it's for that one year it's a $131million? I'm assuming it goes to an evaluation of approximately $131 million worth of property. This table that we're using here, we have Table 1 and Table 2 from which we try to gather where we might be in the future, Table 1 does not consider any new construction in a twenty-five year period. I have a question about that. Do the schools lose? I think Mr. Johnson and other people come to Fayetteville anyway and they build and they do whatever they do and then the schools get the lion's share of that, and the City and the County share some of the rest of it. Table 1 and 2, unless the added values you're talking about, because added value doesn't mean anything to me if I don't know whether or not that includes the things that people would build anyway. I build anyway and I don't need your money to do it. Mayor Hanna started fixing south Fayetteville and he didn't need to do this to do it either. So improvements in Fayetteville and the Mr. Johnson's of the world and myself we would still come. So I don't think it's that critical that it has to be done tonight because good heavens there are a lot of questions about this. I'm concerned about the schools. I don't know what they're going to do without the increases, because last year they got an increase from that area and the year before that. But from now on, it's just going to be frozen and they're just going to be cut out of the whole deal? All this value is increasing? It's going to go from $15 million worth of stuff to $131 million worth of stuff? $145 million worth of stuff and the schools are cut out of it?

Mayor Coody: We have the chief financial officer for the School District here to address some of these questions. So you will have answers before we leave here this evening.

Joe Robson: Okay. It seems like a lot of data based on projections that are hard to understand. I don't know whether when you add the value that's added by the district itself, it goes to $166 million worth of property in that area. It seems like a lot of property and it seems like a lot of tax money that the City and the County and the schools are going to be cut out of. I don't know how well thought out all this is and if the schools do get cut out and we have increases and more people living there and more people in schools, and then what? Then you've got a millage increase that's going to affect everybody because if this money isn't going to the schools, where are the schools going to get their money? They're going to have to come back to the taxpayers everywhere else in this town and ask for more money. I'm in this district and I don't see any promise. I haven't talked to Tim at length about this, or at all, I've talked to somebody else on his staff. It didn't seem like anything was going to happen at University Avenue. I'm in it and I'm not really going to see a benefit from it, parking, yes, parking is a problem. We don't have parking, we park on the street on University Avenue, that's our problem, we bought property like that I guess. But here we are, we're dedicating that part of our money which would be going to something else.

Sidewalks won't help so that's not going to help me. It'd do more damage than good. I don't expect you to build me a driveway. The other side of University Avenue you have literally walls holding back dirt and sometimes they don't do it and they fall right into the street. You have one of those issues right on University Avenue too. That whole part of the street massive rebuilding of that. Well, I guess I don't know enough about it and it's coming at me pretty fast and I've read through these documents and am still struggling to understand. I don't see how I benefit as much as we all may lose. I may not benefit anything from the TIF because they're not going to get to my street for a long, long time. I'm just included in it so that there's enough tax base but while I'm included in it for the tax base for the parking decks and those things, which I think are great. The people need to have that. I don't know why that isn't a strictly private enterprise issue but, there's people that know more about it than I do. I'm just struggling with all this data. I just wish you'd slow down on it. I'd like to see people from the schools explain how they think they can give up this much money and not come back at all of us throughout this whole city for more money later. These are big, big numbers here. Thank you. I won't take up any more of your time.

Mayor Coody: We want to answer your questions, Joe. Thank you for your questions.

Joe Robson: Okay. Thank you very much.

Mayor Coody: Anyone else? Hello, Donna.

Donna Pettus: Hi. Mr. Mayor. People of the Council, I'm Donna Pettus. I come half excited, half concerned. This TIF district has grown so large. I own three parcels in three different places in this district, so I am concerned about what your plans are when you do, or if you do create this TIF district. My concern is in the past the Council has been and the City has been reluctant to use its condemnatory powers, its powers of eminent domain. What happens now, when you have all this money and all this opportunity to develop, are you going to be more excited about using these powers? While I realize that getting rid of a couple of extra lawyers on Dickson Street might be exciting for you, I am a little bit concerned about it. I want to understand from the Council, are you going to be reluctant to use those powers? Are you going to be a little easier, a little more excited, a little more willing to use those powers? They affect everyone in the district.

Mayor Coody: Thank you. Anyone else want to address this item? How are you, Bernard?

Benard Sulliban: All right. How about you, Mayor? My name is Benard Sulliban, I live in Ward 2. I just have a couple of questions. I'll be technical; it speaks to really to the principle of the creation as well as to the boundary itself. I'm a Fayetteville resident, I'm also a student, a non-traditional student, so it makes me wonder, especially when we mention talking about legislation, looking into interpretation, even seeking out an opinion from the Attorney General about financing. So my first question is about the City of Fayetteville and University of Arkansas' co-opting expenses, particularly when Mr. Conklin was talking about parking decks. The thing that made me wonder about that was we had an estimate in hand of $7.8 million, but we had that estimate without the really hard determined location. I'm both a student so I pay fees and all the other stuff like other students as well as a full time, long-term resident of Fayetteville. I have no problem whatsoever with seeing Fayetteville's burden on building a 650 deck parking deck. Which for the City of Fayetteville's purposes will be used, I believe probably a lot less frequently than the majority of the University students would probably use that particular parking lot, should it be anywhere remotely close to the campus. So to that end I would like to see if the City Council or any other entity has looked into and is interested in looking into the UA co-opting expenses, as you mentioned earlier. It doesn't need to all come from publicly funded monies for this, Fayetteville's means to use taxes and this TIF district structure entirely. It could be used from private and for that matter the Walton Arts Center. Another thing that I find that would be not inappropriate, although I'm sure there'll be several members of the board of that organization and the Council, the foundation and the Council that would be against me with respect to that particular proposition that the Walton Arts Center might be sought out to have input. If nothing more than moral support to co-opt expenses, maybe marketing, promotional, those kind of things if they're not willing or able to do financial kinds of support to a parking deck. Especially since the transit and parking director, Gary Smith has already talked about this off campus parking deck which is the reason I bring this up. He's talked about something even as far away from campus as Washington Regional Medical Center. So I would like the City Council to take it seriously, my suggestion about maybe seeing if there's anything legally that would stand in the way of the City inviting, encouraging the University to help pay for this parking deck. The charrettes, although a great proactive opportunity by the City Council then and the City Council now, as well as all the people that got involved, I would like to remind the sitting City Council, most of whom are the same members who were involved then, that the charrettes involved those who have been involved from then up until now. And let's not forego John and Jane citizen in providing opportunities to those who are uninvolved, uninformed, or both but are still very much affected. So I commend you that we are having this special time and the Council's made its efforts to get people to become aware and invited them to do just that, which we're having tonight. So I'd like to commend the Council for doing that and certainly urge the Council to continue to do that as much as possible. Also, lastly whenever we first talked about this some time ago, over a year ago, the way I understood the traditional sense, perception I should say, of the TIF was that it was supposed to, not necessarily in the Arkansan example, but traditionally it's been a means to address getting some outside support. Some private support by would-be developers in otherwise parts of town, as it were, that was not nearly so inviting to the developers but for the TIF district. The developers promise from the city, organization, town, whatever it was, in developing this district in the first place that they can get some backing, some support in all ways possible by a particular city or town. It goes without saying, it makes perfect sense to me anyway, that this particular part of town, the most traditional, the most historic, the most popular in just about everything positive you can think about when you think of Fayetteville, which I'm glad to live in that particular ward and this particular part of town, but it makes sense that this is where we start. I would also like to point out that I still believe in what the traditional sense of what the TIF was meant to address with respect to the rest of the city. I'll close with that. Thanks.

Mayor Coody: Thanks, Bernard.

Jeff Erf: Good evening. My name's Jeff Erf, 2711 North Cliff Road. I was just wondering if the City has considered more traditional ways to pay for the projects that are proposed in this new TIF district you're considering adopting. And if so, I was just wondering if you could compare and contrast the more traditional way, property tax, sales tax, that sort of thing.

Mayor Coody: All right. We will close this portion of the public hearing. Kit, we want to answer the series of questions that we have in front of us right now?

Kit Williams: I'll try to answer the legal questions as best I can. One of the first questions was the intent or spirit of the law and of course that was actually set forth in the law itself, or when it was adopted and it's fairly long, it does speak a lot about blight. It also does say to benefit the people of this state for the increase of their commerce, welfare and prosperity and for improvement of their living conditions and to provide new employment opportunities. All the rest of the community talks about blight. I do think that one of the purposes of the law, as shown in the definition of what a redevelopment project would be, was to increase employment and to prevent the loss of employment. We didn't have to face that very directly when we were looking at the Mountain Inn TIF because that was obviously a blighted area and so I think it met virtually everything that the intent of the amendment and the statute held. But the spirit of the law, the purpose stated by the Legislature is also any of those items, including increase of employment. Former Alderman Young, asked about, will the City Council issue bonds that's correct. The City Council would have to pass a bond ordinance to in fact issue the bonds and of course that has not been done. It is not anticipated for any time soon. The bond ordinance would have to be drafted by a bond counsel. There might be an attempt to do a bond ordinance on the Mountain Inn Redevelopment District plan in the near future. I don't know about either one of the ones that would be coming up tonight or on Thursday. I think there was also a question about who controls, the elected City Council does remain in control. There is no separate board or other entity that controls the TIF district or its proceeds. It is the City Council. There was a question about school tax, does the increment go to the tax increment financing district but the school gets the same money. We have Dr. Morstad here and maybe she should answer this question. In fact, I would invite her to answer the question in regard to the School District. I don't want to be speaking for them when I really only speak for the City. So, Dr. Morstad did you want to comment about what the school board and the situation in relation to that?

Dr. Lisa Morstad: I appreciate the consideration and the concern of the citizens and the Council in regards to TIF's and how the School District will fare in relationship to TIF's. A couple of years ago I probably would have come here and told you that the School District would have seen a disadvantage if you passed a TIF. But the position of the School District, after the last special session changed with Act 43, which basically holds School Districts harmless in terms of their State equalization funding. Act 43 is important too in the School District's position of being neutral in terms of how School Districts will fare with the TIF. In terms of property tax, the School District may see a little bit of an advantage under a TIF than they would without the TIF. So, as long as all the current legislation stays in place, nothing is repealed or changed, the School District's position is neutral in terms of a TIF district.

Kit Williams: Thanks. Amendment 78 and the original ordinance, statute itself protected the bonding millage from the School District initially so that was always prevented from being affected by the TIF district. The new Act that was effective June of last year, as Dr. Morstad stated, does seem to protect the School District from a loss of revenue. They don't send as much revenue to the State but they're suppose to get the same amount of revenue as if they had sent the amount without the tax increment financing district to the State. So I think that's how they're basically held harmless by the State treasury unless something happens to that law.

Mayor Coody: Lisa, I think that Alderman Marr wanted to ask you a question as well. I might get you to sign in, too, while you're up here.

Alderman Marr: Hi, Lisa. Two questions. When you say that you're protected by, you gave Act 43, if that funding does not come from the State level, where does the money from the State come from is it still citizen taxes?

Dr. Lisa Morstad: It is. It's the property taxes from the first twenty-five mils that are submitted from all School Districts in the state. Its sales tax; its income tax; all those things that go into the State coffers. In a Redevelopment District there could be an increase in sales tax and income tax, which could also increase the pool of revenues for the State.

Alderman Marr: Okay. Is there any concern that if multiple entities around the state, School Districts are protecting themselves from the establishment of TIF districts by cities that it will cause the State to make additional financing decisions that result in higher taxes and the recourse back from citizens as a result of that change, being a negative impact? Actually saying we don't want this and changing something that would affect the school down the road later, while it doesn't impact it today. Is there a tipping point to that?

Dr. Lisa Morstad: I'm not sure I'm clear on what the question is.

Alderman Marr: Today it sounds like there's no concern from the School District, philosophically, about TIF's because you're protected by this Act 43. But I think someone used the analogy with us at the first TIF discussion that there is no free money. I mean, at some point money comes from somewhere, so if you don't get it collected from the property tax, where we normally get it, if what goes to the State changes and they make up the difference to keep you whole, then there's some other pot at the State that isn't getting money, or it's taking that from somewhere else. Maybe I'm misunderstanding this with some of the other citizens, at some point that pot has to be made back whole or the State will either cut services or decide to add additional financing somewhere, by some other means.

Dr. Lisa Morstad: The way I understand it is that the original base of funding everywhere in the City and in the TIF district will still be split between the State and the School District and the other taxing entities the same way that it currently is. So they will receive at least as much as they have today, and then growth everywhere outside of the TIF district. Only the growth or the increment actually, in the TIF district boundaries will be split between the School District and the TIF district and so the School District will still see a portion of the property tax increment that's generated within the actual TIF district.

Alderman Marr: Okay. I think I understood that. But I have one other question. Does the school board agenda items talk about the TIF's that are being proposed by the City? I mean someone made the analogy, and I've had several citizens say to me, why don't we just make the whole city a TIF. Someone said it here tonight. Is there discussions about each of the TIF's or philosophically it doesn't matter whether there's one, four, the entire city at this point, as it relates to the School District's financing?

Dr. Lisa Morstad: We haven't discussed that. We have had an informational item about TIF's and explained just the general idea of TIF's and then we've also explained to them how it will affect our financing. We did share that information with them during the time when we were discussing the Mountain Inn project and that they understood the School District would be basically held harmless in terms of financing for the Mountain Inn project. There's a potential, as a ripple effect, when the Mountain Inn project for example has increased values, the values around that on the outside of the boundaries of the TIF district could increase property tax values for the School District and the City, and the State and the library and everyone else, a ripple effect outside the boundaries of the actual TIF district. So that's one way that revenues will increase. Also, increases in sales tax or income tax, those kinds of things will also go back into the State coffers and can provide revenues for increments in the State funding as well.

Alderman Marr: Okay. So there's no percentage of TIF coverage in a city that concerns the school board from a financing perspective? If 100% of the city was covered under a TIF, would it be a concern?

Dr. Lisa Morstad: I haven't analyzed that specifically.

Alderman Marr: I mean I'm using that as an extreme example.

Mayor Coody: I think it would be a concern for the City because that would have ramifications to our operation and maintenance.

Alderman Marr: I guess what I'm looking for, is there some percentage or threshold that it warrants that study? This is just the second one but we have another one two days from now.

Dr. Lisa Morstad: My position with this particular TIF district and the TIF districts that you're proposing is that the School District is neutral with what you have proposed, at tonight's meeting and on Thursday's meeting.

Alderman Marr: Okay.

Mayor Coody: Yes, sir.

Steve Mansfield: I'm not an economist, I think I failed the personality test, but I want to give you some examples that I know of. In 1984 when we created the tax for the Continuing Education Center and issued the bonds, we had to have some coverage over the debt service.

With the excess revenue in the first year we created the A & P Commission and empowered the A & P to have that excess revenue. The first year it was $17,000, it has grown until last year I believe it was $1.4, because of the increase in the tax revenues. The economic theory of all of this is that if the government spends money on infrastructure, there's a ripple effect to it. It creates economic activity that the government benefits from because it increases the sales tax and the property tax and all the other taxes. The great example, that I think that everybody can see of course, is the Mountain Inn. It's sitting there, derelict building, no tax is being collected, not anyone making something out of it. Back when we started first working on Dickson Street, there weren't many sales taxes collected on Dickson Street. Now it's a major sales tax revenue producer. So I think we're taking money from the TIF, the tax, but we're spending it for public purposes. We're spending it for infrastructure and that's the key to it. That's the creation of the economic activity that I see.

Mayor Coody: Thank you, sir.

Cyrus Young: I still don't have a clear answer to my question.

Mayor Coody: Okay, I'm sorry, Cyrus. Repeat your question again, please? Did you write that down, Kit?

Kit Williams: I thought I did. Which one did I not answer, Cyrus?

Cyrus Young: It's the sales tax. I'm not concerned about what's coming from the State. The State could repeal that act and I read in the newspapers they're probably moving to do that. My question is the increment above the base on the school tax. Does that go to the schools or does that go to the TIF?

Kit Williams: The way I understand it and it depends on whether Senator Argue is right. Senator Argue thinks that the twenty-five mils are State revenue and therefore exempt from the TIF district and therefore it would continue to go to the schools and down to the State. The way that most of the TIF districts were formed assumed that the twenty-five mils and the increment on them will in fact go to the TIF district rather than the schools. This State law that Dr. Morstad talked about basically just says that the schools won't be punished. They'll still get the same amount of money back from the State as if they sent the full amount down to the State. The increment on the twenty-five mils, my understanding of the law at this point in time, would be that would go to the TIF district, not to the schools.

Mayor Coody: All right. Oh, and Donna had a question about eminent domain, too. Donna, one thing that we talked about earlier with the Mountain Inn TIF is that we have a real aversion to using eminent domain unless it's a last resort. Yes, we have the power for eminent domain and for condemnation. This would just give us another reason to be able to use it, if we needed to. We would use it as a last resort just like we would with anything else.

Kit Williams: There was another question, or another comment I think, that Joe Robson made. He said that his property would not be benefited. One of the findings, when we ever get to the ordinance after the public hearing that the City Council would have to make in this first ordinance is that the real property within the Redevelopment District will be benefited by the creation of the TIF district. That's something certainly for you all to consider and think about because that is one of the findings in the ordinance to create a district. That the proposals that have been presented would, in fact, benefit the property within the district. I guess I touched real briefly on the AG's opinion that has been sought by Senator Argue that I think was brought up. That's based upon Amendment 74 and the new school funding formula, the Statutes that they passed in the 2nd Extraordinary Session. It's a very complicated and complex question, partly because our constitution is so complicated, with eighty-one amendments to it and most of the amendments have this little phrase that says, if this amendment, if the former constitution or any of the previous amendments conflict with this one, well this one controls. The latest amendment controls and Amendment 78 has that in it too. It was passed and effective after Amendment 74 was passed, which is important because Amendment 74 says the twenty-five mils will be used for school purposes only. Some of the twenty-five mils would be diverted into the tax increment financing district. The concern would be would the Supreme Court tries to interpret those together so that in fact the tax increment financing districts would not get the twenty-five mils. I don't know the answer to that. We won't know the final answer to that until the Supreme Court actually addresses that head on. The Attorney General's going to give an opinion. But his opinion, just like my own, even though his is stronger and better and higher, it's still the opinion of an attorney and it's not a court decision. A court decision by the Supreme Court would be who would finally answer the kind of questions that have been raised by the legislators.

Mayor Coody: Thank you. Yes, ma'am, Lisa.

Dr. Lisa Morstad: I just want to clarify. Mr. Young's question about the increment and will the School District get any funding from the increment. The way that I understand it is that the School District and the Redevelopment District will share the increment value and so part of that money will go to the School District, part will go to the TIF district. The School District will see some of the revenues from the increment in the assessed valuations in the TIF district.

Kit Williams: They would certainly see the amount for your bonding millage, the amount that you have that is bonded would go, and that's specifically exempted out of the TIF district and would continue to go.

Dr. Lisa Morstad: That's pledged for debt service as of January 1, 2001.

Kit Williams: Right.

Dr. Lisa Morstad: So we do get some of those revenues. In fact, we get about 45% of those revenues and the TIF gets the balance. I wanted to make sure that that was clear. Thank you.

Mayor Coody: All right. Thank you. Anyone from the Council have any questions or comments on this particular portion of the public hearing?

Alderman Lucas: There was one question asked about University Avenue does it affect both sides of the street or just one side of the street?

Tim Conklin: The boundary does go down the middle of the street so it's just the one side.

Alderman Lucas: So you go down the middle of Lafayette, I mean Maple, too?

Tim Conklin: It goes down Maple, also. I would like to take this time, though, to give you my opinion with regard to improvements within the district and how it does add value, or improve property within the district, not only within the district, but adjacent to it and for the entire city. If you live in the district and you leave your house and you walk on the sidewalks on Dickson Street or any public improvement that is a benefit for those properties. You have the ability to walk through the community and use crosswalks that have been designed and are much better today than they were in the past. For those adjacent to the district you have an opportunity to walk to the district and utilize those types of public improvements. For those who drive into the district, to go out to eat or go to a show at the Walton Arts Center, the ability to find adequate parking and safe parking. Once you leave your car and you walk on the sidewalks with appropriate street lighting, it provides a safe environment, an overall experience that you achieve within the downtown that we're trying to create. I think the citizens of Fayetteville benefit also. Even if there's not any public improvement adjacent to your lot within the district, I think for those who have property within the district benefit. Those who are adjacent to it and those who live in the City benefit by having adequate public infrastructure that manages and plans where we park, how we park and when we get out of our car safe sidewalks, street lighting and those type of improvements. So these public improvements benefit properties within the district.

Mayor Coody: Thank you. Yes, ma'am?

Alderman Lucas: I think there was another question, if I understood it right, will this interfere with cooperation between the U of A and Fayetteville. Since we've put the full amount for the parking deck in this, will this keep this from having a cooperative effort between the U of A and Fayetteville in building a parking deck?

Tim Conklin: With regard to the projects listed in this project plan, these are estimates based on what it would cost to build a decked parking space. It's estimated around $12,000 per space. The City has not developed any formal plans to build a parking deck, parking, a joint partnership with the University or developer. When that type of activity or program would occur, the project plan would be amended. We'd go through the public notification process and the City Council would have to go ahead and approve it. With regard to how it impacts the University or additional funding mechanisms, we've used our capital improvements program to build sidewalks. We've used Federal earmarked funding; we're in the process of requesting funding. The Council is aware that we have limited funding for the entire city. This is just an additional mechanism, revenue source to help implement some of these capital improvement projects within this district.

Alderman Lucas: But there's nothing legally that would keep us from working with the University in developing this?

Tim Conklin: No.

Alderman Jordan: But are you saying that there's not any plan right now to do that?

Tim Conklin: Currently, the City of Fayetteville has partnered with the University to look at a feasibility study with a MAB that has not been completed. The parking decks that are shown within the Downtown Master Plan are potential sites that could be considered by the City until we have additional information and additional projects. The project plan will be amended numerous times over the life of the TIF. We don't have those projects and those details worked out today.

Mayor Coody: Any other questions from the Council right now?

Alderman Marr: I really struggle with and this is weird because I actually am a huge proponent of the Downtown Master Plan and want to see it done. I participated in the charrettes and had hundreds of people, literally that participated that week who want to see us do it. I still come back to, in the creation of this district it talks about the boundaries, what the local governing body shall adopt as an ordinance. There's one item out of this half a page of stuff that talks about findings, contains the findings that the real property within the Redevelopment District will be benefited by eliminating or preventing the development or spread of slums or blighted or deteriorated or deteriorating areas or discouraging the loss of commerce, industry, employment, increasing employment or any combination thereof. I have a hard time, when I think back to our very first TIF discussion and our Mayor and this Council saying the Mountain Inn is different than the Rogers' TIF. It's not greenfield, we have a blighted, deteriorating area and we have a loss of employment. We had property owners stand here and talk about a hundred thousand square feet of vacant office space that had deteriorated from this time period. I drove it today, went up and down every street; I don't see that in the remaining district. I don't see loss of employment, in fact I see us hiring people in this district and the places that closed, I see us reopening. The Brew Pub closed and we now have new employment and it's packed every time I've been in there. The buildings that were considered blight in this area, we condemned one of them and now it's built in a nice looking building.

How do I get comfortable with this finding? I struggle with it because when I ran for alderman this year I said to people, I want to see us implement the Downtown Master Plan. I want to see code for downtown that's different than everywhere else; I want to see code based on form. I want to see us continue to invest in the area like we did with Dickson Street. I think we've had a question tonight about traditional financing methods, public private partnership methods, that development is encouraging. I mean it's a stretch and I feel like we're stretching to make it fit for employment growth because we want to make it happen and not because there's a real need. I mean this is like arguing against the family medical leave act, nobody's against it, everybody wants to have it and it has a purpose. It's for medical illnesses for your immediate family and there's a defined family.

Everything about this law says how do you vote against it when you're sitting here representing the district that encompasses it when you want to see that plan done. At the same time say because my friend told me I needed to do it, not because it met with the requirements that the law said. I struggle with how I get to this finding. So from a staff, administration, mayoral perspective, somebody needs to give that to me and the citizens I represent. I know that people are for the forming of the district, that isn't the issue. The issue is the mechanism for it. I also don't believe that the Downtown Master Plan has said to us that the TIF is the only mechanism. It talked about a BID, Business Improvement District as a mechanism; it talked about code. There are lots of avenues, not just this format. So, in the discussion of creating the district and setting these boundaries, I want to know why we believe it meets this requirement; why we have disregarded Business Improvement Districts and other financing traditional options to implement this plan. I don't want you framing me as not wanting that plan because I want to be clear, I want the plan done. I don't know if this is the silver bullet only solution to make it happen. So if somebody can convince me why we meet the number 4 finding, where we're losing jobs, where we are have spreading slums, where we are have blighted and deteriorating areas, discouraging the commerce and where that percent is great enough that it warrants the use of this legislation to do that. Why it has been prioritized over Business Improvement Districts and other financing options.

Mayor Coody: Let me try to answer part of this, Don. I think the law that allows cities to use a tool like these talks about expanding economies and expanding job opportunities and expanding the quality of life for the city. Kit, would you mind reading that passage in the law again?

Alderman Marr: Can you tell me where you're citing it? Because this is the packet of the law you all gave us.

Kit Williams: Its number 4 in the Statute, 168 305-C4. It says that the ordinance, the local governing body, the City Council, must adopt an ordinance and it has several requirements, one of which says, "*contains the findings that the real property within the Redevelopment District will be benefited by eliminating or preventing the development or spread of slums, or blighted, deteriorated or deteriorating areas, or discouraging the loss of commerce, industry or employment or increasing employment or any combination thereof.*" That is the finding and as you see in the ordinance that I drafted under subsection 4, or section 4, I quoted that section because that is the finding that you all would have to make. It's the same finding you made with the Mountain Inn, the Highway 71 East Square Redevelopment District #1 of Fayetteville. That's the same finding you made there. That's a finding you would have to make in every TIF because it is statutorily required that you as a City Council must make that determination.

Alderman Jordan: So it's our call.

Alderman Marr: That's the exact sentence that I read. So my question is, based on that finding when you read through this, what parts of this district meet this finding?

John Lewis: I think the Department of the Treasury has answered your question. The Department of the Treasury has designated downtown Fayetteville as a target area because it's a low-income area. The United States Department of Treasury has designated downtown Fayetteville as a target area...

Mayor Coody: What year was that?

John Lewis: It's today. It's subject to new market tax credits because it's a low-income area. There's underemployment. I mean how many high school graduates leave Fayetteville for employment? How many college graduates from the University of Arkansas leave Fayetteville for employment? The truth of the matter is when you look at this area from a national perspective the way the United States Treasury Department did, it's a low-income area. Nationally speaking it is. These are Jeff Collins' figures, if the State of Arkansas could increase the per-capita income of its residents to the national average, it would increase the receipts to the

Department of Finance and Administration $2 billion a year. The loss of manufacturing jobs from 2001 to today has been estimated to cost the State of Arkansas $200 million in tax revenues. So we have a problem, it's just not evident because we have addressed the problem for a long time. When you get off of Dickson Street and you wander around the area and it's a designated target area.

Mayor Coody: Thank you. One thing I want to add is that I don't think the TIF District is the silver bullet. I think there are other mechanisms like, as you mentioned the Business Improvement District that we would need to look into. BID's are not city driven, they are private development driven and privately funded and we wouldn't have any input over how they would spend their money. I think that would be a terribly complicated, long-term deal that would be hard to really get accomplished. This TIF legislation provides a tool that, today we may be able to use to provide for some infrastructure funding that we don't have the money for otherwise. Obviously we don't have the money to put down the kind of infrastructure we need in downtown Fayetteville or else we'd be doing it with our existing revenue. This gives us a tool to use that we don't have otherwise. We do need to capitalize on our role in Fayetteville as the cultural arts district, the entertainment district, the cultural and artistic center of Northwest Arkansas. Because if we rest on our laurels and we think well, we've got this sewn up, we've got the University of Arkansas, we've got the quality of life, we've got the arts and cultural district, if we drift I think is the word that was used earlier and we don't put our oars in the water then we will be resting on our laurels and we likely could look up one day and we would be losing the employment that we're talking about. "The Rise of the Creative Class", book by Richard Florida is the kind of thing that we need to be thinking about here in town. This gives us a tool to achieve things that I don't know if we'll be able to achieve otherwise. This is a good mechanism. Yes, sir?

Alderman Rhoads: Mayor, I don't look at a TIF as the silver bullet either. I look at the TIF as one of the ways that we can initiate more progress to be made in these areas that we've designated. I would still hope that we would look at, whether it's "we' being the City or whether "we" being private citizens, at other ways to take what we're doing with the TIF and then add on to that with other things that these areas need and would benefit. It would just start, I hope, a positive snowball effect.

Mayor Coody: Joe, did you have something to add?

Joe Robson: I just wanted to say that probably every other town and community in the State of Arkansas wishes they were as blighted as Fayetteville. Every one of them would pray every night to be as blighted as we are. People come here because it's not. The problems fix themselves. Back to crunching these numbers, if you have in 2029 a total assessment in that area of $146 million worth of property and yet it's frozen at $15 million as of 2005 then you're cutting yourself out of $116 million with the potential taxes there too. That figure is based on no TIF investment whatsoever. We will increase $131 million worth of property value in that area with no TIF improvement whatsoever, not a nickel spent by TIF. It's projected to go to $146.4 million, but we're freezing it at fifteen. I don't see the wisdom in this. Now, when you go to Table 2 and you look at these numbers and you say, what happens to the value with the TIF, well it goes up to $181 million. In other words, there's a net increase in $25 million, is that right? There's a $25 million increase and we're going to give up taxes, city, county, schools and that's with no new construction. That's just with TIF doing what they do with lights, wherever they put them, which isn't going to be on University Avenue it doesn't sound to me. You're talking about an improved area where some areas aren't getting improved just so some people can have parking. Those are sticky, sticky issues and down the road the school's going to be on my side on this issue. I'm hearing another thing from the school, they're neutral but they're getting half or are they getting 45% of the increments, they're getting part of their cut on it too somehow anyway? I heard some new information from the schools tonight I didn't know and maybe you guys did. I'm more confused now than I was before. But if you look at it with TIF and without TIF, with TIF you've got $25 million more worth of stuff in there every twenty-five years. But you've cut yourself out of more than that, just the City's share, which is just a little bit of this perhaps or the county's share. But, so even if the schools are getting a better deal on this I think it needs to be looked at more. I'm worried that the oars in the water could be an anchor in the water. What if this cuts you out of taxes that you could have? I mean, I know it's more complicated than I can see and then there are sales taxes and more people come here and spend money and this and that. But on those legal issues, Kit if I'm in an improved area that doesn't get improved except that the county tax collector comes down and says, you're in, you're improved, you're doing a lot better than you were. Because the other things that adversely affects the people that are in, if they read the details of this the assessment that can be made on each piece of property is made every year just to make sure they keep up squeezing all the nickels they can inflating the values. They'll tax people out of there. How about homelessness, jobs, when people can't pay taxes in that area anymore because the taxes are so high because it's been improved, even though they don't even have a single streetlight on the whole street probably and no sidewalks. But it's improved and your taxes are going up because the county thinks so or Tim thinks so or you guys think so, just because you're in there so you're better off. You're in that thing so obviously you're better off being in there. Well, I don't see that.

Mayor Coody: I don't believe it works that way that assessments would go up just because you're in the district. Anyway, residential taxes are capped; they can only go up a little bit each year according to State law.

Joe Robson: They'll go up, and the assessment, appraisal process will be different in there, if I read this correctly because they'll be able to do it every year. Right now the county can't even keep up with assessments as it is, so they target areas and they float around and every few years or four or five years or whatever they get back to you again. This is going to be every year and nobody is going to be cut any slack, it's going to be every year. Every year the taxman's going to be there with a new, with a new you are in a better place. I'll probably end up in a place I can't even afford to live. I'll have to sell too.

Mayor Coody: Arkansas is I think forty-seventh as far as property tax goes, and with the amendments in the State that basically cap any increases. Residential I believe is a five percent.

Kit Williams: Five percent per year.

Mayor Coody: Before it triggers the roll back of the millage rate.

Joe Robson: If it's owner occupied, if it's not then it changes again. So it's different. I want to see the direction that the City of Fayetteville's headed. I've been grateful to Mayor Hanna and the things that he did. I think the things that have continued on have been good things and to some extent, maybe this would be too. I don't know, I think there are too many unknowns though. I don't know if I got a straight answer from the school. I mean they're neutral but they think they are getting cut in on more than what's come out in the newspaper so far? In other words, I thought everything was frozen and everybody was just cut out of it.

Mayor Coody: No, we have approved the East, the Mountain Inn TIF District a little while back and the School District and the schools were very involved in that discussion.

Joe Robson: Okay. And this one?

Mayor Coody: I'm sorry?

Joe Robson: But we don't know about this one?

Mayor Coody: Oh yeah. The chief financial officer of the schools is Lisa Morstad. So, no one knows the schools finances better than Dr. Morstad. That's why she's here tonight.

Joe Robson: But tables and charts and even the law itself, that can change as several people have pointed out. Maybe we pay too much and so we're cut out of some of the State funding. The State's going to be out of money, too, they're struggling as it is. What if that changes?

Mayor Coody: Well if that changes, then we will do something differently.

Joe Robson: I know what you'll do because the history is there. Not you, Dan, or any of you people for that matter. You are all fairly new but what happens traditionally is you go back to the tax payers and you say, oops table one and table two were wrong and we made this mistake here and this and that and the State Legislature changed their mind and now they're not going to make up the slack on what you guys don't pay so you're going to have to cough it up again and there's going to be a millage increase.

Mayor Coody: We always have the option to dissolve the district once the bond debt is paid off, if we haven't bonded any debt, we can always dissolve the district. We're not locked into it unless we've bonded debt and we aren't going to do that until we know exactly where the State stands.

Joe Robson: Kit, on the legal issue, if there's no improvement and just because you're in it, cause somebody took a pencil out and said you're in it, you're better off and you're improved, but you don't have any changes for you, there's no lights, sidewalks or what have you, you know,

Kit Williams: I can only read you what the statute says. It says that they must have a finding that the real property within the Redevelopment District will be benefited. That's homes and stuff like that. I don't think that means that every street has to have their sidewalk fixed. I think that sometimes you can be benefited by a project, like the Mountain Inn is going to benefit more than just that one part of town by it. It looks like that the benefit should flow throughout that district just because it's going to generate a lot of jobs and a lot of economic activity that will flow further beyond several blocks from it. This is an issue that the City Council has to look at for this particular district because there's not a major project like the Mountain Inn with the new hotel and things like that coming in that would necessarily flow much further. It does not mean, I don't think, that every street has to have their sidewalk fixed or else there's no benefit.

Joe Robson: Right. Well, I know that every street won't get a sidewalk. It's not in the cards right now for some reason, immediately there's not enough money anyway and in my case, if there was, it'd be as destructive as it was constructive, maybe more destructive. It could take out some lovely trees that set in some of those neighborhoods. I guess some of you have probably been working on this for years and years and you're sick of it. I don't know how long you've been talking about it, but you came out with a chart this month and it shows a $25 million increase after they have completed doing what they do. I don't think that's enough of a gain. There are too many questions, I think to just move forward and say we've got to do this now because we're going to get swept away and people are going to start moving out and there's going to be no jobs or whatever, it's ridiculous. It's not happening that way. Fayetteville's not going that way. Most everybody in this State wants to be here. It's going to continue that way. We've got the prettiest community in the whole State of Arkansas and it's going to stay that way. It's headed in the right direction. Maybe this is part of it but I wish you'd all just go slower with it and think about the ramifications because there's too many x's out there. This is more like calculus, it's not algebra. There are some real difficulties down here. There are some unknown factors and variables that you have to figure out.

Mayor Coody: Thank you, Joe.

Geary Lowery: Good evening, Mayor. Geary Lowery again. I'll try to be short. Two points I want to bring up real quick. One of them that Mr. Lewis said is that we're in an economically disadvantaged area. When you figure that a person who currently makes $9 an hour cannot afford some of the apartments that we have around here, their utilities, food, clothing, medical costs, insurance and stuff and that's at nine bucks an hour. We've got a lot of folks around here that are disadvantaged. One of the other things that Alderman Marr brought up, and I appreciate you for doing it, Don, is taking a look at other ways and other venues to get this done. RDD's, SID's and of course, your TIF is another one. But there are a lot of different ways to go around making improvements for the City of Fayetteville without compiling them all into one general TIF. Now, if you want to have an improvement in an area, do an SID. If you want to have improvement in an area, do an RDD. What's an RDD, it's a Redevelopment District. Redevelopment Districts do not use TIF's, they use general obligation bonds and funds from the city that helps the business men and women in that area, or helps the people in that area to improve their blight. To improve their problems or to benefit them such as the Freemont Street experience in Las Vegas or the Kay Street Mall in Sacramento, California or the Victorian Street over in Sacramento over in Sparks, Nevada. All of these Redevelopment Districts were done with public and private partnerships. They were bonds that were put out there for the business owners, developers and the people that owned the property to improve their area, including underground utilities, your favorite subject, Mayor, underground utilities. So who paid for it? It wasn't the TIF districts. It wasn't some other district, it was done under Redevelopment Districts or it was done under a special improvement district. Now there are a lot of areas in Fayetteville that needs improvement and there are a lot of areas that don't. But when you start thinking of what this City can do and what it can be, it's explosive. It's just like I made a comment during the break, if you guys need that land over there next to Pinnacle Foods, if they don't sell it to you, put them under eminent domain. You need it for streets and improvements for the City. Go in there and take it from them, buy it from them at the appraised value. It's dry dirt; it's nothing they're going to come into. But until this City decides to do the right thing by all of it's citizens, not just the people on Dickson Street, not just the people over at the Mall area, not the people just in south Fayetteville, but the entire city, because each and every one of you up there represent the entire city. Maybe your ward area, but we are all the people of the City of Fayetteville. So like Don said, let's take a look at other venues and other ways. Mr. Lewis is an active citizen of the City of Fayetteville, he's very civic minded and he wants to see these things accomplished. I can't blame him; they're great but at whose expense? Thank you.

Mayor Coody: Thank you.

Kit Williams: Mr. Mayor, at one point I thought you closed public comment.

Mayor Coody: Yeah, I did.

Kit Williams: Actually we've had a long public hearing, we probably need to get to the reading of the ordinance, not to cut off public comment, because there can be public comment on the ordinance too. Maybe if you actually close the formal session of this public hearing so that we could then go on to the next thing on the item which is the reading of the ordinance.

Mayor Coody: You're right. Thank you. So I will close this formal part of the public hearing with the statement that anytime you improve a part, you improve the whole in a city and this would certainly be an improvement of a part that would improve the whole. We are improving the whole of the city by the $125 million bond issue for water and for the sewer redevelopment. That does benefit the whole city. We're looking at fixing city streets all across the town, above and beyond our capital improvements projects. So we aren't just focusing on one or two or three areas of the city and ignoring everything else. We're trying to fix all of Fayetteville up in as many different ways as we can as quickly as possible to try to make it the best town it can be and this is a viable tool.

Mayor Coody Closed the Public Hearing

Downtown Master Plan Redevelopment District Number Two Adoption: An ordinance forming the Downtown Master Plan Redevelopment District Number Two pursuant to Amendment 78 of the Arkansas Constitution and authorizing the preparation of a project plan.

Mr. Williams read the ordinance.

Mayor Coody asked if there was any other comment from the Council on this ordinance.

Alderman Marr asked for the staff's perspective on what areas of this district meet the findings of section 4 of the ordinance relating to the spread of slums, blight, etc.

Tim Conklin explained that in working with the community and the consultant on the Downtown Master Plan, it was apparent that the City must be able to plan and manage its parking; it must be able to build adequate sidewalks and provide street lighting. He quoted a section of the Downtown Master Plan, which states, "*Inappropriately designed surface parking lots, ill fitting garages can blight the very character that is downtown's calling card*". There has been a great deal of discussion involving staff, Planning Commission, City Council, the public, etc. about how to manage growth and development in downtown. The City has made many improvements within our downtown, which have benefited property owners. Public improvements in recent history have changed the nature, character and the condition of adjoining properties and properties near those public improvements. He feels that going forward with this project plan will help enhance the downtown, achieve the vision, avoid and eliminate blight, increase employment and increase commerce. To be competitive in all ways we will need to plan for this type of public infrastructure.

Mayor Coody further explained that the Downtown Master Plan identified a need for 3,500 new residential units downtown. The City would have to provide the infrastructure necessary to allow those units to be built according to the new code that would come from the Downtown Master Plan. The construction itself would provide employment. The residents coming in to live in those units would provide employment to the shops and business. He also mentioned the possibility of loft or studio housing for artists who would like to live in Fayetteville, thus expanding the arts and cultural community. He said it is public money poured into public infrastructure that could provide energy into downtown. We don't have earmarked revenue for the downtown area to accomplish the downtown plan. The TIF would be a very strong tool and an effective way to accomplish the City's goals as defined in the Downtown Master Plan.

Alderman Thiel asked if a representative of the Fayetteville Downtown Partners could tell the Council their position on this TIF.

Bob Kohler, a board member of the Fayetteville Downtown Partners stated that they were very much in support of this TIF. The whole concept here is keeping downtown dollars downtown. He sees it as an integration of what has already been done on Dickson Street, plus what has been approved in the first TIF, completing unfinished business in the Downtown Master Plan. A great downtown is the center point of a great city. Though he feels most of the benefits are indirect, every property in the district and adjacent to the district will benefit by having a better downtown and by keeping the dollars downtown.

Alderman Marr asked Mr. Kohler if the TIF and this Downtown Master Plan boundary were in the plan the Fayetteville Downtown Partners presented to the Council when they requesting financing from the City.

Bob Kohler said he does not believe it was. He said the group doesn't see property tax as their business; it falls outside their control. They are certainly supportive of this but it was not mentioned in their plan because their initiatives will take place regardless.

Mayor Coody asked Sharon Hoover to speak.

Sharon Hoover said the TIF was not specifically in the plan because the group was not going to do it themselves. What they had in the plan were initiatives the group wants to take on and direct themselves. They were expecting the City to take on the TIF part because it is mentioned in the

Downtown Master Plan. She clarified that though this particular TIF has not been taken before their board, it meets all of their mission and visions and the four members here tonight, as well as the director, are in support of it.

Alderman Cook said that although the TIF was mentioned in the Downtown Master Plan, there were many other options also listed in the plan.

Carol, a citizen, spoke about the concerns that the TIF will adversely affect all the school systems in the state.

This ordinance was left on the first reading.

Public Hearing

Mayor Coody Opened the Public Hearing

Downtown Master Plan Redevelopment District Number Two Project Plan: A Public Hearing to allow all members of the public and representatives of taxing entities to present their views on the Proposed Project Plan for the Downtown Master Plan Redevelopment District Number Two.

Cyrus Young: I have a question. Specifically what infrastructure for culture and arts district is planned? There was no funding for it. There's really no mention of specifically what infrastructure was planned for that. The Downtown Partners kind of explained Block Street, I didn't understand why it didn't go to the square except the south part is in another TIF district. So we can only assume that the other TIF district is going to do the other part of Block Street because this TIF district only has one block south of Dickson Street for Block Street improvements for this TIF district. This TIF district, the awarding of it and the formation of it, it's different than the other one and I would compliment you on that. At least you're being up front about condemnation. That you are specifically going to say that you are going to do condemnation if needed, that's at page 3 of 74. Now there's a problem, though, on zoning. Section I, page 3 of 74, says that you aren't going to do any rezonings, then further on page 8 of 74 it says you are going to do rezonings. So I would suggest you clarify that and get one or the other straightened out and so they both jive. Either you're going to do rezonings or you're not going to do rezonings. Thank you.

Mayor Coody: Tim, would you mind answering his questions?

Tim Conklin: Sure. Within the project plan I did indicate that, as part of Dover Kohl's recommendation was to adopt a new code. So that was added into the project plan. With regard to Block Street, Mr. Young is correct, the remaining part of Block is in the 71 East Square Redevelopment District and so we cannot include projects outside the district. I want to make sure that I answered the rest of his questions. With regard to the cultural and arts district and what infrastructure, the plan currently talks about parking, streetscape, sidewalks, street lighting and the trail. Those are the three public improvement, public infrastructure projects currently listed in the plan. Any additional projects for a cultural and arts facility, public art program, any of that type of use of public funds would have to be an amendment to the project plan.

Mayor Coody: Does that answer your question, Cyrus?

Cyrus Young: No. The trail is a separate thing and we've already done the streetscape part. So I still don't know what infrastructure relative to the cultural and arts district we're going to do.

Tim Conklin: Let me just state that in order to create a walkable downtown community and have shared parking facilities that support cultural and arts type venues, we will need additional public infrastructure. I think that was evident when the Walton Arts Center was built, with the City having to participate in building public parking to support that facility. The City's been involved in improving the sidewalks to allow people to park in shared parking facilities and concentrated parking facilities. Those type of improvements support, in my opinión, cultural and art type facilities. We are not going to be able to expand the performance hall for Walton Arts Center. We can't expand parking lots without providing adequate sidewalks and street lighting. If someone's going to an event at the Walton Arts Center and they park in a lot but don't have a safe means to get there with an adequate sidewalk and street lighting, I think you have to have all those components together. So that was included in the project plan and as I stated earlier, there's been other ideas discussed with regard to partnerships with other entities. I've talked with citizens about public art programs. Those types of projects would have to come back before this Council and be added into the project plan.

Mayor Coody: Thank you. One question I have is that, I'm sorry before I ask any questions, is there anyone else that wants to address us more on the plan?

Steve Mansfield: I know it's getting late but I did say I'd come back with a few other comments. Councilman Marr, you asked for specific instances of blighted areas or buildings in this area, I can name quite a few. Approximately three weeks ago I went and looked at an apartment building, four units down off of 6th Street; it had just been listed for sale. The listing said, "*be careful, floors unsafe, do not take clients in,*" when I walked inside, it was impossible to go through it. It wasn't occupied, it couldn't be occupied. While you drive the area it may seem that this area is not terribly blighted. I grant you that there are a lot of areas, a lot of streets being improved in the area, but if you walk down the railroad tracks, you'll see abandoned warehouses and broken-out windows. Specifically in the area north of 6th Street, behind the Mill, if you start getting back in there there's quite a few that I would consider heavily blighted properties and probably one dear to my heart that's the most visible would be the train depot. It's been vacant since the 1960's, it's got broken windows, and it's the subject of vandalism. Now, whether the TIF district in and of itself would change whether private money would come and fix all of these isn't the issue. I think we're looking at this too complicated, the TIF district and the legislation for this is just one of many avenues that the City can take to help create a better place, a better in this case Downtown Master Plan area. All that the TIF district is is another financing tool. It's actually a win, win situation for both the public and the private sector. The City of Fayetteville does not gain a lot of real estate tax revenue into its coffers. Most of the revenue base, as we all know, comes from the sales taxes. This is an opportunity to use another piece of the funds that are available that wouldn't otherwise be available to the city to help build the infrastructure that will assure additional jobs, additional growth and additional development.

The part of the TIF law that specifically talks about blight, as well as increasing jobs, is very well dealt with within even this kind of district. Creating more jobs downtown will require having a place for people to park. They won't be there if there's not housing and you need a place to park. You need a safe ability to walk and be able to feel comfortable at night or folks won't move downtown. While there are many other forces besides just the regular economic engine that we have today and the growth here has been phenomenal. There are things that this TIF financing offers that BID's don't and other means don't. Public and private and all of those are part of the parcel of the multitude of ways that the City of Fayetteville should go ahead in fixing up and completing the Downtown Master Plan. So I think that this is just one of the bullets. It's not the silver bullet. It's not the defining way or the only way to go about it. But I think there are specific instances that if you could look to and feel comfortable with, that exist in this particular area. Whether or not the plan only fixes those blighted parcels is not necessary to vote for the TIF financing in and of itself. The TIF financing in and of itself is just another financing vehicle and a tool that I think is very smart for the City to use because it allows us to take, as I said before, a piece of revenue that we wouldn't have at our availability to help build us a better city. Thank you.

Mayor Coody: Thank you, Mr. Mansfield. Anyone else want to address us on this part of the plan?

Linda Ralston: I started to say good midnight. Good evening, Linda Ralston again. I guess I just have another question that I don't need for you all to answer, but it's just who really, ultimately pays for this? I know reading some of the State interpretations that the State may make up the difference. I'm not sure I understand all that. I will be following, as I'm sure you all will be too as the Legislature convenes and all this kind of unfolds as well. I'm sure there are some great citizens out there that would love to give a monetary gift to the City for who knows an overpass and all kinds of good things downtown. Not the overpass downtown, but you know I did discover that a citizen can give a gift and that's no big surprise. You know, Jim Blair gave to the library, what $3 million? There are a lot of possibilities and I applaud you all for discovering all of them and laying them all out and seeing which puzzle piece fits the best. Good evening.

Mayor Coody: Thank you. Anyone else want to address us tonight? I'm going to close the public comment part of this and bring it back to the Council.

Alderman Lucas: I just have a question. I've been thinking about this. This is for like twenty-five years, right?

Kit Williams: That's the length it can be.

Mayor Coody: I don't think it's been determined exactly how long it would be.

Alderman Lucas: Okay. If we do this and say, down the road another Council or this Council wants to increase or use some of our millage. Does it go into the TIF district in this area or will the City get that?

Kit Williams: No, I think that the base value of real estate is capped.

Alderman Lucas: So we would just get it on the base value, then?

Kit Williams: Yes, as of the date that the district is formed and I think any millage, whether it is voted on by the citizens to raise school millage or by the county or by the city or library, my belief is that all that would just be at the base value. Now, this is a brand new law that's never gone up to the Supreme Court. It's a very complicated law. It's tied together with our complicated constitution and various competing amendments, 78 and 74 that kind of seem to be at odds. So I can't give you an absolutely clear answer on that. I wish I could.

Mayor Coody: Any other questions?

Alderman Marr: I just want to make a comment, since I'm having a problem with the boundary. I will say I like the plan. I think that the plan is in line with what our Downtown Master Plan says we should be focused on and there are the kinds of things that I think that would help generate business there. My problem with this two-part piece is not the second piece. In fact I appreciate the work we did to reflect in the project plan the items that are in our Downtown Master Plan. I'm supportive of parking decks, streetscapes, cultural entertainment and infrastructure development. I will say that I think it's important, and I know Alderman Rhoads has this as the communication link for the Council with the staff on the cultural entertainment area. I think when you're creating a TIF and calling a piece of the plan infrastructure for the cultural and entertainment area, we really need to define and develop that officially, because the Downtown Master Plan also speaks to what the boundaries of that cultural entertainment district should be. There are citizens, particularly in this ward, who are interested in where those boundaries lie and how they go into residential areas. I think there's kind of two pieces to this, that being a big piece since it's a big part of this plan. I think the plan does a great job of reflecting what our Downtown Master Plan charrettes said we should do and I like the plan. I'm just not sure of the financing structure, to speak to the gentleman who understands what I am saying.

Mayor Coody: Does anyone else want to add anything? Speaking of the financing structure, the only thing I have to add is the Business Improvement Districts would be a great thing but they won't pour money into public infrastructure. With a Business Improvement District private business owners would be able to raise funds, tax themselves essentially, to hire people to sweep the streets or landscape their buildings or to do private improvement district stuff like that. I don't see the Business Improvement District putting in water and sewer lines, streets and sidewalks, over the whole district. A private Business Improvement District, say for example Dickson Street, I wouldn't see them raising the kind of funds necessary to do a major infrastructure overhaul for a big area of downtown. I think that they would want to keep their money concentrated close to their businesses so they would get the direct benefit.

Alderman Marr: I agree with that.

Mayor Coody: I think if we want to see the Downtown Master Plan flourish, brought forth in our lifetimes, then we're going to have to dedicate a funding source to put the kind of money toward the infrastructure to make it happen. I don't know what other alternatives there are. We are not going to raise property taxes to do this. We're not going to raise sales taxes to do this. I don't know what other alternatives there are if there are other alternatives, if there's something

I'm missing, please let me know. But I don't know if we want to do this, I don't know how many options we have that are as powerful and as specific to this area that do not raise taxes and that uses existing income stream. This seems to me the most clear, powerful, immediate way to do this as long as the State Legislature works with this legislation to where we can still use TIF legislation in the future. If we don't do this, then we can say there are other alternatives if there are lots of other options, I don't see them. If they are out there then let's talk about them but I don't hear us talking about raising sales taxes, raising property taxes, not hiring fire and police so we can do sidewalk improvements downtown or infrastructure, water, sewer, streets, streetscape, landscaping, and trails. I don't see us raising taxes to do that. This to me seems like it really is one of the only options that we have. If there were other better options, we'd be all over them but the reason that the staff and we are bringing it forward is that we feel like this downtown plan that Dover Kohl did for us is singly the best thing that we could do for downtown Fayetteville, Arkansas for our generation and the next generations. If we want to see this really materialize, we're going to have to seriously fund it. I don't see that many options. That's why we're bringing this forward. There's my speech. Anyone else have anything?

Alderman Lucas: Well, I agree with the downtown, the Dover Kohl plan but we have got to get the codes, we've got to get all these other things that the city, or ordinances, whatever it is that controls this, we've got to get that in place, too. All the money in the world is not going to improve the downtown if we don't have those things in place.

Mayor Coody: Yes. Tim, do we have a time frame on getting the codes ready for us to adopt?

Tim Conklin: We met with the Planning Commission last month, possibly November. We plan on meeting with them over the next three to six months to get that in shape to bring it forward. It's a lot of discussion, it's changing the existing zoning within the downtown and looking at an overlay district for an entertainment area and it's something that we will be focused on. In the Downtown Master Plan, the recommendations of getting there was adopt a plan (which the Council did) and number two was work on the code, which we're working on. Number three was to create a Redevelopment District. The BID discussion is in there and Downtown Partners has been actively talking about that. We'd like to just to make sure that the Council and the public understands that this is not the only thing we've looked at. The one-way street conversion we've studied that and have done some cost estimates on that. We'll need to bring that forward. So there are many recommendations within that Downtown Master Plan that we are pursuing. With regard to the TIF, this one came forward at this time in order to progress this along and establish or create a district and adopt a project plan and to get that into the works. There is still a lot of work to be done, if the Council does approve this in the next few weeks or next month, to actually implement it.

Mayor Coody: So if we were going to look at the Code, do you think we'll look at it for approval sometime in the first quarter?

Tim Conklin: Most likely it'll be the second quarter. Planning Commission had a lot of questions with regard to that code and the community will have a lot of questions. Not only does it change the setbacks and building heights, but it also has a design guideline standard component to it, which I expect to have a lot of community discussion.

Mayor Coody: Okay. Does that answer your question, Shirley? All right, are we on the first reading yet?

Kit Williams: Actually, I don't think you probably should put adopting the project plan on the first reading. I think it should be tabled because we haven't established a district, we haven't told staff to create the project plan yet, which is done in the first ordinance. I think that it would not be proper to go forward with the second ordinance. So I would recommend that you table this.

Mayor Coody: All right.

Mayor Coody Closed the Public Hearing

Downtown Master Plan Redevelopment District Number Two Project Plan Adoption: An ordinance adopting the Project Plan for the Downtown Master Plan Redevelopment District Number Two, and finding the plan is economically feasible.

Alderman Jordan moved to table the ordinance adopting the project plan until the next City Council meeting. Alderman Rhoads seconded the motion. Upon roll call the motion passed unanimously.

INFORMATIONAL:

2005 Community Development Block Grant: Copies of the 2005 Action Plan and the 2005-2009 Consolidated Plan are available for review in the City Clerk's office.

Meeting Adjourned at 11:00 PM

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Dan Coody, Mayor

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Sondra Smith, City Clerk/Treasurer

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

Aldermen

Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
Ward 3 Position 1 - Robert K. Rhoads
Ward 3 Position 2 – Bobby Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

Special City Council Meeting Minutes January 6, 2005

A Special Meeting of the Fayetteville City Council was held on January 6, 2005 at 5:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Coody called the meeting to order.

PRESENT: Alderman Reynolds, Thiel, Cook, Marr, Ferrell, Lucas, Jordan, Mayor Coody, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Rhoads

Alderman Marr arrived at 5:40 PM

Pledge of Allegiance

Alderman Reynolds moved to remove C.1. I-540 Redevelopment District #3 Proposed Project Plan and I-540 Redevelopment District Project Plan Adoption from the agenda. Alderman Ferrell seconded the motion. Upon roll call the motion passed 6-0. Alderman Rhoads was absent. Alderman Marr was absent during the vote.

<u>Public Hearing:</u>

<u>I-540 Redevelopment District #3 Creation:</u> A Public Hearing to allow all members of the public and representatives of taxing entities to present their views on forming the I-540 Redevelopment District Number Three.

Mayor Coody opened the public hearing.

Tim Conklin: Thank you, Mayor, members of the Council. I'm Tim Conklin, Director of Planning and Development Management. I have a short presentation this evening on the creation of the I-540 Redevelopment District boundary, identification of that boundary and creation of that boundary. The I-540 Redevelopment District contains approximately 2,300 acres. It is just to the south of Van Asche and the CMN Business Park, Target, Kohl's, Olive Garden, that location. It extends on the northern boundary along Van Asche and Highway 112, along the western boundary; it is west of Deane Solomon Road. It continues down south of Mt. Comfort Road, takes in that light industrial area just south of Mt. Comfort and Porter. As we go to the east it takes in the Washington County Fairgrounds area, then back up to Drake Street, over to Gregg, Appleby Road and Washington Regional, approximately in that location. It follows Appleby Road and over to College Avenue and then back up. It does not include the areas that were within the Springdale Public School District. This area is solely contained within the Fayetteville Public School District. The Springdale School District line is approximately this northern line in this location where Target, Kohl's and Olive Garden is located. I would like to talk a little about creating Redevelopment Districts and with regard to the Arkansas Code annotated and what is a redevelopment project. It's a means for eliminating or preventing the development or spread of slums, deteriorated, deteriorating or blighted areas; for discouraging the loss of commerce, industry, for employment or for increasing employment or any combination thereof. This is the definition that is found in Arkansas Code Annotated under Chapter 168.

With regard to the creation of a Redevelopment District, we must find when we do create this Redevelopment District that it contains findings that the real property within the Redevelopment District will be benefited by eliminating or preventing the development or spread of slums or blighted, deteriorated or deteriorating areas or discouraging the loss of commerce, industry or employment or increasing employment or any combination thereof. So with regard to creating a district and the purpose of creating the district, this is directly out of Arkansas State law. I'll go over a few definitions with regard to blighted areas in the redevelopment project. The first part of the definition for blighted area means "*an area in which the structures, buildings, or improvements by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for access, ventilation, light, air, sanitation or open spaces, high density of population and overcrowding or the existence of conditions which endanger life or property, are detrimental to the public health, safety, morals or welfare.*" That's the first part of the blighted area definition. With regard to this Redevelopment District, the I-540 Redevelopment District, we look at an area in which the structures, buildings or improvements by reason of inadequate provisions of access we key in on that part of the definition as part of this project. The other part of the definition that's in Arkansas Code, talks about blighted area. It includes "*any area which, by reason of their presence of a substantial number of sub-standard, slum, deteriorated or deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility or usefulness, unsanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax and special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title or the existence of conditions which endanger life or property by fire and other causes or any combination of such factors substantially impairs or arrests the sound growth of a city, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to public health, safety, morals or welfare in its present condition and use or any area which is predominately open and which, because of lack of accessibility, obsolete platting, diversity of ownership, deterioration of structures or of site improvements or otherwise substantially impairs or arrests the sound growth of a community*". We have highlighted within this definition of blight, which we believe promotes the creation of the I-540 Redevelopment District, which is the predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility or usefulness or the existence of conditions which endanger life or property by fire and other causes or any combination of such factors that substantially impairs or arrests the sound growth of a city or any area which is predominately open and which, because of lack of accessibility, obsolete platting, substantially impairs or arrests the sound growth of a community. I wanted to walk through these definitions with you this evening as we begin discussion of the creation of this Redevelopment District.

With regard to findings within the Redevelopment District, this district will discourage the loss of commerce, industry or employment, or it's going to increase employment or it's going to eliminate the condition caused by the lack of accessibility and any combination thereof. Basically we've taken out of State law showing how this district will help meet those definitions that are in the Code. Why I-540 Redevelopment District? We want to stop sales tax loss. We want to improve access to the medical center complex. We want to improve traffic safety within this area. We want to stop the loss of commerce and employment. When we talk about sales tax loss, why do we have sales tax loss? Benton County is developing a retail base to the north of us. We have an inadequate transportation and traffic system serving the I-540 area. This system is over capacity in many areas during peak hours, restricting access in and out of the I-540 Redevelopment District.

The I-540 Redevelopment District Finding #1, there's been a 25% sales tax loss from Benton County residents between 2002 and 2004 to Fayetteville and Washington County. The source of this information is from the 2004 sales tax study from the Sam Walton College of Business, Center for Business and Economic Research. Once again, why create a Redevelopment District? We want to provide major transportation infrastructure allowing private sector development of property currently served by an obsolete and inadequate transportation system within the area. By constructing additional and improved transportation improvements, it will help access to the regional retail and medical complex from I-540 and Fulbright Expressway. By improving access to I-540, it will allow better circulation transportation improvements from west Fayetteville, Mt. Comfort Road., Highway 112, Howard Nickel and Van Asche Road. Finding #2, it will increase commerce within the Redevelopment District. It will allow additional growth in the medical center. It will allow new support services, new expanded facilities, improve emergency response times throughout this area by building additional ways in and out and improving the transportation in and out of the Redevelopment District. It will increase employment within the district. I would like to end with, again, the State law with regard to the authority to create a district and the purposes for creating that district. I won't read through it again, but it talks about discouraging the loss of commerce, industry or employment or increasing employment or any combination thereof. That concludes my presentation with regard to creating the district. That is the first step. Once the district is created then the project plan will come forward. Thank you.

Mayor Coody: Thank you. Any questions for Mr. Conklin on this item? Anyone from the City Council have any questions or concerns?

Alderman Cook: This was mentioned in our Ward 2 meeting last night and then I had a follow-up question from a citizen today about it. So, I'm curious, once we form the district and approve a plan, how binding is that? I mean, is there a way to back out of that? I mean, let's say that happens and then the State decides that no, this is illegal and that you can't have that. I mean, at what point do we cross the line and we can't go back? Does that make sense?

Kit Williams: I would think that the potential true liability to the City is most likely to be incurred if bonds are issued or a note is issued. If we follow the State law precisely in forming a district and approving a plan, I don't think that's going to be found illegal later, even if the State law is such that, for example they decide the twenty-five mils for education cannot be used, that would probably render your project plan no longer feasible, because you would be assuming that the twenty-five mils could be used. At that point I think the City Council would have to go back and review that and decide either to vastly scale back the project plan or to abandon it. But I don't think if you have not issued bonds or a note or something like that that there is going to be liability to the City at that point in time. I will say this is a brand new law and no one has sued under it yet, so there could be some theories of liability out there that I have not anticipated. It's possible we could have liability. I hope not and I don't see where it would come from but you know sometimes you get surprised so I can't guarantee you there's no chance of liability before that time.

Alderman Cook: So financially to add to that once we create the district and when the values are frozen, let's just say the plan is not ever passed but the district is passed, I mean what would happen in a situation like that, or just like you said the law changes and we couldn't use that other millage and it would change the plan. I assume that they start setting money aside as soon as the values are frozen once you create the district?

Kit Williams: I think they start setting the monies aside at tax time when they start dividing the money up a year from now. According to whatever TIF districts have been established and whatever the Supreme Court might rule on how you should divide the money up and it would be then be deposited in the special fund. Each TIF district would need its own special account and that's one thing you do when you establish a TIF district is you establish a specific account for that particular TIF district, so the money would be sequestered there. It could only be used for the project plan. However, once the TIF district is closed, let's say for example that the Supreme Court ruled the twenty-five mils was not available so the TIF district project plan could not work, then you could close the plan and you could actually close the district at that point in time. There is a provision in the Statute that says when you close a district any excess money then basically becomes general fund money. You can use it for any lawful purpose. So, you can also use it for projects within the district or any other lawful purposes that's what the law says. So that's what would happen. I would imagine that once the Supreme Court ruled one way or another, you would want to potentially revisit all of the TIF plans, any and all that you might approve.

Mayor Coody: I think, as I understood it, if the Supreme Court were to change the rules midstream, we would certainly revisit it and do whatever is within the law.

Alderman Cook: Thanks.

Mayor Coody: Hold on. I failed to mention one thing at the beginning of the meeting in today's headline there's a statement saying that I thought we could loan developers money for the TIF district at the Mountain Inn in case the TIF legislation were to change and TIF's weren't available anymore. That wouldn't be accurate. After talking to the reporter who always does a good job, there may be ways that we could use our general fund money to make that program work and a couple of different methods to do so. I have long understood, we can't be a banker and loan anyone, developers or anyone else money. So I just wanted to make that clear in case anybody wanted to come up for a low-interest loan from the development community, don't bother. I'm sorry go ahead, Bobby

Alderman Ferrell: Tim, I thought that was a good presentation and over the years I've worked in and around successful communities in economic development and to be a successful community in retention of existing jobs and creation of new ones, you can't be passive. You have to be active. We can't take for granted that this is going to continue. So, I just think that you did an excellent job of pointing out the enabling parts of the State law. Secondly, I would add that communities that stay successful are active and not passive in keeping their communities competitive.

Alderman Jordan: I have a few questions. Tim, would you step to the microphone, please? Now in reading this blighted area definition, we come down to it seems you can fit a lot of different definitions or things into this one paragraph. But down at the very bottom it says things that substantially impairs, arrests the sound growth of the community, in fact that's repeated a couple of times, substantially impairs or arrests the sound growth of the city. What does that mean exactly?

Tim Conklin: We did put this PowerPoint together today to make the findings. That's one thing I did hear with regard to the Downtown Master Plan you wanted specific findings. I think when we look at that definition and we look at where our revenues come from for general fund that help pay for fire and police officers and the importance of that regional retail area, I think that's what I look at when it substantially impairs or arrests. If it comes to a point where we cannot get people in and out of that area, it's going to impair our ability to continue to grow, continue to see our sales tax grow and continue to capture additional sales tax that we're currently using today.

Alderman Jordan: Have you seen any down turn in the growth of this city?

Tim Conklin: With regard to the overall city is that what you're talking about?

Alderman Jordan: Yes.

Tim Conklin: We've seen a tremendous amount of growth in this city. But at the same time, in this general area we have talked for years about the importance of improving our transportation system to make sure that we can continue to grow and prosper. So much so as to look at even the money we have available in our Capital Improvement Program, trying to improve that area. However, without additional access in and out of these areas, Joyce Boulevard and other major intersections are becoming more and more congested without alternative ways of getting in and out.

Alderman Jordan: Okay, let me rephrase that just a little. How fast is this area growing in the city? How fast is development moving into that area would you say?

Tim Conklin: Looking back to 1994 when we rezoned that it's been ten years. When I look at the north part of the CMN it isn't within this area, but the north part has grown over the last ten years, from a regional perspective we've had the regional retail development occurring within that area. So, we've put a lot of regional retail square footage, with the Northwest Arkansas Mall expanding and the Wal-Mart Super center and the other related development. With regard to future growth and development, those are the issues that we continue to discuss in this community, as much as going up to Springdale to the Highway Department Commission to say the number one priority is trying to improve access along I-540.

Mayor Coody: I want to flesh out the second half of your question because what we're talking about now, with your question, is a snapshot of basically the last ten years and the present up to today. If we were to put all the new development in the last ten years on that green spot right there it wouldn't be as much as one might think. A lot of that is undeveloped area. We have seen the advent of the Olive Garden and Logan's there are new restaurants up in the cluster of the CMN Business Park. The reason that we haven't seen the kind of growth out there that we would have expected to see by now is because of a lack of access to those commercial areas. I would have thought, ten years ago looking at Northwest Arkansas as a whole, this would have been built out by now. But everyone's number one complaint as we have heard repeatedly is that the traffic doesn't move very well across Fulbright Expressway and through the CMN Business Park. If you're traveling up 71 and you want to get anywhere, you've got to go through that horrendous intersection at Joyce and 71, which 81,000 cars a day go through on a heavy day. We'll see cars running red lights all day long, every day to beat the lights because the traffic is so congested up there, but that's just a snapshot for today.

The reason that I feel like that we as a city have an interest in preserving and enhancing our retail base is because as that one slide showed, we've seen a 25% decline in sales tax leakage from Bentonville what used to come from Benton County to Washington County, mainly this area, has left us just in the last couple of years. Now what that's going to look like in two more, four more, or six more years I don't know what that percentage of loss will be like. But it will certainly be more substantial than we would chose to lose. Of course they're developing their own retail base and I fully understand the economics of you get a population base and then they're going to be building their own economic bases up there so people can stay in Benton County and shop. I understand that entirely but if we have a commercial area where it is tough to get in there to set up shop and to do business, we've only added to the heartburn of trying to set up retail businesses here in Fayetteville. We need to make it as plausible and as economically feasible as possible to build commercial businesses in our commercial business district and right now we aren't there. That's the reason that we want to do this because with that sales tax growth it allows us to hire the fire and police to eliminate the deficit that we're all concerned about, to be able to better fund our parks and everything else we do in the city. That's our bread and butter. I'm sorry, Brenda do you have a question.

Alderman Thiel: Yes, Lioneld are you through?

Alderman Jordan: I'm not near done.

Mayor Coody: Oh, I'm sorry.

Alderman Jordan: I noticed that the area goes all the way past Deane Solomon Road. That's a pretty large area. I guess my question would be are we going to build roads over that far?

Tim Conklin: Within the project plan, there was a statement that talked about amending the project plan from time to time to add additional transportation projects. It's the intention of how to improve access from west Fayetteville and from the north into this area. So, I would say yes, that as that project plan, we would look at improvements.

Alderman Jordan: Okay. This brings me to my next question. Let's just say Deane Solomon Road for an example and we have development along that road. Are we going to be building the road for the development community or will there be a share like they do in our other developments? How's that going to work?

Tim Conklin: Our policy has been and it continues to be that the developers will pay for their share of improvements. At times the City builds things ahead of development in order to take care of existing issues but when development does occur, they do pay.

Alderman Jordan: Okay. That's all I have for awhile.

Mayor Coody: All right. Brenda?

Alderman Thiel: Yes. I'd kind of like to follow up on what Lioneld was talking about. We've talked about the need to keep our sales tax base, which I support totally. I looked at this map, I mean the outline of this district, and I don't understand why we've gone so far west, away from the area we're talking about trying to continue to build access into and so forth. I also understand the issues about Springdale schools, but it seems to me like some of our major problems are getting access to people from North College out onto I-540. Getting people from I-540 over to the Mall without having to clutter up. Now you've got to go all the way up to Joyce to get over and back out to I-540, which is very poor planning. Didn't Johnson just recently do a TIF that they disregarded the Springdale School District?

Mayor Coody: I know they just formed a TIF but I don't know about their...

Alderman Thiel: In other words, I don't know is that something that we have to do?

Mayor Coody: I can answer your question.

Alderman Thiel: I mean we cannot go into Springdale schools.

Mayor Coody: Oh, no, no. As a matter of fact when we originally drew this map, I have first hand experience on this, when we first drew up this map we included all of the Mall area and CMN Business Park because, as we all know, we collect the sales tax from that property, but the Springdale Schools since it's in their school district, they collect the property tax. We sent some of our representatives to Springdale to talk to the superintendent about what benefits there would be to them with this. We're not talking about twenty-five year TIF here we're talking eight to ten years probably somewhere along that line. What benefits were to accrue to them if we were able to add more infrastructure into this area, get more commercial development out there where there's a lot of undeveloped land right now that they're not making much money off of. When the eight to ten years would be over with, they would see a real up tick in their property values. We didn't get very far. They had a very strong negative reaction to any of their property being locked up in a TIF district, especially for Fayetteville. I truly believe that if we had more time, if we create this district and we had more time to flesh out what we can do up there that we can't do if that part of the land is not in this district. We need to show the Springdale School District what benefits it would be for them to be within the district, then I think they might warm up to the idea. But the initial reaction was very strong and I thought that the easier, most sane thing to do was to see if this Council wanted to create this district to begin with because if there was no interest in creating the district, why upset Springdale School District unnecessarily. But if this

Council decides that this district is important enough to create, then we can go back to Springdale and say okay. I wasn't given this chance earlier to say our plan includes a,b,c,d & e that will be an enhancement to your school district property that we can't do if it's not in the district. We need to be able to have more of a longer-term conversation with them. I thought at the time that bringing them in at the front end of this conversation would be productive. Does that make sense?

Alderman Thiel: Yeah. I agree with that I mean I understand your points, but I guess I still kind of share Lioneld's question about why did we go so far west?

Mayor Coody: Well, the reason we would go so far west is because, most of that, I'm going to throw out a round number, I bet 90% of that land out there is undeveloped.

Alderman Thiel: Yeah, but it's probably developed as residential, not commercial and not bringing in jobs necessarily.

Mayor Coody: A lot of the land out there along the intersections, north and south on some of those streets will development commercial. All of it won't develop commercially but we're thinking a lot of it would.

Alderman Thiel: Okay. On Deane Solomon Road?

Alderman Jordan: I'm going to get back to that in a little bit.

Mayor Coody: On Deane Solomon Road, but there's some other areas, we just took a wide swath, as wide as we could of undeveloped land on I-540 and developed this map. Now the boundary is tonight and in the future amendable. So we're not locked into stone on this. If the Council wants to create this district and then wants to amend the map to exclude what might be construed as residential land out of it in the future.

Alderman Thiel: Or include the north.

Mayor Coody: Or include that, if the Springdale School District will work with us on it. We can always come back and fine-tune the model.

Kit Williams: I don't think you could probably amend the map to include the Springdale School District land tonight because they would need to be notified before we could include their land.

Mayor Coody: Oh no. That's not the intent at all.

Alderman Thiel: We can take something out but we'd have, that's a good point.

Mayor Coody: I would not go for that. Not tonight. Yes, sir?

Alderman Reynolds: I was looking at the map. Why can't we take Van Asche up to Joyce and from Front Street over to Gregg Street and take in that block there and eliminate anything to the west of Deane Solomon? Is that the Springdale School District?

Tim Conklin: Springdale School District.

Alderman Reynolds: The other question I had was I heard Kit say it'd be one year before we would receive any funds if we adopted this TIF district?

Kit Williams: I think that's correct. When you have millage, millage only gets paid out once a year I think. Actually maybe Steve Davis knows about that. Steve, are you back here and can help me out? It's not like sales tax that you get every month from the State.

Steve Davis, Finance and Internal Services Director: The County will remit the sales tax monthly, but the majority of all of the taxes are paid in October, so the majority of it about 80% will come in November.

Kit Williams: That's the property tax you're talking about.

Steve Davis: Property tax, right.

Alderman Reynolds: So if we enacted this, do you think we could see some money out of this in November if we acted on this in the next 30, 60 or 90 days?

Steve Davis: It's possible.

Alderman Reynolds: So we could get some relief from this area that's been afflicted with the problem?

Steve Davis: It's possible.

Alderman Reynolds: Okay. Thanks.

Kit Williams: Keep in mind though that the initial increment is always very small and it builds over time. So the first years you receive very, very little.

Alderman Reynolds: Thank you, Kit.

Mayor Coody: All right. Thank you. Anyone else have any questions right now? If not, anyone from the public want to comment on this item before us tonight? This is the public hearing part. We're going to open it up for public comment. Anyone like to address us here tonight? Is everyone here for their health? Do we have a list there for people to sign in? Okay, I might ask everyone who speaks tonight to please sign in.

Lindsley Smith: My name is Lindsley Smith. I'm here today because I have a commitment to public education. The Blair Library is in my district, as well as this I-540 TIF district is in my legislative district. I'm not here today to discuss the issues of whether traffic control and economic development in Fayetteville would be a good thing. I will assume those as facts but that's not the relevant issue. The issue is the purpose of TIF funding and whether TIF funding should be used for the proposed I-540 redevelopment plan. On that point I argue it should not. The City's TIF plan has Phase One for engineering and planning costs and Phase Two through Four for construction of a Gregg and Highway 112 arterial connection, an overpass, construction of a new controlled access interchange for vehicular access to I-540, Fulbright Expressway.

Mayor Coody: Lindsley, I'm going to interrupt you for a second. I know you came in late but this is a two part public hearing. The second part of the public hearing is about the plan. Everything you're talking about there is the plan. We voted to table that because right now we're only here tonight to talk about the creation of the district and the boundaries. So, if you can limit your comments to whether or not we should create the district and if the boundaries are adequate or not. The school funding and all those things are part of the creation and whether we should do it or not but as far as the actual uses of what we would do, overpasses, interchanges, things like that, that's not on the agenda for this evening. We're talking about whether we should create the district or not and what the boundary looks like. Does that make any sense?

Lindsley Smith: Yes. Thank you very much. I'm speaking to whether the district should be created or not.

Mayor Coody: Okay.

Lindsley Smith: All right. Thank you. But I'm outlining, to go with Mr. Conklin's discussion as well as what the district is, Okay and what it proposes with the plan. Or would you prefer it for...

Mayor Coody: The plan will be discussed, perhaps at another time if the Council creates the district tonight. We'll discuss the plan at another meeting and the plan includes the actual work that would be done within the district, overpasses, etc.

Lindsley Smith: Okay. I might need affirmation from Mr. Williams, then. Which notice was given on the Internet as to what the plan was, which dealt with the I-540 plan and all of that?

Mayor Coody: Yes. And we had two public hearings scheduled for tonight. One was for the creation and the boundary. The second public hearing was to discuss the plan and the second public hearing has been pulled from the agenda this evening. That happened before you came in. I know you came in a little bit late and we had already taken that off the agenda.

Lindsley Smith: No, I think I understood that. But I do want to make sure, in terms of having a public hearing, you're voting tonight on whether or not you should approve the district?

Mayor Coody: This would be the three readings.

Kit Williams: The ordinance will be read for the first time. Then it's up to the City Council about whether they want to suspend the rules and go to the second or third and final reading and then have a vote. They don't necessarily have to do it. The plan that was discussed Tuesday night, they left it on the first reading. Of course one of the things that the City Council will be considering is whether the real property in the district will be benefited by creating this district. So you could certainly talk about that and the potential benefits from what might be proposed.

Lindsley Smith: Okay. We are talking about the creation of the district.

Mayor Coody: Yes.

Lindsley Smith: It is the I-540 district?

Mayor Coody: Yes.

Lindsley Smith: Whether it would be a benefit, is that correct?

Mayor Coody: Yes.

Lindsley Smith: And this deals with the TIF law.

Mayor Coody: Yes.

Lindsley Smith: All right. May I continue?

Mayor Coody: Yes, please, please. I just wanted to be clear about that. Sorry.

Lindsley Smith: No. That's fine. That's fine.

Mayor Coody: If I didn't tell you that, I'd be chastised by the City Council.

Lindsley Smith: That's fine. Mine deals with what the Fayetteville City government put up as the TIF plan proposal that's up for approval. Right? This was included in that particular public notice plan. Okay. The way I view this is that this is clearly a public transportation plan and not intended under the TIF legislation. I want to deal with that legislation. The I-540 Redevelopment Plan notes the TIF project has the improvement of street access as its centerpiece. The formation of the I-540 district was spurred by the desire to finance the infrastructure that is necessary for development to continue growth in the district. Congestion is likely to choke off growth in north Fayetteville if significant resources are not directed toward alleviating traffic problems. We've dealt with that thus far. The intent of the plan merely asserts that there is a desire to finance the infrastructure and such desire is necessary for growth because of a likelihood that growth would be choked off. Well I have to say in terms of analyzing the TIF law, a desire and likelihood do not meet the burden of proof under the TIF legislation. The TIF proposal does not meet the requirements of the TIF statute because under section 3a of ACA 14 168 301 there has been no showing that the area contemplated is detrimental to public health, safety, morals or welfare. If ignoring section 3a, under 3b of the law it cannot be shown that the area plan for the district consists of a substantial number of deteriorated or deteriorating structures, unsanitary or unsafe conditions, deterioration of site or other improvements or conditions that endanger life or property by fire or other causes. Even if it is contended that one of these are shown, you still have to show that whatever problem is claimed substantially impairs or arrests the sound growth of the city, retards the provision of housing accommodation or constitutes an economic or social liability and is a menace to the public health, safety, morals or welfare in its present condition and use, which it cannot show. Even if you attempted to assert that there is a faulty lot layout, you must also show that the faulty lot layout substantially impairs or arrests the sound growth of the city, pointing to Mr. Jordan's comments earlier, and questions. Thus arguments for the I-540 TIF plan hang their hat on an interpretation of the final section of 3b, without regard to 3a, the contention that a blighted area exists because the area is a predominantly open area with a lack of accessibility that substantially impairs or arrests the sound growth of the community. It has been argued that this TIF district is needed to compete with Rogers. Even if it has been shown that it would benefit growth, which is not the intention of TIF legislation, there is still a failure to show that there is a substantial impairment or arresting of growth. The inability to show this requires a no vote. Additionally it is arguable that the proposed plan is not allocating funds for the district but instead is allocating funds for ingress and egress to the district for when the actual district develops at some future time, which no doubt will require additional taxpayer funds. The unintended use of the TIF law is also shown in the comments of State legislators for the need to amend the law for clarification of its intended purpose and to avoid abuse. In March 2003 the Attorney General first opined that the twenty-five mils mandated by Amendment 74, the URT or Uniform Rate of Tax is a State not local tax. The AG has restated that opinion in two subsequent opinions. A request is now pending that asks, since the AG views the URT as a sales tax, can revenue from the twenty-five mils for a local development project as provided in Amendment 78, given the uncertainty of the use of the revenue for the twenty-five mils, which we've all been reading about, the financial viability of any TIF that's counting on a revenue stream must be viewed as uncertain and likely to result in costly litigation with an uncertain outcome. It would seem prudent to at least wait for clarification. Outside these reasons, in addition to these, TIF limits the amount of property tax that the district receives of property taxes increase for the life of the bond. We've already discussed this. The State would have to make up the difference by diverting general revenues that would otherwise go to all Arkansas public schools. On that point schools get money back from the State but libraries don't. So what we are doing is taking money that would otherwise go to libraries and we are giving it to subsidize commercial development. There's also a concern about the loss of funds for city fire and police personnel pensions. As a soon to be legislator, I'm already faced with overcoming the false perceptions that some legislators have, many legislators, that Northwest Arkansas' streets are paved in gold. I'm sure you've heard that. Those of you who have been down to Little Rock have heard that repeatedly and that we don't need additional State funding up here in Northwest Arkansas. Runaway TIF plans in Northwest Arkansas reinforce those false perceptions and hinder goals of acquiring needed funding for mental health care, for schools, for the University of Arkansas and for other needs facing us due to existing growth problems and the lack of funding in order to meet those needs. Finally, it is ironic that the goal of the TIF plan is to further growth when the justification for the need of the plan is due to problems associated with rapid growth. For these reasons I ask for a no vote in consideration of the plan.

Mayor Coody: Thank you. That was a very articulate argument. Thank you very much.

Alderman Jordan: Could I ask the Representative Smith a couple of questions? You said something about the school funding. Now, if I understand this correctly, Act 43 makes sure that the school gets their money. Am I saying that correctly?

Lindsley Smith: This is what I was told and I was typing as they were speaking. The last Legislative session enacted an Act that affected the way the school funding is computed. The basic formula is the basic amount expected to be spent on school districts. That formula would have to be enacted again by the next legislative session. Under that formula in the last session, the local contribution will be considered before applying the formula, with the assessed value of all property in the school district being multiplied by the millage. If the law continues, that schools are to spend a certain amount on students, then the result is that if taxes in a school district are frozen, then the State makes up the difference (going straight to your point). They added some other points if you want me to.

Alderman Jordan: But that's the gist of it.

Lindsley Smith: Yes. They also added, "but this special computation is only for school funding." There's nothing like the school funding formula they noted, for other things now receiving State funds. In essence, they stated, there's a loss of money for those other things and nothing out there that requires the lost money to be reimbursed. If there is only so much money the State has, the result is that other needs will receive less funds.

Alderman Jordan: So in other words you'll have to cut possibly services somewhere else to be able to make up the difference in the schools if that's the case?

Lindsley Smith: I hate to speculate, but I'll say that from everything I've received and everything I researched and based on the reality, that yes, that's reality.

Alderman Jordan: Okay.

Mayor Coody: Let me make a couple of points here. One is, and I'm going to start from this and work my way back. Yes, if we had no economic growth from forming this TIF district, your scenario that funds could be made up from some other function in the State, if we saw no expansion of the economy based on this TIF that would be right. But the entire reason that TIF's are an effective tool is that it stimulates the economy and where we might lose a little bit in one area, it's more than made up for in another. For example, I'll fall back to the library millage. Yes, we collect one mil for the library but the library was built with sales tax and the City's fund of the existing, ongoing library funding is from sales tax. So, while we might get hurt on a little bit of property tax, as far as the freezing goes, that's more than made up for by an influx of a new, greater sales tax amount. You mentioned fire and police pensions, yes, that would be frozen, a small portion in a small part of the town would be frozen but our sales tax increase would be such that we could actually hire more fire and policemen. The gain would be a lot larger than the hindrance, as far as the dollars go. That's the whole reason TIF's have been put into place and why they tend to work.

Forty-three or forty-four states have TIF districts. This is relatively new for Arkansas and none of us quite know how this is going to work. In Illinois I believe it was, they formed TIF legislation eleven years before it was actually used. Once it started getting used, the Legislature fine-tuned it two or three times before they settled on legislation that worked for the state, the schools, for the businesses. I fully expect Arkansas to do the same things. This will be modified, exactly how, we don't know. But it's important that TIF legislation continues to be provided as a tool to make up for funding that we used to get from state and federal sources that are just dried up. We can't always rely on local tax dollars, to raise taxes to do the kind of work that needs to be done out here. So there, while you present very good arguments, it ignores the ripple effect of why TIF's are put together to begin with, and that's to stimulate an economic area to increase your income rather than keep it leveled off. Yes, ma'am?

Alderman Thiel: Can I ask a question? After having discussions with Lisa Morstad I'm not as concerned about a local school funding because we have, if I understood her correctly, and of course some of this does depend on the Attorney General's opinion on that twenty-five percent of the increment but isn't the concern more a statewide concern? Fayetteville is required to send twenty-five mils to the State. All school districts are required twenty-five mils. Fayetteville citizens pay forty three, forty five mils; I think it's like twenty-three mils more that we're actually increasing to support our schools. So, in other words, we have a very wealthy school district. A lot of school districts don't have that access being paid in. What I'm leading to is their concern. I see the concern that the legislators that represent small schools throughout the state, poorer schools, poorer cities, that don't have this additional funding for their schools, those representatives are going to fight everything, and their representatives their State representatives and senators are going to far outnumber Northwest Arkansas' representatives. I feel like probably there's going to be some major adjustments in this TIF legislation because of who they are representing and their concern about the amount that's going to the State. I don't know if I really had a question other than is what I'm saying kind of correct? I mean I'm trying to understand if that's correct.

Lindsley Smith: I see what you're saying. Yes. You have different concerns I think that several people have been addressing and will be addressing. One, in terms of meeting the Lakeview opinion of the Supreme Court, which itself is an opinion based off of being a poverty issue and that's what the Court said. In fact, when the Arkansas Supreme Court was dealing with Lakeview, at first others added on, but with Lakeview they gave different examples there. For instance there is the Lakeview district, all the high school courses are taught by one uncertified mathematics teacher who is classified as a substitute teacher and earns $10,000 to do so and as a second job he takes on the job of a bus driver and he earns $5,000. There are other schools in Arkansas that have asbestos problems, some that have no heating and air-conditioning, the list goes on and on and schools that do not meet the Americans with Disabilities Act.. There are legislators who are very concerned about that. In the Supreme Court opinion it dealt with various things one of them would be facilities. That will be a big issue for the State. Not only that we've received the educational facilities report that gives at least $2 billion in order to come up with, where will we come up with that money, that will be a concern as well. Another issue that you present is will they even need to change the TIF law? Some are talking about the need for clarification of that law because of the certain intent already being that is was intended just for blighted areas. I know that Section 3b has a sentence that's about 100 words and has about 40 'ors', no semi-colons and no periods and a lot of commas. But when you start taking part of that one sentence and seeing where the 'ors' are, I think the question does come back to what is the intent of this legislation. The other aspect of your question is it's not so much that this will benefit but there has been a substantial arresting of or decline. Well, I won't even deny that. I mean, it would have maybe a benefit. Growth can bring benefits, right? Even if we assume that, what is the intent of the law as it is right now? Under the TIF law you have to show the exact opposite in order to meet that. I've worked in the Arkansas Court of Appeals, I've worked for the United States Court of Appeals for the 8th Circuit and I've worked in the opinions division of the Attorney General's office and I'm bringing that experience to say that in terms of interpretation and seeing if particular plans even meet the statute, there's significant questions there. Then you get to your other point, which was dealing with might they change this law. I think you're correct. I think it goes to my statements where I talked about the perceptions that are already in Little Rock, and you can ask any legislator up here if they've legislated at all in the past or if they're doing so now, that there is that perception. Streets are paved in gold. I'm sure there may be concern maybe at the University of Arkansas as well, needing funding at the University and would that likelihood of runaway TIF programs make it to where those individuals, those number of people might not allocate funds to the University of Arkansas. I think there are significant questions there. Might they see that we don't see a mental health care crisis up here and not fund it? I think that there are, there may be concerns as that. I'm supportive of these and I'm looking to assure that they are protected and funded.

Mayor Coody: Tim, if you'd do me a favor, put 3b back on the screen, please with the bold language on it. While everything you say, Lindsley is exactly true but there's the other half of the coin that, predominance of defective and inadequate street layout, adequacy, accessibility, usefulness, conditions that endanger life or property by fire or other causes'. We all know the traffic congestion up there is dangerous. We have lots of accidents up there. "Combination of such factors", we talked about the loss of sales tax, the 25% loss of sales tax coming to us from Benton County over the last two years. 'Predominantly open area which because of lack of accessibility, obsolete platting, substantially impairs the growth of the community' that, reasonable people can disagree and we can. You see the light gray, we see the black printing and we can each see both sides of one coin.

Lindsley Smith: No, actually I'm using the black printing. I use seven arguments any of which would require a no vote, not all of them together. One of those was dealing with the gray area, and I'm dealing with the best-case scenario for the TIF plan. I'm also looking at in terms of the likelihood of future legislation and making sure, being an attorney myself and in terms of interpreting this, to make sure that we fit within the TIF legislation. Mr. Williams has stated we don't know where certain lawsuits might come from. I mean there could be even the possibility of suits saying that this is invalid under the law. Where would we be already if construction had started to take place, etc.? Where would we get those extra funds? So I'm looking out for the city on that. But I'm looking at, in terms of the best-case scenario, yes I anticipated that because in interpreting and looking at the statutes, that's the only way that you could construct this for the TIF plan is to take various parts of it and I've already picked out those black parts there and deleted the others to see the best-case scenario. That's my argument, even under that, it's not just growth, that this would help, that we have to compete, okay? That there's economic development, there has to be, and what is in black print, a substantially impairment, substantially impairs or arrests the sound growth of the community. Not at some future time, okay? But now.

Mayor Coody: Okay. Thank you. Bobby, do you have a question?

Alderman Ferrell: Yes, I do. I hope when you get to the Legislature that you retain your strict de-facto interpretation of the law because you're going to run into a lot of people down there that, like the your interpretation because there's a lot of de-facto people down there that you're going to run into. I've got a couple of points. You mentioned litigation, if there is litigation, do you expect that to come to all TIF districts in Arkansas that have passed TIF districts that you don't agree with the interpretation on, i.e. say Benton County or Rogers. Do you think that if litigation starts it'll be where there wasn't what you could call a blighted area, what you would consider a blighted area?

Lindsley Smith: One, you'd have to look at an individual having standing for that and so that would be, I would think, the first question of who has standing in order to bring certain suits and whether they bring it in a particular area or they try to make it statewide. What it looks like, just reading the newspaper and seeing where there are already moves going toward an Attorney General opinion and already talk of the likelihood of maybe some lawsuits that would be out there. I think we do have to look at even if no lawsuit would be filed, we have to look at and say there is a possibility of one and assure that we're going through the proper intent and purpose and wording of the statute in order to avoid that. If Rogers gets into that, I don't think we'll want to be in the same boat.

Alderman Ferrell: So is your answer that, yes that might happen?

Lindsley Smith: It might happen.

Alderman Ferrell: Okay. If you'll just for a moment follow this logic that across the State where TIF districts have been created or are being created and have been and there's infrastructure improvements, there are other things that will raise the sales tax. Let's just assume that for a second, in all these TIF districts across the state, if sales tax is raised that sales tax goes into the general fund. We've mentioned, and we've talked about school districts that don't have the millage that we do and we worry about the funds coming back to these districts. Could one assume that if the sales tax from these TIF districts, where there's more money raised because the TIF was an enabling factor that there's more money going to come back even to the delta areas, aside and apart from property tax? I'm talking about from the State coffers. Could one assume that if the TIF's do work and there's more sales tax collected, that there would be more money come back even to the Delta areas?

Lindsley Smith: I think the question is a significant amount of money coming back. I think there is a probability that some money could come back. I think nobody's talking about that because the possibility of that going statewide rather than just local at a significant level...

Alderman Ferrell: I'm not talking about a statewide TIF, I mean there are TIF's around the state....

Lindsley Smith: You mean money going back into the general fund.

Alderman Ferrell: Yeah. I mean if sales taxes go up, that money's going into the general fund.

Mayor Coody: We charge a 9-cent sales tax, 6 cents of that goes to the State of Arkansas.

Lindsley Smith: Right. Yeah. I think definitely that under that idea in terms of particular growth I think the answer would be yes.

Alderman Ferrell: Thank you.

Lindsley Smith: Whether it would go to those particular areas, or whether it's rerouted in particular ways and whether it all goes to the Delta and none of it comes back here is also an important question.

Alderman Ferrell: I think it would go around the state.

Alderman Thiel: I just want to say, though, in our particular situation, I'm not arguing one way or another, but we're talking about trying to take some of the sales tax base from our neighbors up north to do this. I mean that's what we're talking about. I mean, we've stated that. So actually, there's no more sales tax. It's just shifting from a little farther north down here. So that doesn't increase the sales tax. I mean I don't understand your argument.

Mayor Coody: You're talking about it's the same pie divided up differently.

Alderman Thiel: Yeah, it's the same pie and you're talking about going to the State's portion of it well, it doesn't matter where it comes from down there because, I mean, how it's distributed, you pointed out, you know that's neither here nor there either. The point is you're not increasing the sales tax; you're just increasing it here in Fayetteville rather than up there.

Alderman Ferrell: My argument would be, no. That's not what I'm saying. The 25% that's from Benton County is, let's just say that's the number now. What I'm saying is that, if around the State where TIF districts are passed, in aggregate the sales taxes, the amount of money that goes into the State coffers, the general fund rises, then that's going to be more money to come back out. It's insignificant whether in the big picture about Fayetteville and Rogers, although it's very significant to me. But you see what I'm saying? I'm not talking about just here. I'm talking about TIF districts around the state. If by improvements there's more sales tax, in aggregate, collected in the State of Arkansas then there's going to be more to come back. That's all I have.

Mayor Coody: Thank you, Lindsley. Do you have any more comments?

Lindsley Smith: No. I thought there might have been a question in there and I was going to answer it. I think we're okay.

Mayor Coody: All right. I want to let you know that we appreciate you're being here and we appreciate your service, your voluntary service to the Legislature. Please, work with us this TIF legislation will be modified, I would put money on it. But I hope you'll work with us on it to where we can maintain it as a good tool to do the things that we need because, while our streets are not paved in gold, we don't have the money to handle the growth that we're experiencing here in Northwest Arkansas. We don't get money from the State like we used to; we don't get money from the Federal government like we used to. So we need every tool available to us to make these projects work. If we were still getting money from the State and from the Federal government like we used to, we wouldn't have to fall back on things like this. But those sources have substantially dried up.

Lindsley Smith: Yeah. And I think that becomes a question as well. When you just look at the TIF legislation, of having to fall back on it and then construct something, you know, and our discussions now of whether funds would go back into the general fund and back elsewhere because of the benefit of growth. Again the TIF legislation doesn't deal with qualifying as the benefit of growth but under the dark lettered words, 'substantially impairs or arrests the sound growth of a community'.

Alderman Marr: A question for Lindsley, before you go. Have you heard any rumor from peers in the Legislature of when you suspect the timing of the AG's opinion? If this legislation will in fact be visited and how quickly in this legislative session?

Lindsley Smith: When I was in the Attorney General's office it was under a different state Attorney General. But I know that Senator Jim Argue has asked for it to be expedited. Now that would depend on what the definition of expedited would be with their workload at this particular time. I would just be guessing at that.

Alderman Marr: You don't have any idea? You think it's a month or you think it's a week or think its a few months?

Lindsley Smith: Since I've worked in there on opinions and all, if I had to expect I would expect probably a couple of weeks we might see something.

Alderman Marr: What about the second part of that question have you heard any …

Lindsley Smith: Good rumors…

Alderman Marr: Well any rumors as they relate to revisiting this legislation. So, do you think it's something that will happen early in the session or will there be other priorities and will this get lost in those items?

Lindsley Smith: I don't think it'll get lost. And that's why I would address this here because I did see it important enough and that there are indications of that and it's been reported in the newspaper that, yes; legislators are looking at seeking clarification of that. Some of the reasons could be that they don't want the rich to get richer and the poor to get poorer or our streets are paved in gold or runaway TIF plans. The list can go on and on of what the, in the rumor line, what the rhetoric has become.

Alderman Marr: Thank you.

Mayor Coody: Thank you very much. Anyone else want to address us tonight? Please step forward, if you would like to speak why don't you prepare to speak and kind of get close to the podium if you would, please.

David Hausam: I'd like to thank you for this opportunity. My name is David Hausam and I am a resident of Benton County, so I'll tell you that right up front. I'm also the one that sponsored the legislation that created the TIF districts in 2001. I've been reading about the TIF districts here in the Fayetteville area, Johnson, the discussion in Goshen, and Rogers. Bentonville's come up a thought about having a TIF district. There have been some things said in the paper about a lot of these things being created under a loophole in the law. I will tell you it is not a loophole in the law. That was the intent of the law. The intent was, not only for what you would consider to be dilapidated buildings and blight, but also to open up for economic development and the creation of jobs, green space areas that don't have access. Because if you looked at it from the strict interpretation of, substandard housing, substandard buildings, etc, if you looked around the State, there's probably only one, maybe two places in the State that would qualify. I can't think of anything in Bentonville that would qualify to fund the infrastructure necessary to do some of these things other than in Little Rock, for example where you have deteriorating neighborhoods that you go in and do a total redevelopment of the neighborhood. Because, if you look up here, in most of our cases up here we have pockets in different areas that something needs to be done with, but they already have a substantial, in a lot of cases, a substantial property tax on it already. When you're talking about only the increment difference, that's what you'd get in order to finance the infrastructure improvements. That's what makes that strict interpretation a very difficult process in order to finance. What you're talking about tonight here is a creation of a district. You're not talking about actually carrying through with everything because you've got a lot of other steps to do. You've got to develop the plan, the economic viability of that plan, you've got to get bond counsel on board, you've got to issue bonds and you've got a lot of steps to go before that's ever going to happen. There's going to be a lot of other attorneys. Your City Attorney's going to be attesting to the legality of it, you're going to have bond counsel attesting to the legality, you're going to have underwriter's counsel attesting to the legality. In the meanwhile, you very well may have a lawsuit that's been filed in another part of the state or is in the process of being filed that will answer some of these questions…

Mayor Coody: Let me stop you right there. Is there a lawsuit in the process of being filed right now?

David Hausam: I've heard that there's one coming out of Central Arkansas. That they're filing it just to answer some of the very questions that you all are asking. But one thing I want to tell you is if you don't create the district, you may not have the opportunity to do it later. So you'll lose that opportunity. Creation of the district does not mean that you have to go forward with anything. You can get the plan and decide the plan's not what you want. You all control the plan. Nobody else. The developer doesn't control it or anybody. The City Council has to approve that plan and so, if you decide that you want an overpass built, that can be part of your plan. If you decide it's not going to be built, that's also part of your plan. That control rests entirely with the City Council in terms of what your desires and wishes are. But I would hate to see you not pass the plan because you think something may happen down the road, and if it doesn't happen then you lose out on the opportunity. Because the bottom line is that as the Mayor said earlier, we're in a situation here in Northwest Arkansas where a lot of the infrastructure improvements that are "State projects" can't be done because there are not enough State funds to come up here. For example on the highways you've got overpasses that need to be widened; you've got access to other areas that need to be developed that you can't do because there are not State funds in sufficient supply to do that. So this gives you a window of opportunity to go in and do some of those things, to open up those areas for improvement. I'll tell you if you open them up to retail improvement, you'll get a lot more money off of sales tax than you will off of property tax. Look at the city's current budget. Look at what you're getting from property tax versus what you get on sales tax. I'll tell you your growth and the way to operate city government is going to be off your sales tax base and widening that base as opposed to trying to increase add another penny or something like that. I've kind of rambled a little bit but I will tell you like I said, I listened to some of the comments in the paper, etc. and I thought, well, I need to come down and just put myself before you and let you know, I'll answer the questions based upon what we did. I will tell you that the vote of the people that created the TIF legislation, or not the legislation but the amendment allowing creation of the legislation was 54.6% in favor of it. When it hit the Legislature in 2001, we had 91 yes votes in the House, 1 person who voted present, and 8 that did not vote. In the Senate we had 34 that voted in favor of it, one was an excused absence. In the 2nd Extraordinary Session of 2003, we had some clean up legislation on a technical issue that dealt with the school funding formula that we talked about earlier that came in play and that particularly legislation passed at a rate of 35 yes votes in the Senate and 91 yes votes in the House, and not voting 9. I tell you it was discussed at great length. We went through Revenue and Tax; we discussed it there at great length. Then it goes before the floor of the House, it's discussed before the floor of the House, it goes to the Senate to committee, discussed, and then to the Senate itself for the final vote. I think everybody was fully aware of what the legislation says. So, I would encourage you to go ahead and pass your plan. If you see things that come up later on that you may not like or may want to change, you have that opportunity to do so. You can scrap the plan next month if you wanted to. But don't cut yourself out of the opportunity to do it.

Mayor Coody: To re-ask Don's question: what do you see on the horizon if this gets modified, what do you see?

David Hausam: There have been several discussions going on. One is on the twenty-five mils, which is the school operations that's mandated by the Constitution. The twenty-five mils may be frozen out and taken away from being able to be allocated for the TIF districts. If that does, that will pretty much shut down the financing. There are other options out there. I know Senator Briles has indicated that he'd like to do an increase in sales tax on a local option basis so if you created the district for retail establishment and it created additional sales tax that you could use that growth in sales tax in order to fund the bonds. So there are several different things that are going on.

Mayor Coody: So you could have a different sales tax rate in the district than you would outside?

David Hausam: No, you'd have the same sales tax rate but say, in that particular district you were bringing in a million dollars a year, and you increased it to two then you'd have a million dollars.

Mayor Coody: I see. So it'd be a sales tax TIF essentially instead of property tax.

David Hausam: Right. You'd freeze the sales tax at that point for the businesses in the district. I think that's the way that, that's one of the ways that you can do a financing. Missouri is off the sales tax.

Mayor Coody: Do we have any questions for Mr. Hausam?

Alderman Marr: I have a question for you, Mr. Hausam. Since it passed so strongly and now it's in the newspaper every day and you hear the people concerned about the impact of it, do you expect any changes that would kill it other than the twenty-five or limit the control?

David Hausam: I think that some other things that could be changed. In looking back on it from my standpoint of when I carried the bill, possibly if we had tied this a little bit closer right now you can set it up for twenty-five years. If you did a bond issue and that bond issue pays off, say you do a twenty-five year bond issue but based upon the collections you get it's going to actually pay off in ten years. Nine years out you come back and do another bond issue and just keep leapfrogging it. I would think that possibly something along the lines of saying okay once you create your district and you've developed your plan and this is what you're going to finance with it, that's what you can do under this TIF. Once that's gone then you have to, if you want to do another bond issue for additional projects you would have to do another TIF. You'd have to go through this whole process again.

Mayor Coody: So if we did, let's just use this one for an example, if we used the I-540 TIF and we did half for infrastructure needs, we'd have to dissolve that TIF district, recreate it and start over again to sell bonds?

David Hausam: Well, once you pay off the bonds basically what it would be is once the bonds are paid off, your district goes away. Just automatically, as opposed to being out there for twenty-five years. I think that's a pretty good from my standpoint. I used to be an investment banker, did a lot of bond issues in fact I did one for the City of Fayetteville and I've done one for Rogers and a couple of the other towns but from my standpoint to treat this more like a sales tax bond where all revenues generated off of it have to go to paying off bonds. You pay them off in reverse order. Maybe you have a fifteen-year issue that actually takes you ten years to pay off. I mean that makes good economic sense and it's a good, conservative way to do it. Now to regress a little bit on the creation of a district, the only reason that you wouldn't want the argument out there that you're going to hear is no matter what you do, that property's going to develop. Well, it may develop and it may take twenty years to do it or twenty-five years to do it based upon the ability to access the property. If you look up and down the I-540 corridor, what's developed has been property that is pretty much right around the interchanges. What's not around the interchanges and does not have access is not developed and you have a lot of green space. So, the argument about it's going to happen anyway, yes it might but it may be twenty, twenty-five years out. If you could speed it up and do it in five years instead and get the development going. I think the discussion earlier was on sales tax collections and improvements and stuff part of your study that you'll get back I'm assuming, I don't know who's going to be doing that, Tim, if it's going to…

Mayor Coody: The University of Arkansas.

David Hausam: I would assume that part of that's going to be saying, okay here's what you're going to generate in that area from the standpoint of economic development, whether it be in jobs, number of jobs, the average wage for that job, how much additional sales tax will be created because you're going to have to make some decisions on your own too, because you're also freezing your own property tax and so you're going to have to look at it from the standpoint of does it make sense for the City in terms of what additional monies they get. I can tell you that based upon the feasibility study that I saw, there is probably a ten to one, actually a little bit, about a ten to one ratio of sales tax being much greater than the property tax collected and that was starting in 2008. 51% of every dollar that is collected, actually it's a little bit better than that, if you look on the State level. For example Public Education gets 51% and General Education an additional 1%, Corrections gets 6, Health and Human Services 20, Higher Education is 15, General Government is 3, Other is 3%. So if you generate an additional, in this particular study $60 million and you divide that up, that's additional monies was $58 million a year that would be collected based upon this study. Twenty-nine million of that would go into the Public Education. The General Government would get about $1.8 million but you're going to have a lot of money going to the State. I think this is what some of the folks in Little Rock are not looking at is they're not looking at what they could actually gain by having a TIF district if you did have the development that you project. It's almost a crap shoot sometimes but if you have that development the State has the potential of having ten times the amount of revenue generated from the sales tax than what is generated on property tax in this particular instance. So, I think, personally as a former city councilman and a former city employee of this particular city, and also of one north of here, I think it's a pretty good bet to at least take the time to set up your district. Go through your plan, determine what the plan ought to look like, make sure it meets all the requirements and passes the muster as Representative Smith was talking about, but you're going to have a lot of people out there think that it has to do that. If you're going to issue bonds, Kit has to write a letter. That opines that everything that you've done is legal. Bond Counsel has to do the same thing and so does the underwriter's counsel. That's to protect the bondholders and also protect the City and if something happens they are at risk just like everybody else. I will tell you that any bonds that would be done are special revenue bonds that are not a legal obligation of the City itself. It's done solely from the revenues generated by the TIF district. That's part of the legislation also.

Mayor Coody: Thank you. Any other questions for Mr. Hausam? Thank you very much, David. I appreciate you coming out tonight. Who else would like to address us on this?

Steve Rust: Mayor. Members of the City Council. Thank you for this opportunity to talk to you. I come to you tonight on behalf of the Fayetteville Economic Development Council. My name is Steve Rust. FEDC has provided a letter for your review. I would like to talk briefly about two or three things there and then a little bit in general about the TIF as an economic development tool.

First of all, from the FEDC point of view, we support all the TIF's that you have. Each is a very important strategic initiative that this community needs to do to help us grow and be all that we can be. FEDC also believes that the I-540 TIF is in the near term by far exceptionally important to this community because of what's already been discussed in terms of the tremendous amount of sales tax that are generated in the area and that's how you get most of the funding that the City uses to operate. We also mention in our letter that we think it's very important to do the south TIF. I know that's not on the agenda tonight. I know it's not even up formally yet, but that for a long term future is exceptionally important. The other thing I would like to talk about just briefly is just the TIF as an economic development tool. The Mayor mentioned that there are forty-three other states that use this vehicle to grow their state and create wealth. I came from one state that does that South Carolina. Basically if you look at it at the City level and if this represents your entire tax base, you're going to take and tear off maybe 10% of that and you're going to take that into four different pieces. Now what you don't touch remains the same. That stays like it is now. You take what you have and you use that to fund very strategic economic development projects that allow private investment to happen and so forth. This little square, this tax base that was this big gets a whole bunch bigger. There's more sales tax generated, etc., etc, schools benefit, the library will benefit, everybody is going to benefit from that. If you take a look at that from the State level, the same thing happens. I think the thing that distresses me as an economic developer as I sit here and listen to what's been talked about is it's very unfortunate that the State hasn't crafted TIF laws that aren't controversial. The last I checked, Arkansas is, when you look at the national rankings, we're down near the bottom. I think one of the reasons is you don't have a TIF because this is a very powerful tool to develop the entire State. So I think the gentleman who spoke before me made an exceptionally good point and that is, don't close the door. Go ahead and vote for this tonight. I highly encourage that you do that. Also, I would encourage you all and I would encourage our State legislators to not gut this. Figure out a way to make it a win-win. Because if you don't do that, you've just hurt Arkansas. A TIF used wisely in good strategic projects, helps the City and it helps the entire state. Everybody's going to benefit. Thank you. Anybody have questions?

Mayor Coody: Do we have any questions for Mr. Rust? Thank you very much. Anyone else want to address us tonight?

Alice Church: My name is Alice Church and I'm the senior property manager for Northwest Arkansas Mall, I'm here tonight representing the Mall and also the Maserech Company, that's who owns the Mall. Even though the Mall is not a part of the TIF, I want you to know that the Mall still supports the TIF going forward. The reason is that it's very hard for me to separate the Mall from the rest of the retail area surrounding the Mall. Some of my merchants would think I'm crazy if I stand up here and tell you that I want Target and I want Kohl's to be successful but it's very important that we remain a very healthy shopping district. I want us to be a destination-shopping district in Northwest Arkansas. I've said many times to people, if someone drives in from southern Missouri or from Fort Smith to shop at Target, they're coming to the Mall too. We're not just a Fayetteville shopping center. We are a Northwest Arkansas shopping destination. So, I have to include Northwest Arkansas Mall with the rest of the retail district. From the City's standpoint, I think the reason that that's important is that 50% of the sales tax revenue is coming from that area. I would like to argue the point that right now we don't have a problem. Because I think we do have a problem. I can stand up here tonight and say only one store that I can name has left the Mall and gone north to the Rogers area. But where do you draw the line in the sand? You know, not all of our leases are turning over today. What's going to happen is whether somebody's on a five-year lease, a ten-year lease, as those leases come up for renewal, those businesses are going to make a decision, do I stay at Northwest Arkansas Mall, do I stay in this shopping district or do I go north? There's only a certain pool of national retailers and I think, really the national retailers are the ones we're talking about right now, it's not as much the local merchants that we're looking at. A large extent of our merchants are national retailers and they are going to be making the decision do I go north or not. If we're not healthy, they will go north. A big reason that I think I've had a problem selling national retailers on coming to the Mall is the access issue. That is probably the number one problem, and forming this TIF I think will help us to do the flyover to make better access to this whole retail-shopping district. I just want to say that I do support it. I think it's very important and I think you should vote for the TIF tonight. Thank you.

Mayor Coody: Do we have any questions for Alice? Thank you very much. How are you tonight, Ben?

Ben Israel: I fell and broke my hand. I've been in Fayetteville since 1966. My name is Ben Israel and I'm a developer with Dixie Development. You know, up until the last few years, I would never have thought that I would have to drive to Benton County to see a movie but every movie I've gone to in the last year or two I've gone to Rogers to go to the movie. About three out of the six times I go out to eat, I go to Rogers to eat. Let's face facts all of those dollars that Ben Israel spent, and I bet if we took a poll around the room, other people in this room have done the same things. Those tax dollars would have come into Fayetteville had those same venues been available for me to go to the movie, get on an airplane, or to shop even. I'm here to address actually a couple of things. One is that in determining the district can we talk about the boundary, is that one of the things we can talk about? You know, we have a project just south of the Washington Regional hospital, the old Younkin airstrip that we have approved through the City to develop and I notice that that is not in the TIF district. There is a good reason to include it in that our street going through our property will be a feeder street that goes to Drake Avenue, which is a four-lane road leading up to 71 Business. Drake is a four-lane highway going to nowhere. If you all were on the Council when the opposition was trying to get us not to put the subdivision in, they kept talking about the four-lane road that leads to nowhere. It does, Drake Street goes down and dead-ends, and it doesn't go anywhere. We would like to see the TIF district extended to include Drake so that that road could be extended on out to Gregg Avenue and provide access to the hospital from that direction. I noticed in the TIF legislation that it said about getting access to medical services. Right now you can't get to Washington Regional very easily from the south side of town or for that matter from the west side of town. I think if Gregg is being improved now, if Drake could be extended over to Gregg and then a three lane feeder road that we could put in, will put in, leading up to the hospital. Gives a great access to the hospital. The first drawing had that in there. I don't know how it got taken out but the first drawing that I saw had that, down to Drake Street and over to Gregg in the district. The other thing I'm here to talk about is that on the north side of is that Fulbright Expressway? I wonder why it isn't including up to Van Asche Drive or even further north to the city limits.

Mayor Coody: Because that was in the Springdale School District.

Ben Israel: Is that the Springdale School District, it goes that far down?

Mayor Coody: Yes

Ben Israel: Does it stop at Van Asche?

Mayor Coody: No it stops just south of Van Asche if I remember right. From there all the way up to the city limits, just north of the Mall is in Springdale School District. That's why that was included in the first map but not this one.

Ben Israel: We have a very strong interest in the property just north of Fulbright up to Van Asche and even over the hill. It would be east of I-540, north of the Fulbright and west of Gregg Avenue. We're struggling and trying to figure out how we could develop that property. There's about 400 acres in there for mixed-use development. No single developer could put in the infrastructure that would be required to do that. General Growth Properties is working with the Pinnacle Group to develop their 750,000 sq. ft. of retail and mixed-use, they wouldn't even attempt something like that. I mean they're the largest developer in the United States and they're getting TIF district help to put in an infrastructure system there to provide the opportunity to those 200 acres, or whatever it is. Right now we're already battling in Fayetteville as developers a couple of dollars less per sq. ft. than we can get in rental income and about the same cost of building and about the same cost of land. So, if we also have to on top of that pay for the infrastructure of some kind of loop to get off of the interstate to go into that area then we'd be out of the ballpark as far as competing economically. So I would encourage you to think seriously about at least setting up the TIF district. Don't shut us out of that opportunity. Once Steele Crossing fills up, it would be logical to think that you could go across the street, across Gregg Avenue and there's another 400 acres of possible development. It's the heart of the watermelon. It's the most visible part of Northwest Arkansas from every direction and it would make sense to do that. I think there's an opportunity and we have a small window, we hope you'll take advantage of it. I think it everybody's concerned about education in the south and we're concerned about the people in Sri Lanka today, but we can't solve everybody's problems. You know, we have problems in Fayetteville. I would love to not have to go to Rogers to a movie and I think you would too. I would like to have great access into the hospital and I would like to have other things that could be provided. The developers are sitting around hoping that this happens because it'll allow another part of Fayetteville to open up. There are not enough developers here or that would come in to develop that part that I just described. It would be impossible to afford the infrastructure. The cost to the tenant or the cost to the land buyer would be so astronomical that we would just be out of the market. I thank you. Any questions?

Mayor Coody: Any questions for Mr. Israel?

Alderman Ferrell: How far is it east from the end of Drake Street to Gregg there?

Pam Jones: How far east is it from the Gregg to Drake that four lane road? It's not very far at all. It's a very short distance.

Alderman Ferrell: What stands in between there?

Ben Israel: A creek.

Mayor Coody: Yeah, the topography and a creek. It'd be an expensive extension to get to Gregg.

Ben Israel: And that's why this is the perfect way to do that particular development is with a TIF district because the City's not going to do it or they would have done it already. It's too expensive.

Mayor Coody: Well the reason that we didn't put it on the Master Street Plan was because of the amount of money we would spend to get that extension. We already have Sunbridge and Township, if we could do that extension of Drake it'd be great, but if we've got limited dollars we'd need to spend it other places. That would be a good use of TIF funds if we were to do this district. Now let me ask this, if we were to modify this map to include Mr. Israel's property there, we would need to do that at the next meeting? If we leave it on the first reading, would we modify the map and show that at the next meeting? How would we go about that?

Kit Williams: You certainly can modify the map when the ordinance is coming before you. I think the City Council modified the initial TIF district's map just slightly, went down some different alleys I think, did not separate some properties that had been separated before. So the City Council can modify the map, either at this meeting or any time up to the point when the ordinance would be adopted, actually creating the district and setting for the boundaries.

Alderman Thiel: I thought you said we would have to notify.

Alderman Marr: How's that different than with the Springdale School District?

Kit Williams: No, you could not go into the Springdale area. The Mayor, I think was talking about the southern area where Mr. Israel's property was that's not in the Springdale District.

Ben Israel: South of the hospital.

Alderman Jordan: My question is about Deane Solomon Road.

Alderman Thiel: I thought the notification was also to the property owners, not just the school district.

Kit Williams: No, you're not required to notify the property owners. We do that just to try to make sure everybody knows but that is not required under State law. The property owners are notified because it's published in the newspaper. That's all the State law requires.

Mayor Coody: He is not talking about the 400 acres north of I-540. He's taking about Younkin's airstrip.

Alderman Thiel: I know. Yeah.

Mayor Coody: All right, any other questions?

Pam Jones: Good evening, Mayor Coody, City Council members. I appreciate the opportunity to speak to you tonight. I understand there's a five-minute limit so it'll be four minutes and fifty-nine seconds. No. I'm Pam Jones and I'm a resident of Fayetteville and I'm very privileged to serve on the executive board at the Fayetteville Chamber of Commerce and the transportation committee. But tonight I want to speak to you really as a resident, as a taxpayer and as a Fayettevillian who has very deep roots here. I have two children who are 7th generation

Fayettevillian's. I could probably tell you more history about Fayetteville than you would care to hear. I have a heart for Northwest Arkansas and a passion for Fayetteville and I think my perspective is a little bit unique. I'm not coming from legal terms. I'm coming from a Fayettevillian's perspective. About thirty years ago the Arkansas Highway Department came to my husband's family wanting land for a bypass around Fayetteville. A lot of people didn't think that it was necessary, they fought it. They thought all the traffic could go on Highway 71, College Avenue, you know. My husband's family went ahead and allowed the State to purchase the property and it went right down the middle of a beautiful farm. That's where the Fulbright Expressway runs through right now, near Washington Regional. The people that didn't want that I don't think had a vision for what was going to happen to Northwest Arkansas. It wasn't that many years ago, thirty years ago can you imagine Fayetteville now without Fulbright Expressway? I remember when it was just one lane on each side. People wondered at the time why they didn't go ahead and do two lanes. It was because they didn't have money. About ten years ago the Arkansas Highway Department came knocking again wanting more of my husband's grandfather's farm to make the loop to go north to Rogers. A lot of people thought that was kind of silly. But I'm very glad that some people had the vision for that because they understood that our area was going to grow. Once again, I'm really glad that his family, my husband's family gave up that land for the benefit of Fayetteville and for the benefit of Northwest Arkansas. It's been discussed tonight, as each of us know, our city lives or dies by our sales tax revenue and you also probably realize the largest property owner in Fayetteville is probably the University of Arkansas and we're blessed to have the University of Arkansas here. However, our city doesn't receive any benefit from the property tax of all of its holdings. With that being understood it makes sales tax revenue even a more vital issue to each of us and to our city's lifeline. We have an opportunity here and it's knocking at our door. I don't think that this is really a competition between cities or even different areas in Fayetteville. I think this is common sense. This is looking at an opportunity that could benefit our region and our city. A huge percentage, as has been discussed, of our sales tax revenue comes from the I-540 area, particularly around the Mall and that area and it services our region. It's Washington Regional Medical Center I can't imagine Fayetteville without Washington Regional Medical Center. It took a lot of vision for the people who wanted to bring that new facility to us. Every time I drive over Fulbright Expressway, especially at night, and I look out and I see Washington Regional Medical Center and I think about all the families that are being serviced by that beautiful facility, I'm grateful that somebody had the vision for that. Can you visualize Fayetteville without the Walton Arts Center? There were actually people who were opposed to that. Can you visualize Fayetteville without the new Blair Library? How do we pay for that library? How do we maintain it? How do we pay for our parks? How do we pay for many of the wonderful things that make up Fayetteville? We all know, sales tax revenue. Fayetteville is not just for Fayettevillian's. It is the home of the University of Arkansas. Can you imagine a Fayetteville without Razorback Stadium? Without Baum Walker Stadium? Without Bud Walton Arena? Fayetteville is an experience. People come from all over our great state to all kinds of events here. They need places to eat, sleep, enjoy and experience Fayetteville. I believe we desperately need this TIF because our infrastructure is already so far behind. Each of you has a fiduciary responsibility to the vibrancy of Fayetteville. This is your opportunity to do something fantastic for Fayetteville. In conclusion I have a couple of questions for you. Do you have the vision for 2020? It's only fifteen years away. Do you have 2020 vision? I hope you do. The need for this TIF is crystal clear, especially for those who have lived here for generations. We have this opportunity, let's not miss it.

Bill Ramsey: Bill Ramsey, Fayetteville Chamber of Commerce. I started to tell Pam that she could have part of my five minutes because I don't think I'm going to need that much time. I have sent each of you quite a bit of information the last few days and I'd like to review some of that and make it public. Much has been said about the Mall and the mall area. It seems like it's been a year ago when we started, about a year and a half ago some people in Little Rock told us we needed to do a better job with Economic Development. The City and Chamber came together and we started talking, and you heard from Steve Rust tonight. Steve is the result of those conversations. But in order to do a good job and do a responsible job of approaching that partnership as it turned out, we hired the services of a gentleman named Tom Tichnor, Tichnor and Associates He's from the Chicago area and you know the old saying, sometimes you've got to get somebody carrying a briefcase from out of town to open a few eyes and lend a little bit of credibility to some of the problems that you may have. In your packet I included just part of his presentation after he had spent three days in this community and doing a swat-analysis, if you will. He identified Fayetteville's strengths, Fayetteville's weaknesses, opportunities, threats, and made a lot of other recommendations, including the recommendation to proceed the way we did with the Fayetteville Economic Development Council. He said we had some definite strengths: The University of Arkansas, our role as a professional services health care center, Washington Regional if you will, the Northwest Arkansas Mall, downtown Dickson, quality schools, rapid population growth, those are all strengths. Boy, that sounded good and we were feeling pretty good at that point but then he said you've also got some threats. Number one threat he said was becoming a bedroom community. I've heard Bobby New say many times that bedrooms don't build classrooms. Number two was the eroding share of our retail and entertainment spending sales tax base, you've heard some comment about that tonight. The one that really caught my eye or attention I guess is the one that we've talked about and I think one of the reasons we're here tonight. Detrimental regional highway layouts threaten the future of the Northwest Arkansas Mall. Now here's a guy a year ago that came in, analyzed our community in three days and came to that conclusion that I think is one of the reasons we're here tonight. Shortly after that, there was a regional highway hearing in Springdale as a result of him opening our eyes. You have this in your packet also, we took a delegation to the regional highway hearing in Springdale and it was signed by not only the Chamber but the Mayor, John White, people at Washington Regional, Alice Church at the Mall, Ben Israel, Bob Davis who was an alderman at that time, Larry Shackelford with the medical services, Jack Morris with Washington Regional and Wayne Jones who was the chairman of the transportation. We went as far for the first time I think to have a united front to that highway hearing. I'm not going to read you all of this but this is what it says, when you talked about the problems out there at the Mall, accessibility problems, "a solution is necessary. This is our top priority. Our objective is to find a short-term solution that is satisfactory while we continue to study the long-term solution." I think you have an opportunity here tonight for that long-term solution. The other thing that I would like to call your attention to, and this gentleman really wanted to be here tonight, he's in Fayetteville today as a result of that same meeting a year and a half ago, a legislator at that time named Danny Ferguson. He decided after visiting a middle school in Fayetteville that he didn't want to continue sending his child to school in Forrest City, Arkansas. He's been a former mayor, a former State representative, a former Chamber executive and an economic developer from that community. He recently moved and is back in the private sector. He was a term-limited legislator and is now a Fayetteville resident. He was present when this 2001 act that Representative Hausam passed, he sent you a letter tonight. I'm not going to read that to you, but one thing that he really pointed out, and I'm not going to go over the number of votes that the legislation got, but it's been said so many times lately that this legislation only applies to blighted areas. That's not true. If you read the Act itself, the second page, it lists seven criteria for qualifying for the utilization of this

TIF tool. Improve your communities, number one, blighted areas, number two and number three, improve the commerce, welfare, prosperity and living conditions of their people. Number four, provide new employment opportunities, number five talks again about blight and decay and number six, affordable housing. But number seven is improving the tax base and general economy of the state. This I-540 TIF qualifies under four of those seven reasons for taking some action on this opportunity. The reason I say opportunity my daddy always said to me, 'opportunity knocks once'. Folks, I think that's true. You have an opportunity here tonight and I don't see any down side. It's been said, you heard your City Attorney, if there's a ruling on the twenty-five mils or if the Legislature makes some change, you don't have to do it. But I guarantee you if you don't take some action here tonight and take that first step, you're probably not going to get to take the second step, because it's been said the Legislature's probably going to make some changes. My experience as a former legislator is that if they do, the ones of you that have taken that step are probably going to be grandfathered in and you're going to be able to utilize this tool. But if you don't take that step tonight and take it very soon, that door's going to be shut and then you're going to be subject to whatever comes down after changes are made. There's not a down side. Just like what Pam said, let's not look back a few years from now and say, "oh, we missed an opportunity in January of 2005 to do something for the City of Fayetteville." I hope you will consider that and vote to establish these boundaries. I'm certainly not an expert on the law or anything, but I'll try to answer any questions that you might have.

Mayor Coody: Thank you. Do we have any questions for Mr. Ramsey?

Alderman Jordan: Bill in your opinion, do you think there will be changes to this TIF in the next Legislative session?

Bill Ramsey: I think there's a possibility there will be some changes. I don't know when that is. It depends on whether the changes are made and whether they have an emergency clause or when they'll take in effect, but I think if you act now there's a good chance you could utilize this tool in its present form. If you wait and if they take the twenty-five mils out probably nobody's going to utilize that tool anyway. But certainly if you don't take this first step, you're not going to have the opportunity, folks. It's just not going to happen if you don't take this step. There's not a down side. This doesn't obligate you in any way except an expression to not only this city but to everybody that we took that first step and this is something that we want to utilize as an option. Something we can do for our citizens.

Mayor Coody: I have a question. With your statewide perspective, do you know of other TIF's in the State besides ours?

Bill Ramsey: Yes. I don't know all of them. I was in Little Rock about a month ago and a gentleman that was at the meeting that I was at named Paul Latour said, "we passed our TIF last night'. That was about a month ago. I think Jonesboro's farther along than anybody and Rogers of course has got their approval. They have their plan in place. They haven't sold any bonds but the traditional wisdom around the state is that those folks are probably all right even if there's some changes made.

Mayor Coody: What did they do in Jonesboro, what's their TIF like?

Bill Ramsey: I don't know. David Hausam can you enlighten a little bit there?

Kit Williams: It was to help a new mall get established. It was infrastructure to support a new mall.

Mayor Coody: And in Little Rock?

Bill Ramsey: A Bass Pro Shop in North Little Rock. That whole project was what that one was.

Mayor Coody: All right. How far along are they in the works? Have they started construction?

Bill Ramsey: Nobody's started construction.

David Hausam: I think the only one that's been actually financed is the one in Jonesboro that is my understanding. There's creation of TIF's, I think there's three in Pine Bluff that are in various states of flux about whether or not it's even feasible to do them. I think Searcy may have one in process.

Mayor Coody: What kind of development would that be? Commercial development?

David Hausam: It'd be a shopping center type project. Then there's been several others talked about but everybody's in kind of different states of flux on it.

Bill Ramsey: I think the important thing about that is, this is not just a Northwest Arkansas phenomenon. You know, this is being considered and used around this state. So, we've got a lot of other people in the game with us.

Mayor Coody: Bobby, did you have a question?

Alderman Ferrell: Yes. Bill, didn't the Municipal League statewide really get behind this real strong when it was being formed in legislation?

Bill Ramsey: Yes, sir they did. The Municipal League, the Association of Counties, the State Chamber, AIA, all those organizations and you heard two people say, including Danny in his letter here, there was no legislator that voted against it. There were a handful of people that didn't vote, but there was not a vote against the legislation. Thank you all.

Mayor Coody: Any more questions for Mr. Ramsey? All right. Thank you, sir. Who else would like to address this? Hello, Richard. Are you here to ask us to include the University farm in the TIF district? Please say yes.

Richard Hudson: Hello, Mayor. No, sir, I'm not. I'm Richard Hudson and I'm here tonight as the Chairman of the Board of Directors of the Fayetteville Chamber of Commerce. I'll be very brief. I think you've heard some excellent points made tonight that have given you a lot to think about. I respect the difficult decisions you have to make and I think the simple thing to do on an issue like this is just to do nothing, just to preserve the status quo. But I sincerely believe that that's one reason our state ranks near the bottom in so many things. I think we just, from time to time have to be innovative and step out and take some chances and see if we can do some things to stimulate our economy. I think the I-540 TIF addresses a truly critical need to Fayetteville, particularly in its economic future and I would urge your support.

Mayor Coody: Any questions? Yes, ma'am.

Alderman Lucas: Yes. I have a question. It was mentioned earlier that this possibly would hurt, say the University or us getting funds from the State if we do this in Northwest Arkansas because we're considered having streets of gold or something. I know you're wearing two hats with the University and the Chamber, so I was wondering if you felt that it would hurt the University in the Legislature?

Richard Hudson: I don't believe so. I think that the University, as the State goes so goes the University. If we're stimulating the economy in the State, in the long term the University and other institutions of higher education are going to benefit from that.

Alderman Jordan: So, Richard it's your opinion then, if the State has to bail out well, not bail out but they have to guarantee the funding of the schools and they have to take it from other sources in the State, that you don't feel that higher education will be hurt then?

Richard Hudson: No more than other aspects of State government there may be some very short-term loss there, but I think we've got to look at the long term and generate more economic development in the State. I think we have to look at the big picture.

Alderman Jordan: But there could be some loss.

Richard Hudson: Conceivably.

Alderman Jordan: Thank you.

Mayor Coody: Any other questions for Mr. Hudson? Thanks, Richard.

Mike Johnson: Mike Johnson, resident of Ward 2. I've learned a lot since Tuesday night and it just reinforces what I said Tuesday night. I think that the City staff, the Mayor and the Council has the opportunity with the potential for well thought out TIF's to make some boundary decisions, to make some plan decisions that in all opportunity there's some risk. It's not a zero risk world. The biggest risk I see is doing nothing. When you look at our community and where we need to go. I think there were some very articulate people that preceded me, so I will just reinforce even more strongly what I said Tuesday night. I think with the I-540, the boundary, the opportunities to modify boundaries, the opportunities to modify plans and the opportunity to not put yourself at a high level of risk by issuing bonds until we're had some other things play out. There are a lot of attorneys and there are a lot of other people that have opinions. The true proof of the matter is the interpretation of law will end up in the Supreme Court if in fact it has to go somewhere. All the rest are only opinions. Obviously you have to listen to opinions. The biggest risk is in doing nothing. Thank you very much.

Mayor Coody: Any questions for Mr. Johnson? All right. Thank you, sir. Anyone else want to address us? Hello, Donnie.

Donnie Story: Well I appreciate the opportunity to come before the City Council this evening. It's been six years since I had an opportunity to speak to this Council. I am Donnie Story with Arvest Bank, President of Arvest Bank here on the square. I'm here tonight in favor of this TIF district. I have a, I think a unique perspective on this issue. The fact that I've been gone for six years, I was transferred out of Arvest to another Arvest location in Oklahoma, so I've been away for six years and just returned this past year in mid-year and was surprised to see all the change that's gone on in Northwest Arkansas, specifically in Fayetteville. Specifically in this TIF area that we're talking about in the Mall area. What was even more surprising to me was how this area continues to be so inaccessible. With all the expansion that has gone on in this area, it was very surprising to see how hard it still is to get into that area. We have three locations in that general area of this TIF district, mainly around Joyce Street and also the Northwest Arkansas Mall area. I think this TIF district, I've seen TIF districts used before, I think it's a painless method to solve some of the infrastructure and accessibility area issues that we have in this critical medical and regional retail area. In summary, I would like to encourage the adoption of this TIF district tonight. I think it's very wise to go ahead and approve it tonight and then let the Legislature and all the legal issues kind of sort themselves out but I think if you don't do it tonight, you're going to miss an opportunity that we're going to regret. My kids and other kids that are going to school here, going to school other places, aren't going to have the same things that Pam talked about and see the vision the vision that we had years before that has made Fayetteville such a great place. I chose to come back to Fayetteville, Arkansas. When they gave me an opportunity, this is where my family, my wife, my two sons, this is where we wanted to come back to. We could have stayed right where we were in Bartlesville, Oklahoma and led a great life but we chose to come back to Fayetteville, Arkansas because it is such a vibrant area and because Fayetteville's such a unique place. I hope that we'll do this tonight. I think it's a rare opportunity we have to put to work dollars to change infrastructure and really help us from the standpoint of infrastructure. So I encourage you to do this tonight. I'd entertain any questions.

Mayor Coody: Any questions for Mr. Story. Thank you, sir.

Bob Davis: Well yes, sir. How are you, Mayor? I'm Bob Davis, a resident of the City of Fayetteville. Everyone who's spoken tonight has made some very good points and I agree with everything that most of these people have stated. I'm going to be very brief, there are three things that I see are very important. One is job creation, two is street improvements, and three is also the sales tax revenue, which you all just passed a deficit budget of $2.2 million so we definitely need to see additional sales tax come in the future. Lioneld you're on the Street Committee and you'll recall that we looked at Shiloh and Gregg Street and we wanted to make sure we widened that area, not only for ingress and egress to the Mall but also for safety purposes, so people could have better access to the expressway. We knew at the time it was only a postage stamp to the problem. Should we pass this district, this can help us alleviate and take care of that postage stamp and solve the whole problem. Those three points and then this last area, which everyone's already stated numerous times but I'll state once again, it appears that basically everyone's concerned over what the future legislation of the TIF district might be. Well, that is a concern that no one knows what the end result will be. But we do know that the session begins Monday and they will probably be looking at changing the present guidelines. Will they decide to grandfather in the existing districts? Will they decide to only allow those that have already sold bonds? Will they do something in between? No one knows. I would like to see you guys proceed tonight with all three readings and then enact the emergency clause so that should they decide to accept districts that have been created, we fall within that. There's a wonderful opportunity for the City of Fayetteville and I hope you all go ahead and do it tonight.

Mayor Coody: Thank you. Any question for Bob? All right. Thank you very much, Mr. Davis. Anyone else want to address us tonight?

Frank McIlwain: My name is Frank McIlwain. I'm a resident of Fayetteville and I work in Fayetteville. I've had lots of time to look at you and look at the two boards behind you tonight. I think tonight you have a unique opportunity to exercise your guiding principles and go towards your goals for 2008. So I want you to open that door and take the first step tonight. Thank you.

Mayor Coody: Thank you very much. I think this has set the bar for brevity. Thank you.

Phil Ralston: Good evening. I'm Phil Ralston. I'm a resident of Fayetteville. I had no intention of coming down here tonight but sitting home watching this TIF love fest on television made me think that something needs to be said. The first speaker got up and started out being a little negative about the TIF and was asked to stay on topic. Everybody since then has been for the TIF and has been allowed to ramble on with whatever they had to say. I just want this Council to understand that they've got a policy or a statement that you've got to stay on topic, but it seems like that's only enforced when the person who is getting off topic is against what the Mayor is for. I want that brought to your attention because last week we had a TIF meeting and I was here and spoke and then the wife of the developer got up there and she had nothing to say about the TIF but she had very glowing remarks about her husband, which we would expect but it's not on topic. I think you guys, you're down here for a purpose other than to hear all of the Walton Arts Center, and we had to build it. Who would have thought we would ever do without it. Now that's my point. You guys are following the rules when you want to and you're not being very consistent.

Mayor Coody: I would like to point out two quick things. One is that we did take the plan discussion off the agenda at the beginning of the meeting and I believed the discussion was going to be on the plan. Second thing was, we welcome your comments tonight, even though they were off topic, we welcome them anyway. Anyone else like to address us tonight? Is that it? I'm going to close the public hearing. The public hearing is hereby closed. Now then we'll bring it back to the City Council.

Mayor Coody closed the public hearing.

Kit Williams: Well now we need to read the ordinance, Mayor.

Mayor Coody: Okay.

Kit Williams: If the public hearing is over, then we need to go to the second part on the agenda.

New Business:

I-540 Redevelopment District #3 Adoption: An ordinance forming the I-540 Redevelopment District Number Three pursuant to Amendment 78 of the Arkansas Constitution and authorizing the preparation of a project plan.

Mr. Williams read the ordinance.

Mayor Coody: All right. Any comments from the City Council on this particular ordinance? Yes, ma'am?

Alderman Lucas: We're talking about the outline of the district.

Mayor Coody: Yes.

Alderman Lucas: What do you all think about bringing it down to Township and eliminating the west of Deane Solomon Road? All the way over to Knapp Street just straightens it out there. Would that impact anything, Tim that we shouldn't?

A discussion followed on the boundary Alderman Lucas proposed.

Mayor Coody: Let me interject here one of the things we tried to do was to stay out of residential areas and just focus on the commercial areas of Fayetteville. There may be a lot of residential area in here and that might have been the reason why that wasn't drawn that way.

Alderman Lucas: Was that it, Tim? Because Township is business and so is Gregg, all the way down there.

Tim Conklin: The Mayor is correct, we were trying to avoid residential areas where we could and within there you have a lot of residential areas. You do have commercial along Township and in certain parts of it, but that was basically one of the reasons.

Alderman Lucas: Well, there is no commercial on the west side of Deane Solomon Road. That's all residential isn't it?

Tim Conklin: Yes, it's residential, currently vacant a lot of it.

Alderman Lucas: It's all zoned?

Mayor Coody: It's undeveloped as well.

Alderman Lucas: But it's zoned residential.

Tim Conklin: Yeah. It's most likely zoned RSF-4.

Alderman Jordan: Yes, and it's developing like hotcakes.

Alderman Lucas: Yeah, it is.

Alderman Marr: May I ask a question on that one point? What does our future land use plan have for that area? Is it residential or commercial?

Tim Conklin: It has commercial areas and nodes.

Alderman Marr: No, I'm talking about west of Deane Solomon…

Tim Conklin: Oh, west of Deane Solomon Road? Most likely it's residential shown on our land use plan.

Alderman Lucas: The reason I brought this up, because in the future we might put Township all the way through to Garland if it was in the TIF district, if we amended it later, or put it in our plan or something.

Tim Conklin: I think the University farm was not included as one of the reasons also.

Alderman Lucas: Oh, does that take in the University farm them?

Tim Conklin: Yeah. Everything south of Drake Street is the University farm and McConnell Avenue to the east.

Mayor Coody: One thing we wanted to do is to focus on the I-540 corridor and focus on land that hadn't been developed out yet. This gray area is the bulk of the reasoning for that outline. If there are areas that are zoned residential, that will be residential that is undeveloped right now, then it would be up to the Council you all could extract that from the district. Yes, ma'am?

Alderman Thiel: I like where you're going, Shirley. I guess I was looking more along the lines of just taking Drake Street all the way across to College.

Alderman Lucas: Sunbridge is commercial?

Alderman Thiel: No, Drake Street.

Alderman Lucas: I know, but south of that is commercial.

A discussion continued on the plan boundary.

Alderman Thiel: I have a question for the City Attorney. If we're going to do this, I certainly feel like it's, based on the comments that we've heard, I really think it's critical that we go farther north in the Springdale School District.

Kit Williams: So if you intended to go into the Springdale School District area that would require re-notification.

A discussion continued on the boundaries.

Alderman Thiel: Can we adopt it like that and then still move forward with getting this notification done or should we wait? That's the question.

Kit Williams: I don't know what you should do. But I will tell you that you can amend the border if you chose to in the future after you go through another notification process.

Alderman Thiel: Okay. So we could adopt it and then amend it at any time.

Kit Williams: That's correct.

Alderman Thiel: I think the concern out here, though, is that we get this adopted tonight. I guess the urgency to adopt it tonight is in case the Legislature makes some very quick ruling that changes all of this could we still come back? Would we be grandfathered in with what we've adopted but could we grandfather in the part that we want to add?

Kit Williams: I can't give you an opinion on interpreting a State law that has not been written yet.

Mayor Coody: Let me jump in here. I want to answer one question. There's not an emergency to pass this tonight because even though the Legislature starts meeting, I think Monday, I don't believe much is going to happen the first couple or three weeks. Do you think that this will be acted on within the next two weeks of the Legislative session?

Lindsley Smith: Well, it would have to go through a committee process to reach the floor and you know how long the committee process could essentially take. It's expected that there will be one day of ceremony which will be the swearing in by Justice Hannah, which would be day one, then in theory, the rest of the week, starting to meet with committees. Yes, that's correct. It could be at least three weeks.

Mayor Coody: Okay. But it could be sooner than that? I mean, what's the quickest that they could move if they so wanted to?

David Hausam: Well first off, there's not been legislation introduced. So you've got to file the legislation. I think it's twenty-four hours notice or read across the desk basically twice and then they assign it to a committee and it's generally the next day that they can hear it then, so you're talking about the first hearing in the committee which could be three days, four days after session starts or after the legislation is introduced.

Mayor Coody: So if somebody had a burr under their saddle and wanted to get this thing done quickly, what's the time frame we'd be looking at?

David Hausam: If you really want to get in and out quick, two weeks. There are a lot of variables in there.

Mayor Coody: Sure. I understand.

David Hausam: If the train was moving down the track, you could get it done in two weeks.

Mayor Coody: All right. Thank you very much. Are there any questions concerning the procedure in Little Rock?

Alderman Ferrell: I have a question, Mayor, concerning this procedure. If we were to pass this tonight it would still be subject to some modification later on?

Mayor Coody: Yes. We can always come back and amend the district and the plan. But if we amend them, we just have to do the public hearing process over again, just like we're doing tonight. But it's certainly amendable.

Alderman Thiel: We can make amendments on this except for the school district part, tonight.

Mayor Coody: Okay. Yes. That's what I understand from our City Attorney.

Kit Williams: Yes. Let me read it, there are specific requirements for additional notification when you modify the project plan, but for the boundaries, it just says the boundaries of the Redevelopment District may be modified from time to time by ordinance of the local government. However, if the boundaries are moved into another school district, we would have to go through that whole procedure of writing them the letters and I would recommend we also publish it in the newspaper and everything else, just as if we were starting over. Especially if they might be somewhat against this plan, we want to make sure we jump through all the hoops exactly right.

Mayor Coody: My perspective would be, if this is adopted, I would not adopt it without full vetting by the Springdale School District and be able to answer concerns and really not spring anything on them. I bet with good negotiations, they might actually find the reasons to be on board with us. Lioneld, you wanted to ask something?

Alderman Jordan: Yes, I would recommend just a little bit of restraint. Now I know that this may be a wonderful thing and I'm not saying that it's not. But I really feel as though we need to wait for the Attorney General's opinion before we launch into a lot of work and a lot of planning and a lot of this and a lot of that because he could just take the whole thing out in one opinion. Now I don't know how long that would be. But it would probably save us a lot of time and probably a lot of taxpayer's money if we just didn't rush into this too quickly until at least we hear the Attorney General's opinion.

Mayor Coody: Now one thing that we could do is approve the creation, because where we are is where we are. Not approving it tonight or approving it doesn't make us spend any more money. What we could do if the Council is so inclined is approve the creation and give the staff the time to work on a plan and come back later on with a plan and by then the Attorney General might have expressed an opinion. That would give us some time, at least we would have the district created.

Alderman Jordan: Well this is just the first reading of the creation of the district.

Mayor Coody: Right. Yes, it is.

Alderman Jordan: So we could leave it on the first reading.

Mayor Coody: Yes.

Alderman Thiel: And it would come back at the next Council meeting?

Alderman Jordan: And then, we'd come back again and then we'd come back again.

Mayor Coody: Yes.

Alderman Ferrell: Could I ask a question on that?

Mayor Coody: I think Don wanted to ask a question.

Alderman Marr: Go ahead.

Alderman Ferrell: Here's one of my concerns on this if it was just the first reading tonight and let's just say it would be two more weeks probably before it was read again then the ones that are grandfathered get to stay, then we'd be behind the door, wouldn't we? If we hadn't passed it?

Mayor Coody: That's anybody's guess.

Alderman Ferrell: If they didn't, it could be different.

Mayor Coody: There may be a difference between whether we had actually created a district or not created a district. There may be a difference. No one knows the answer.

Alderman Jordan: That's right. I think that was my question, we're not for sure that we would be grandfathered in anyway.

Mayor Coody: Right. Yes, sir?

Alderman Reynolds: Why can't we change the district boundaries. The Street Committee for quite some time now has been talking about an east/west corridor, which is Township. We wanted to extend that. Shirley, I like your idea, I think it's great that we take west of Deane Solomon off of here and we bring it down to Township and we also offer Mr. Israel a chance to bring his project into this map. If we do all that then I think we've got the district complete, the boundary's what we want. Go ahead and vote on this.

Alderman Lucas: Can I make that as an amendment?

Mayor Coody: Certainly.

Alderman Lucas: I would like to make that as an amendment.

Mayor Coody: Now, be specific about the boundary district.

Alderman Lucas: Okay. Down to Township....

Kit Williams: Between College and Gregg?

Alderman Lucas: Yes, and then we can go back up to Drake, if you say it's best not to take in the University farm, we can go back up to Drake and then over.

Kit Williams: You can go to Gregg; it's just that if you cross over Gregg heading toward Garland, that's when you get into the University farm.

Alderman Lucas: That's right. So we would go back up to Drake, then and then over. We're taking in all this area here and up to Drake Street and take west of Deane Solomon off, north of Mount Comfort, west of Deane Solomon.

At Mayor Coody's request, Tim Conklin outlined Alderman Lucas' boundary amendment on the PowerPoint map and the alderman discussed each street and boundary.

Alderman Lucas moved to amend the boundaries of the TIF as outlined. Alderman Reynolds seconded the motion.

Mayor Coody: Now on Gregg, we already have all the right of way we need, it's railroad on the west side anyway so it's not going to make any difference. Yes, ma'am?

A discussion followed on the new boundary proposed by Alderman Lucas.

Mayor Coody: Is there a chance the University would ever sell the University farm for a commercial development and use the money to buy rural land someplace else?

Richard Hudson: I don't know the answer to that question, Mayor. I do want to point out that the University farm is not an operation of the Fayetteville campus. It's one of several farms scattered all around the state and is operated by the Division of Agriculture which is located at the UA system office in Little Rock. So that would never be a Fayetteville decision. That's a Division of Agriculture decision.

Mayor Coody: If they saw how much value that land had in it do you think they'd ever want to peddle it?

Richard Hudson: If I were them I would certainly consider it someday. But I'm not them.

Mayor Coody: We'll modify the plan later. So we have this modification. Kit do you want to basically redefine this modification one more time? I mean not modify it but just re-describe it?

Kit Williams: Well, it's just basically all of the land between Gregg and College Avenue, down to and including Colt Square and then omitting and leaving off, removing all of the land from Deane Solomon Road to the west.

Mayor Coody: Now that's your motion, Shirley, is that right and Swifty, that's your second.

Alderman Lucas: Yes.

Alderman Reynolds: That's right.

Mayor Coody: We have a motion and a second to amend the TIF map. Any other discussion from the public on this? Seeing none, any other discussion from the City Council?

Lindsley Smith: I just have a question. Kit, under the TIF rules, and I'm just thinking like an attorney here, but under the TIF rules, does it have to be opened back up to a public hearing if this is modified, it becomes a new TIF district? I just mention that because it might be something to consider here.

Kit Williams: No, obviously this ordinance has not been interpreted by the Supreme Court so I can't tell you for sure one way or another, but I would assume that it would not be required to have an entirely new public hearing. If you need a new public hearing, you have to have new notification of everyone. I don't think that that's it. I think certainly the ordinance itself is being discussed now and the public is entitled to continue to contact and have public response and public hearing. That's what the Mayor just asked for, but I don't think we need to go through a formal public hearing with re-notification and everything else just for a modification of the borders.

Lindsley Smith: Under the TIF statutes, where it lays out what you have to do.

Kit Williams: Yes. I mean, in looking at it and I read that at one point, it said that the boundaries of the Redevelopment District may be modified from time to time by ordinance of the local government and it did not call for the actually a subsequent public hearing requirement. Now when you modify the project plan, you do have to have an entirely new notification. The boundaries in the State statute do not require another public hearing.

Lindlsey Smith: For anybody that's included in the new district now.

Kit Williams: Notification was not required of property owners. That's something the City did on it's own just to try to make sure everyone was notified. You only had to notify the Chief Executive Officer of all taxing units and the school board by letter and then publish it in the paper.

Lindlsey Smith: Thank you.

Mayor Coody: Any other questions or comments by the public on this item? All right, I'm going to close it to public input. Any other questions or comments from the City Council? Yes, sir?

Alderman Marr: I'm not going to support the amendment. I think it's a good decision to take the land west of Deane Solomon Road out because I think the future land use plan speaks to it as being residential and if we stick to that vision I don't think it should be in there to begin with. I think back to the very first discussion that we had on the Mountain Inn TIF and I tried to add Block Street the entire way and many of you at the time, while we aren't required to give public notice, felt that it is the spirit of this Council to have done that and to make sure that everyone is aware of what it was that we were doing. So I think when you start adding area then I have a concern. I also have a concern that part of this area that you have highlighted is a residential area which I think doesn't warrant part of this area. So it's for those reasons I won't support the amendment.

Mayor Coody: Any other questions or comments?

Alderman Lucas: Don's absolutely right. The first time I know I voted against adding to it because we didn't really understand what we were doing I don't think. I think now we look back and we realize we were wrong in not adding Block Street. I regretted having voted against that. That's why I thought we could change it now because I feel differently about that. I think we made a mistake the first time by not including Block Street.

Mayor Coody: Any other questions or comments?

Alderman Thiel: I will just say that I tend to agree with Don that we have added back residential. I think there's always been a lot of interest in extending Drake, whether or not that would ever feasibly come out of this project, economically speaking, that might not happen. I kind of agree with encompassing a certain area down there that would include extending Drake Street. It concerns me that a big part of this is commercial. I think a lot of seniors live in that area and I think without their notification that concerns me, plus the whole argument was to take residential out and we're turning around and we're adding back the same amount of residential. So I think I would agree with Don. I will not support this amendment.

Mayor Coody: Let me ask a question. If the intent is to be able to extend Drake Street over to Gregg and the property owned by Ben Israel's We could just take in that extension area and Ben Israel's property, would that basically accomplish the same goal?

Alderman Ferrell: You're talking about leaving out the rest of this residential?

Mayor Coody: Yes, essentially.

Alderman Lucas: That's business though, Sunbridge that's commercial.

Alderman Jordan: Can I say something here, Mayor?

Mayor Coody: Please.

Alderman Jordan: Before we carve everything up like a jigsaw puzzle, let me ask you this. If this was just left like it is and we can add what we want later on we could leave it on the first reading tonight, then we could add it on in two weeks. Could we not?

Mayor Coody: Yes.

Alderman Jordan: And that would give the public time to be notified.

Mayor Coody: Now are you talking about this map that we have?

Alderman Jordan: This new area that we've drawn.

Mayor Coody: You mean with the amendment?

Alderman Jordan: Well, no.

Mayor Coody: Without the amendment.

Alderman Jordan: Yeah.

Mayor Coody: So the original map.

Alderman Jordan: Just the original map.

Mayor Coody: That would give everybody a chance to think about it.

Alderman Jordan: We can notify the people in that area.

Alderman Reynolds: You want to leave Deane Solomon on there?

Kit Williams: I think everybody's in agreement to remove Deane Solomon.

Alderman Jordan: Yeah, everybody's in agreement to remove Deane Solomon, but Don brings out a good point. Because what you're doing is that you're doing stuff without notifying people.

Alderman Thiel: We don't notify the people.

Alderman Jordan: You don't send out letters?

Mayor Coody: No. This was public notification through newspapers. We couldn't afford the postage to send something to everybody…

Alderman Jordan: But we haven't done that. We talked about this at the last TIF, we did do that.

Mayor Coody: It was a small area; it was easy to deal with. Yes, ma'am? Lioneld, are you finished?

Alderman Jordan: Yes, I think so.

Alderman Lucas: If my amendments or my amendment is going to sidetrack this, I'm going to withdraw it. I hope Swifty will agree to that because I think it's important that we deal with this TIF tonight. I think that everything that's been said tonight shows that we need this TIF. We need it for the viability of the Mall, the commercial area and I'm very much in favor of this TIF. So, if it's going to sidetrack that, I would be willing to withdraw my amendment and we can then look at this boundary later on. Everything that was mentioned tonight I think it meets the criteria of the TIF. I think we need this for our economics and a menace to public safety. Van Asche would open up the commercial area to the west part of town and I think that's very important. The west side of Fayetteville must come to College and Gregg, the northwest area, which is really developing. A lot of you may not have even realized how much it's developing out there. But they have to go to Gregg or to College or go through Johnson to get to this commercial area. So I think it is very important, that we extend Van Asche. Some of the others I have questioned, but this TIF district I believe is important in this area and I think that the criteria supports it. We have other resources that we can help with the development of this and I'm sure that we will tap those. But right now I think it's very important that we get access from I-540 and from the west side of town to this area. It was mentioned by Ms. Church, that we must keep this area strong as a destination place. If the Mall doesn't continue to thrive, you've seen it happen in other cities, a new commercial area comes in and because it's so much more accessible and so much more convenient, people go there and the other areas dry up. Any commercial growth we can encourage in this area will keep the area and the Mall alive and thriving. We're already working on completing Van Asche to Gregg Street and I think this is just the next important step. So I think this is very important for us to move with this. Like you said, we can pass it and then we can worry about the redesign of the district. I don't see any reason to delay.

Mayor Coody: So, back to your amendment. I appreciate your words

Alderman Lucas: I'll withdraw it.

Mayor Coody: I know you'll withdraw it. Do you still want to include or exclude that land west of Deane Solomon?

Alderman Lucas: I think that we need to keep it as it is because I think the other TIF district was figured on the boundaries and was based on what would come in to support what we had planned, the plan. So until we have made sure we've got something else to replace this, we won't be able to support this plan that's being brought forward, will we?

Mayor Coody: Well, that's variable. We have a rough plan. We don't have the finished plan yet because we didn't want to pour a ton of time into a plan if the City Council wasn't interested in the creation. Now if the City Council approves the creation, then we can put more effort into fleshing out the plan. The reason we included the land on the west side of Deane Solomon was because, it may be zoned residential for future land use. We'd be able to see a big spike in property values when that does develop. Whatever you guys want to do. We left it in there because of the potential income for developing things within that district that that income would help us with..

Alderman Lucas: For right now I'll just withdraw my amendment.

Mayor Coody: And go to the original map.

Alderman Lucas: Yes.

Mayor Coody: And Swifty?

Alderman Reynolds: Yes, I can.

Mayor Coody: So you would withdraw your second.

Alderman Reynolds: Sure. She's got a new one on the floor, right?

Mayor Coody: I don't think so. There's no amendment.

Kit Williams: No, the amendment's been withdrawn.

Mayor Coody: Yeah. Is there a motion and a second to approve the original map? Do we have that motion and second?

Alderman Reynolds: So moved.

Alderman Marr: Aren't we on the first reading?

Kit Williams: The map is only going to be approved by ordinance when the ordinance is finally passed. So you can't approve the map without approving the ordinance.

Mayor Coody: Okay. Thank you. In that case, since the map is part of the ordinance is there a motion to approve the ordinance?

Kit Williams: No, they were on the first reading. You would have to suspend the rules and go to the second and third reading.

Mayor Coody: Thank you. It's been a long evening so far.

Alderman Thiel: Mayor, can I make a couple of comments about the ordinance? I very much respect Representative Lindsley Smith and I agree that this district probably doesn't follow the exact letter of the law, but I also agree that…

Mayor Coody: I want to stop you right there because I think that, Kit does this or does this not follow the letter of the law?

Kit Williams: My advice to any alderman that thinks this does not follow the letter of the law would be to vote against it, I…

Alderman Thiel: Could I finish my statement?

Mayor Coody: That was an important thing to have to answer, though, because that statement might have…

Kit Williams: We do have to follow the letter of the law.

Mayor Coody: Okay. Now, go ahead and finish your statement.

Alderman Thiel: Forget it.

Mayor Coody: Okay.

Alderman Thiel: I was going to offer support for this but I would have appreciated not being taken out of context. I also agree that it's also an excellent source of funding for projects that our city should at least attempt to use. I think that, from what I've heard and from the comments we've made, what we've read, that I think we do need to get our foot in the door. If the legislators revise the current law, and voids this TIF, then so be it. We will have lost the opportunity but I do think we need to get our foot in the door. I do think that there are questions about whether or not this follows the exact letter of the law or otherwise we wouldn't be discussing whether or not we'd be able to use this TIF. So, thank you.

Mayor Coody: Okay. Very good. Thank you. Sorry if I took your words out of context.

Alderman Marr: Mayor, I wanted to make a comment and that is, surprising as it may be, there are parts of what I've heard tonight that are making me warm up to the thought of thinking of it, which I can tell you I wasn't anywhere close coming into here. But I'm not going to support all three readings and an emergency clause tonight. I'm just getting comfortable with the concept of doing it. The reason I'm not is that I don't think it puts us behind a door because I think if we pass a boundary and don't pass a plan, there's risk that the legislators will say, well you don't have a plan. If we pass a boundary and a plan and we don't have debt there's risk the legislators will say you don't have debt to it. I mean, every one of those options, until you get all the way into it, says that. The other thing is that I do think there's litigation risk and I think it's prudent to wait and see the Attorney General's opinion. I don't think that we gain anything by just having the boundary and I don't think that we lose anything by not doing it tonight. I certainly don't think that the legislators, no offense in any way at all, will do this within a week. Our next meeting is a week from Tuesday and we'll have both TIF's back in front of us at the meeting and we will have the opportunity at that point. If it looks like it's not or it's moving more quickly you can't call a special meeting, just like we did tonight on Thursday for the third meeting this week. There's been some good feedback tonight that's made me think about this differently. I'm not personally going to support all of it tonight.

Alderman Jordan: My comments are these. I think the way that I define blight and what I see in this is somewhat differently. When we passed the Mountain Inn, to me that was blight and I could see it as blight that needed to be cleaned up. I really don't see this in this green field. But be that as it may, now I'm sort of like Alderman Marr, I've somewhat warmed up to some of this after hearing some of the comments here tonight. But I also will not pass this on three readings tonight until I get an Attorney General's opinion. It's not anything that won't keep another two or three weeks. In two weeks we may have the Attorney General's opinion. So for those reasons I will not support this on three readings tonight.

Mayor Coody: All right. Anyone else? Please.

Alderman Ferrell: Making doubly sure again, I would pass it on three readings tonight if I thought it could go through. But if we passed it, if we tried to go with three readings tonight, does that mean, can we still change the parameters that we're going with as far as the district?

Mayor Coody: Yes. You mean if we don't pass it tonight?

Alderman Ferrell: No, if we did. Say we went to three readings tonight…

Mayor Coody: Yeah. Sure.

Alderman Ferrell: We can still change that map?

Mayor Coody: Yes. We you can change the district as long as the district exists, you can go back and modify it.

Kit Williams: And you could go to the second reading and not all three readings, too. I mean there's an in between position.

Mayor Coody: I would entertain a motion to suspend the rules and go the second reading.

Alderman Ferrell moved to suspend the rules and go to the second reading. Alderman Reynolds seconded the motion. Upon role call it failed on a vote of 4 to 3 with Alderman Ferrell, Lucas, Reynolds, and Thiel voting yes and Alderman Jordan, Cook and Marr voting no.

Mayor Coody: So this will stay on the first reading then and we'll visit this at next City Council meeting, on the 18th.

Kit Williams: On the 18th.

Mayor Coody: All right. Thank you all. Is anything else? Any questions? Any announcements? Thank you all very much for coming out tonight. We appreciate your input. Thank you.

Public Hearing:

I-540 Redevelopment District #3 Proposed Project Plan: A Public Hearing to allow all members of the public and representatives of taxing entities to present their views on the Proposed Project Plan for the I-540 Redevelopment District.

Removed from the agenda

New Business:

I-540 Redevelopment District Project Plan Adoption: An ordinance adopting the Project Plan for the I-540 Redevelopment District, and finding the plan is economically feasible.

Removed from the agenda

Meeting Adjourned at 8:35 PM

____
Dan Coody, Mayor

____
Sondra Smith, City Clerk

ORDINANCE NO. _______

AN ORDINANCE AMENDING THE PROJECT PLAN FOR THE HIGHWAY 71 EAST SQUARE REDEVELOPMENT DISTRICT NUMBER ONE, FINDING THE PLAN IS ECONOMICALLY FEASIBLE, AND DECLARING AN EMERGENCY

WHEREAS, on July 27, 2004, the Fayetteville City Council held a Public Hearing concerning the creation of the Highway 71 East Square Redevelopment District; and

WHEREAS, on August 17, 2004, the City Council passed Ordinance No. 4608 creating the Highway 71 East Square Redevelopment District and authorized preparation of a Redevelopment Project Plan; and

WHEREAS, the City with input from the proposed redevelopers of a Twenty-Two Million Dollar hotel project to be constructed after removal of the blighted Mountain Inn has prepared a proposed Project Plan; and

WHEREAS, on November 30, 2004, the City held a Public Hearing on this initial Project Plan proposed for the Redevelopment District; and

WHEREAS, on December 7, 2004, the City had a further public hearing on this Project Plan and passed Ordinance 4646 adopting the Project Plan; and

WHEREAS, because of a minor, technical notification discrepancy, the City determined the need to renotify all statutorily required officials and republish notice of the public hearings for the Redevelopment District; and

WHEREAS, the City Council after 15 day published notice held another public hearing on December 28, 2004 at which all interested parties were given the opportunity to express their views on the proposed adoption of the Project Plan for the Highway 71 East Square Redevelopment District Number One of Fayetteville, Arkansas; and

WHEREAS, the City Council adopted this Project Plan on December 28, 2004 by Ordinance No. 4663; and

WHEREAS, the Arkansas Attorney General in January 2005 has opined that the 25 mills required by Amendment 74 to be sent to the State may not be used for tax incremental financing; and

WHEREAS, removing the 25 mills from the tax increment requires amendment of the Project Plan; and

Left on the 1st reading 1/25/05

WHEREAS, the required fifteen day statutory notification of taxing entities and two publications of notice of the intent to amend the Project Plan have been accomplished prior to the public hearing for the Amendment to the Project Plan on January 25, 2005; and

WHEREAS, the Amendment to the Project Plan complies with all statutory requirements of A.C.A. §14-168-306 and 307.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby finds that the Amended Project Plan for the Highway 71 East Square Redevelopment District (attached as Exhibit A) is economically feasible.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby adopts the Amended Project Plan for the Highway 71 East Square Redevelopment District and determines it has complied with all requirements set forth in A.C.A. §14-168-306.

Section 3: Emergency Clause. If this ordinance is not immediately effective, the goal of the Redevelopment District and its Amended Project Plan to remove a dangerous, dilapidated firetrap could fail due to lack of time-sensitive funding. The City Council, therefore, determines and declares an emergency exists which would imperil the public peace, health or safety, and consequently this ordinance shall be in full force and effect from the date of its passage and approval.

PASSED and **APPROVED** this 25th day of January, 2005.

APPROVED: DRAFT

By: ______________________

DAN COODY, Mayor

ATTEST:

By: ______________________

SONDRA SMITH, City Clerk

PROJECT PLAN AMENDMENT NO. 1
OF
THE HIGHWAY 71 EAST SQUARE REDEVELOPMENT DISTRICT NO. ONE OF FAYETTEVILLE, ARKANSAS

(January 25, 2005)

REMOVAL OF PHASE II

In light of the probable reduction in the amount of millage that can be included for incremental financing of the Project Plan envisioned for the Highway 71 East Square Redevelopment District, that plan must be amended so that only Phase One of the Project Plan can go forward and be financed at this time. Therefore, the Project Plan is hereby amended to delete pages 11, 12, 13, and 14 and all references to Phase II within the Project Plan. Furthermore, the map of the district's boundaries on page 3 is amended to reflect the borders approved by the City Council on January 25, 2005, reflecting the entire Downtown Master Planning Area. (See attached map as Exhibit "A")

ECONOMIC FEASIBILITY STUDY

Exhibit No. 1 (Economic Feasibility Study) is to be amended and replaced by an updated Economic Feasibility Study by the U of A Center for Business and Economic Research dated January 25, 2005. (Attached as Exhibit "B")

USES AND CONDITIONS OF PROPERTY

Exhibit No. 2 is to be supplemented by the Exhibit to the proposed Downtown Master Plan Redevelopment District Existing Uses and Conditions Map, which are now combined as Exhibit "C".

ORDINANCE AMENDING BOUNDARIES OF DISTRICT

Exhibit No. 3 is to be deleted and replaced with the ordinance passed January 25, 2005 (Exhibit "D") amending the borders of the Redevelopment District as shown on Exhibit "A".

CERTIFICATION OF COUNTY ASSESSOR

Exhibit No. 4 is to be amended to reflect the Arkansas Attorney General's Opinion that the 25 mills required by Amendment 74 shall not be included in the total ad valorem rate so that the applicable ad valorem rate available for TIF financing shown on Exhibit 4 is reduced by those 25 mills. However, the debt service ad valorem rate shall be adjusted so that the tax increment from the increase in property valuation (not including the 25 mills) shall be paid (if not securing debt) only to the TIF district and not transferred to another taxing entity. This should yield at least 7.66 mills as the "applicable ad valorem rate" if all of the school mills above the 25 state mandated mills are exempted from inclusion into TIF millage "by reason of having bonds outstanding." A.C.A. §14-168-312 (a)(3)(B). Thus, the debt service ad valorem rate should be no more than 19.2 mills for debt pursuant to County Ordinance No. 2004-68 (Exhibit "E") levying such millage.

Exhibit No. 4 is also supplemented by the Washington County Assessor's Certification by letter dated November 20, 2004 (Exhibit "F") for the proposed Downtown Master Plan Redevelopment District including Washington County Ordinance No. 2004-68 the letter of September 21, 2004 from Lisa Z. Morstad of the Fayetteville Public School System (Exhibit "G"), copy of ballot (Exhibit "H"), and parcel appraisals (Exhibit "I"). Again the County Assessor's Certification for Debt Service Ad Valorem Rate should be no more than 19.2 mills and the Applicable Ad Valorem Rate should be at least 7.66 mills.

AUTHORIZATION OF INJUNCTIVE OR DECLARATORY JUDGMENT SUIT VERSUS WASHINGTON COUNTY ASSESSOR

Passage of the ordinance to adopt this Amended Project Plan necessitates a suit be filed requesting that the Circuit Court require the Assessor to issue a Certification of the "debt service ad valorem" rate and the "applicable ad valorem rate" for the enlarged district in accordance with Constitutional mandates. Therefore passage of this Amended Project Plan authorizes the City Attorney to file such declaratory judgment or injunctive suit so the statutory and constitutional issues regarding appropriate ad valorem rates can be decided by the Court.

FINANCING METHODS

The methods of financing all estimated project costs shall be by the issuance of two types of TIF bonds or notes. The "**marketable bonds**" (secured by a pledge of all TIF revenues of which at least 3.16 are of unchallenged legality) shall be made as soon as possible in order to secure sufficient financing to purchase all the property by February 28, 2005. The other, "**subordinate bonds or notes**" shall be secured, (subordinately to the other TIF bonds) all of the tax increment legally available to pay tax incremental financing bonds within the district after after full payment of the "**marketable bonds.**" As these TIF bonds may not be "marketable" until the Courts resolve the issue of what are the proper debt service and applicable ad valorem rates, the developers have agreed to purchase these bonds at their risk so that if there are not sufficient tax increment financing revenues within the 25 year life of this district, they will not receive full payment and have no recourse against the City or TIF district. The "**subordinate bonds or notes**" must be sold with revenues reeeived by the City **prior** to the City's sale of its "**marketable bonds.**"

PROJECT COST CLARIFICATIONS

The City shall pay not more than $887,000.00 for demolition and site preparation work as shown on page 9. If this work does not require the full $887,000.00, the remainder shall be used to pay debt service on the primary TIF bonds.

After demolition of the properties purchased by the TIF district pursuant to the Project Plan, the property cleared by the City shall be sold to the developers for Three Hundred Thousand Dollars ($300,000.00) which shall be used to pay the interest and reduce the debt of the primary, **"marketable bonds"**.

The developers have agreed to purchase and the City shall issue sufficient bonds or notes above the amount of marketable bonds so that the City through TIF bonds and notes **will receive $3.5 million net so as to be able to finance the Project.**

ZONING ORDINANCES AND OTHER PROJECT COSTS

The project does not require or propose any changes of zoning ordinances. The Downtown Master Plan calls for the removal of the Mountain Inn blighted area as a top priority. Apart from economic analysis, bond counsel and underwriting costs and because of lack of sufficient TIF revenue, no other "non-project costs" are anticipated to be paid by TIF financing.

NO RELOCATIONS REQUIRED

No persons should have to be relocated as all buildings sought to be demolished are vacant.

TOTAL INDEBTEDNESS

The total amount of indebtedness to be incurred is $3.5 million, plus the costs of issuance and any capitalized interest payments. The total tax increment for the 25 year life of this project based upon 7.66 mills is estimated to be $20,351,684.00. The method for calculating this increment was using the economic forecast by Crews and Associates of 8.3% property value growth until 2009 and 6% thereafter and applying 7.66 mills to this valuation growth.

No other revenues are anticipated to be used to secure the tax incremental financing.

FUTURE OPTIONS

If tax incremental financing revenues exceeds the projections because more millage is or becomes legally available to the Redevelopment District or property valuation growth exceeds the economic forecast, a project in the western part of the district such as the extension of the Frisco Trail to the

Scull Creek Trail or a cooperative parking deck may be undertaken by the City Council then serving.

PROFESSIONAL SERVICES

The District may engage as may be necessary professional advisors, consultants, attorneys and other TIF specialists to carry out the project plan and related financings.

APPLICATION OF DISTRICT REVENUES

All tax increment collected for the established twenty-five year period will be used to cover district indebtedness and/or other direct district expenses including initial bonded debt and additional bonds that may be issued as district revenues permit. Excess revenues shall retire the district's indebtedness or fund additional projects as may be approved by the City Council in accordance with bond covenants and obligations.

INTEREST EARNINGS

All interest earnings will be used towards debt service obligations on issued Tax Increment Financing bonds/notes. Earnings may be applied to the payment of Capitalized Interest and any prepayment of debt obligations as may be permitted.

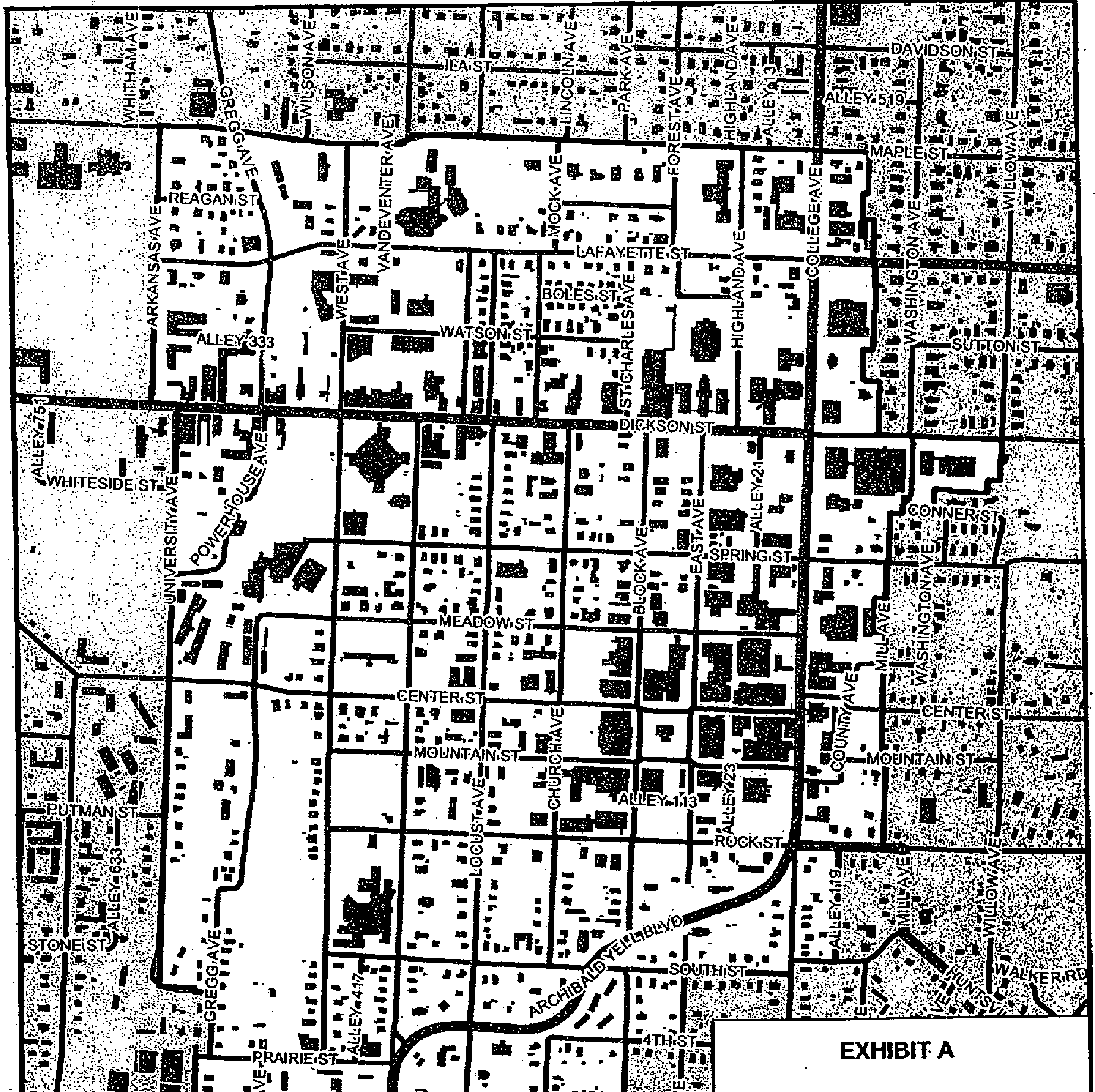
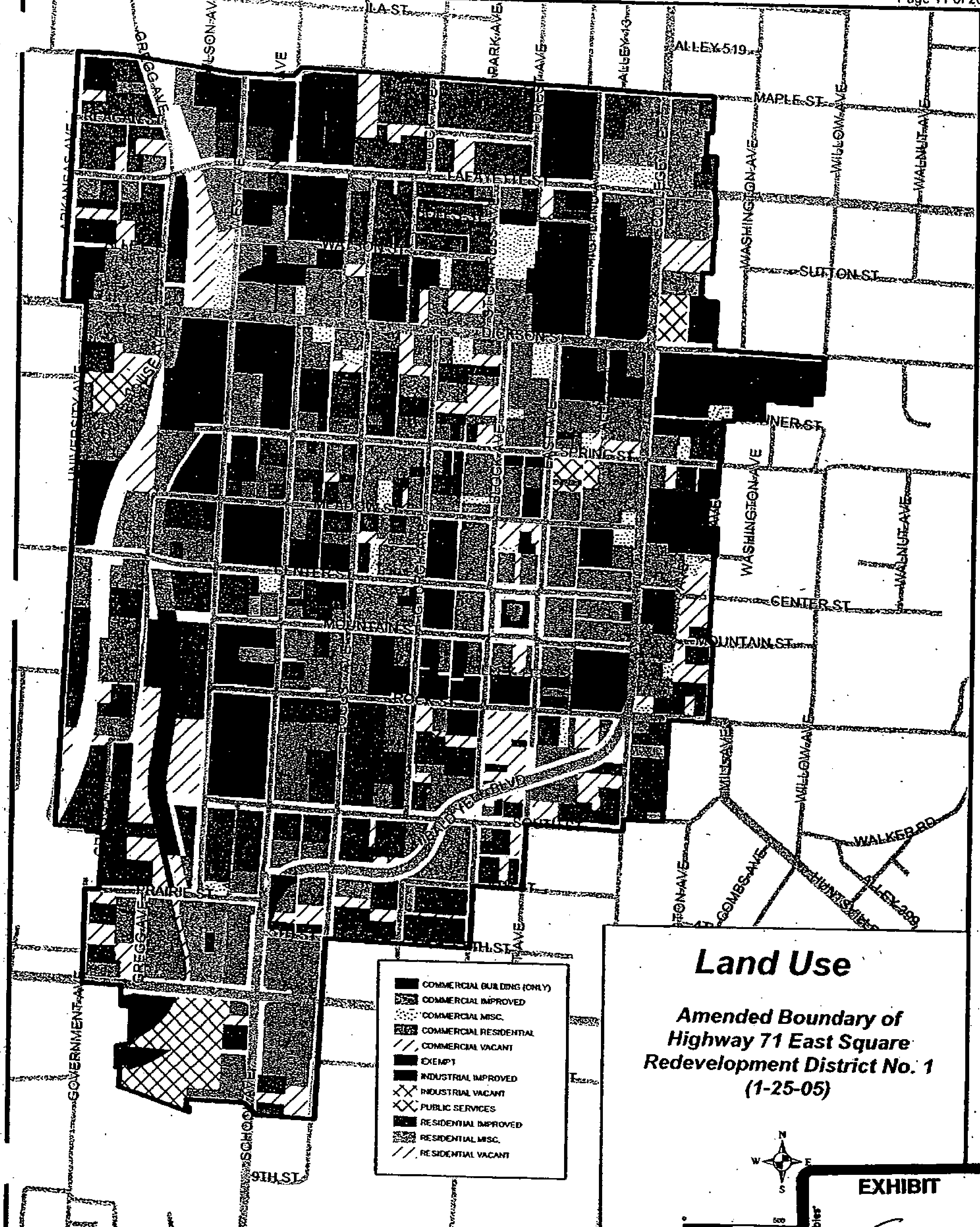


EXHIBIT A

Amended Boundary of Highway 71 East Square Redevelopment District No. 1 (1-25-05)


Land Use
Amended Boundary of Highway 71 East Square Redevelopment District No. 1 (1-25-05)
COMMERCIAL BUILDING (ONLY)
COMMERCIAL IMPROVED
COMMERCIAL MISC.
COMMERCIAL RESIDENTIAL
COMMERCIAL VACANT
EXEMPT
INDUSTRIAL IMPROVED
INDUSTRIAL VACANT
PUBLIC SERVICES
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KAREN COMBS PRITCHARD
CO. & PROBATE CLERK
WASHINGTON CO. ARK.

ORDINANCE NO. 2004-68

APPROPRIATION ORDINANCE:

BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF WASHINGTON, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED:

AN ORDINANCE LEVYING THE COUNTY, MUNICIPAL AND SCHOOL DISTRICT TAXES FOR THE YEAR 2004.

WHEREAS, Article 7, Section 30, of the Constitution of the State of Arkansas requires the Justices of the Peace of each county to "sit with and assist the County Judge in levying the county taxes"; and,

WHEREAS, A.C.A. 14-14-904 provides that "The Quorum Court, at its regular meeting in November of each year, shall levy the county, municipal, and school taxes for the current year."

NOW, THEREFORE, BE IT ORDAINED BY THE QUORUM COURT OF WASHINGTON COUNTY, ARKANSAS:

ARTICLE 1. The following taxes are hereby levied for the Year 2004 for Washington County, Arkansas:

EXHIBIT
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	REAL ESTATE/ PERSONAL PROPERTY
(A) County General	4.75 mills
(B) County Road	1.11 mills
(C) County Library	1.0 mills*

* To be collected throughout the County except for property within the City Limits of Fayetteville.

ARTICLE 2. The following taxes are hereby levied for the Year 2004 for the respective municipalities within Washington County, Arkansas:

	REAL ESTATE/ PERSONAL PROPERTY
(A) Fayetteville	1.8 mills**
(B) Springdale	5.6 mills
(C) Elkins	5.0 mills
(D) Greenland	2.9 mills
(E) West Fork	5.0 mills

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(F) Winslow	3.0 mills
(G) Farmington	4.9 mills
(H) Tontitown	2.0 mills
(I) Elm Springs	5.0 mills
(J) Johnson	4.8 mills
(K) Prairie Grove	9.4 mills
(L) Lincoln	6.5 mills
(M) Goshen	0.0 mills

** 1.0 mill is a library millage and is to be collected only inside the City Limits of Fayetteville; .8 mill is for all other legal purposes.

ARTICLE 3. The following taxes are hereby levied for the Year 2004 for the respective school districts within Washington County, Arkansas:

	REAL ESTATE/ PERSONAL PROPERTY		
	Debt	M & 0	Total
(A) Fayetteville, #1	19.2 mills	25.0 mills	44.2 mills
(B) Farmington, #6	15.7 mills	25.0 mills	40.7 mills
(C) Elkins, #10	15.2 mills	25.0 mills	40.2 mills
(D) Winslow, #20	8.0 mills	25.0 mills	33.0 mills
(E) Prairie Grove, #23	12.9 mills	25.0 mills	37.9 mills
(F) Lincoln, #48	14.8 mills	25.0 mills	39.8 mills
(G) Springdale, #50	14.5 mills	25.0 mills	39.5 mills
(H) Greenland, #95	12.9 mills	25.0 mills	37.9 mills
(I) West Fork, #141	14.0 mills	25.0 mills	39.0 mills
(J) Benton County, #21	15.0 mills	25.0 mills	40.0 mills

ARTICLE 4. The levy of taxes for 2004 is in accordance with State law.

Jerry Hunton
JERRY HUNTON, County Judge

12-13-04
DATE

Karen Combs Pritchard
KAREN COMBS PRITCHARD, County Clerk

Sponsor: Kurt Anderson
Date of Passage: December 9, 2004
Votes For: 12 Votes Against: 0
Abstentions: 0 Absent: 1

WASHINGTON COUNTY
STATE OF ARKANSAS
Washington County Courthouse
280 North College – Suite 250
Fayetteville, Arkansas 72701

LEE ANN KIZZAR
COUNTY ASSESSOR

TELEPHONE
479/444-1500

November 20, 2004

Mr. Hugh Earnest
City of Fayetteville
113 W. Mountain
Fayetteville AR 72701

Dear Mr. Earnest,

Please accept this letter and its attachments as the assessor's certification required by ACA 14-168-306(b)(5) for the approval of the Downtown Master Plan Redevelopment District Project Plan.

The assessed value of all real property within the redevelopment district subject to ad valorem taxation, also known as the **Base Value** as of January 1, 2004, is:
15,083,761.

The rolled back total millage rate of Washington County, the Fayetteville School District, and the City of Fayetteville, also known as the **Total Ad Valorem Rate**, is:
51.91.

The portion of the total ad valorem rate that was, at January 1, 2001, pledged to the payment of debt service by the Fayetteville School District, also known as the **Debt Service Ad Valorem Rate**, is:
23.7.

The total rolled back ad valorem rate less the debt service ad valorem rate, also known as the **Applicable Ad Valorem Rate**, is:
28.21.

Attached is the certification from the Fayetteville School District of the debt service ad valorem rate, a copy of the most recent millage ordinance detailing levied ad valorem millage rates for all taxing entities in Washington County with the pertinent items marked with an asterisk, and a report from the assessor's database detailing the appraised and assessed value of each parcel in the redevelopment district along with totals for the entire district. Also included is a copy of the rollback forms for Washington County and the Fayetteville School District to show the rolled back millages.

Sincerely,

Lee Ann Kizzar

Lee Ann Kizzar

EXHIBIT
F

EXHIBIT
I

Fayetteville Downtown Master Plan TIF district

Parcel ID	Type	Total Appraised	Total Assessed
765-01653-000	CM	186,850	25,926
765-01654-000	CI	995,300	148,334
765-01677-000	CV	160,000	11,440
765-01678-000	RI	85,950	14,459
765-01679-000	CV	80,000	10,450
765-01680-000	CI	182,000	30,007
765-01681-000	CV	180,000	29,700
765-01682-000	RI	158,650	24,151
765-01683-000	CI	138,800	25,333
765-01684-000	CI	298,650	27,957
765-01685-000	CI	254,200	49,477
765-01686-000	CV	118,150	7,951
765-01687-000	CV	21,100	1,444
765-01688-000	CI	337,950	44,200
765-01690-000	CV	58,000	6,163
765-01691-000	RI	112,250	17,760
765-01692-000	RI	157,050	27,317
765-01693-000	RI	122,450	14,813
765-01694-000	RI	87,150	13,900
765-01695-000	CI	476,400	69,155
765-01696-000	RI	134,650	15,044
765-01697-000	RI	65,850	10,053
765-01698-000	RI	57,050	7,402
765-01699-000	RI	86,650	12,740
765-01700-000	CR	102,400	12,601
765-01701-000	RI	76,950	12,572
765-01702-000	CR	287,950	52,426
765-01703-000	CM	90,150	11,341
765-01704-000	CR	239,500	36,594
765-01705-000	CI	207,750	26,984
765-01706-000	CI	458,650	74,419
765-01707-000	CI	634,200	92,444
765-01708-000	CM	71,800	12,177
765-01709-000	CI	270,550	24,574
765-01710-000	CT	69,000	7,445
765-01711-000	CV	50,400	8,129
765-01712-000	RI	78,800	9,621
765-01713-000	EX	0	0
765-01714-000	RI	92,550	13,566
765-01715-000	RI	163,750	20,203
765-01716-000	EX	0	0
765-01717-000	CR	134,600	16,130
765-01718-000	RI	58,250	8,850
765-01719-000	RI	199,550	31,021
765-01721-000	RI	169,450	28,940
765-01726-000	EX	0	0
765-01733-000	EX	0	0
765-01736-000	CI	805,300	127,523
765-01739-000	EX	0	0
765-01740-000	EX	0	0
765-01741-000	CI	504,900	55,567
765-01742-000	EX	0	0
765-01743-000	CI	1,356,950	231,535
765-01743-002	EX	0	0
765-01743-003	EX	0	0
765-01744-000	ET	0	0
765-01745-000	PS	0	0
765-01745-001	EX	0	0
765-01745-002	EX	0	0

11/20/2004

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Parcel ID	Type	Total Appraised	Total Assessed
765-01746-000	EX	0	0
765-01747-000	CR	213,300	38,223
765-01748-000	RI	155,950	16,052
765-01749-000	RI	87,700	16,403
765-01750-000	ET	0	0
765-01751-000	ET	0	0
765-01752-000	ET	0	0
765-01753-000	EX	0	0
765-01754-000	RI	133,500	20,861
765-01755-000	CI	146,000	23,724
765-01756-000	CR	351,850	29,284
765-01757-000	CR	95,600	13,327
765-01758-000	RI	128,400	19,900
765-01759-000	RI	87,150	15,530
765-01760-000	CI	93,350	12,999
765-01761-000	CR	197,600	39,520
765-01762-000	CI	179,650	24,123
765-01763-000	RI	116,100	14,629
765-01764-000	CI	153,700	28,754
765-01765-000	CI	151,800	27,092
765-01766-000	RI	259,400	47,498
765-01767-000	CR	269,800	49,671
765-01768-000	RI	107,700	15,101
765-01769-000	RV	20,000	2,816
765-01770-000	RI	90,650	8,890
765-01771-000	RI	74,650	10,167
765-01772-000	CR	174,550	32,742
765-01773-000	RI	71,300	9,796
765-01774-000	CI	671,000	134,200
765-01774-001	CM	63,600	12,111
765-01775-000	CI	139,050	27,137
765-01776-000	RI	192,300	22,618
765-01777-000	CV	18,150	2,189
765-01777-001	RI	90,900	14,257
765-01778-000	CR	286,400	41,598
765-01779-000	CI	100,050	17,646
765-01856-000	CI	412,450	68,990
765-01857-000	CI	161,850	26,727
765-01858-000	RI	187,750	27,955
765-01859-000	CI	118,200	16,378
765-01860-000	RI	73,100	12,197
765-01861-000	RI	64,400	8,030
765-01862-000	CM	76,550	12,325
765-01863-000	RI	171,850	25,333
765-01864-000	CM	66,550	11,484
765-01865-000	CI	482,350	49,325
765-01866-000	CI	290,200	49,940
765-01867-000	CI	123,600	12,727
765-01868-000	RI	154,700	23,924
765-01869-000	ET	0	0
765-01870-000	ET	0	0
765-01871-000	ET	0	0
765-01872-000	ET	0	0
765-01873-000	EX	0	0
765-01874-000	CI	46,050	7,885
765-01875-000	CI	41,650	7,021
765-01876-000	RI	78,550	13,696
765-01877-000	RI	437,050	85,102
765-01878-000	CI	106,850	19,118
765-01879-000	EX	0	0
765-01880-000	RI	112,000	16,103
765-01881-000	RI	163,450	17,139

Parcel ID	Type	Total Appraised	Total Assessed
765-01882-000	CR	276,150	45,624
765-01882-001	CI	445,900	89,180
765-01883-000	CR	231,000	46,200
765-01884-000	RI	75,350	12,735
765-01885-000	RV	500	100
765-01886-000	CI	75,700	9,482
765-01887-000	CI	88,050	7,894
765-01888-000	RI	54,950	9,324
765-01889-000	RI	62,650	8,451
765-01890-000	RI	47,050	7,536
765-01891-000	RI	86,500	14,850
765-01892-000	RI	107,000	17,586
765-01893-000	RI	100,500	13,002
765-01894-000	RI	85,000	15,389
765-01895-000	CM	135,200	12,598
765-01896-000	RI	100,950	15,766
765-01897-000	RI	137,550	18,690
765-01898-000	RI	137,350	17,593
765-01899-000	RI	79,750	7,899
765-01900-000	CV	58,400	3,080
765-01901-000	CI	55,450	6,907
765-01902-000	RI	65,450	9,162
765-01903-000	CI	209,500	28,929
765-01904-000	RI	436,350	55,169
765-01905-000	CR	246,900	27,478
765-01906-000	CR	228,650	22,765
765-01907-000	RI	174,150	31,856
765-01908-000	RI	125,650	17,576
765-01909-000	EX	0	0
765-01910-000	RI	55,350	7,136
765-01911-000	EX	0	0
765-01912-000	RI	52,750	10,550
765-01913-000	CI	112,650	12,627
765-01914-000	ET	0	0
765-01915-000	CI	95,400	17,678
765-01916-000	CI	362,450	37,752
765-01917-000	CI	435,500	60,380
765-01994-000	CI	294,300	52,613
765-01995-000	CI	218,100	29,835
765-01996-000	EX	0	0
765-01997-000	EX	0	0
765-01998-000	EX	0	0
765-01999-000	CI	208,650	41,173
765-01999-001	CI	141,000	20,933
765-02000-000	CI	340,350	47,018
765-02001-000	CI	285,650	40,865
765-02002-000	RI	471,650	78,977
765-02003-000	CI	341,350	56,049
765-02004-000	CI	334,350	39,344
765-02005-000	CI	324,800	60,665
765-02006-000	RI	72,500	7,305
765-02007-000	CR	185,600	37,120
765-02008-000	RI	67,700	10,978
765-02010-000	CT	146,050	26,950
765-02020-000	RI	98,700	10,915
765-02021-000	EX	0	0
765-02022-000	RI	49,400	4,730
765-02023-000	RI	79,850	10,608
765-02024-000	RI	65,550	7,635
765-02025-000	RI	80,500	15,149
765-02026-000	EX	0	0
765-02027-000	RI	46,550	7,908

Parcel ID	Type	Total Appraised	Total Assessed
765-02028-000	RI	46,600	7,207
765-02029-000	RI	96,650	15,133
765-02030-000	EX	0	0
765-02031-000	RI	82,150	8,735
765-02032-000	RI	44,000	8,393
765-02033-000	EX	0	0
765-02034-000	RM	22,300	4,460
765-02035-000	RV	50,500	8,666
765-02036-000	EX	0	0
765-02037-000	EX	0	0
765-02038-000	EX	0	0
765-02039-000	EX	0	0
765-02040-000	EX	0	0
765-02041-000	EX	0	0
765-02041-000	EX	0	0
765-02042-000	EX	0	0
765-02043-000	CI	222,950	30,901
765-02044-000	RI	91,800	10,011
765-02045-000	RI	78,550	9,515
765-02046-000	CI	160,650	25,464
765-02047-000	CR	216,050	34,939
765-02048-000	RI	111,700	17,606
765-02049-000	RI	68,600	7,401
765-02050-000	RI	66,250	7,052
765-02051-000	RI	88,150	10,925
765-02052-000	RI	77,350	8,827
765-02053-000	CI	299,400	42,056
765-02054-000	RI	79,450	7,624
765-02055-000	RI	75,350	6,100
765-02056-000	RI	65,650	7,317
765-02057-000	RI	50,850	6,635
765-02058-000	RI	65,950	8,041
765-02059-000	RI	52,200	6,364
765-02060-000	RI	54,000	8,635
765-02061-000	RI	76,100	7,362
765-02062-000	RI	104,900	13,033
765-02063-000	RI	68,100	9,462
765-02064-000	CI	183,050	26,933
765-02064-001	RI	86,150	7,744
765-02065-000	RI	112,900	11,182
765-02066-000	RI	111,300	9,560
765-02067-000	RI	58,100	5,952
765-02068-000	RI	58,050	5,630
765-02069-000	CI	160,350	26,169
765-04326-000	ET	0	0
765-04327-000	RV	23,400	2,860
765-04328-000	ET	0	0
765-04329-000	ET	0	0
765-04330-000	ET	0	0
765-04332-000	ET	0	0
765-04333-000	ET	0	0
765-04334-000	ET	0	0
765-04335-000	ET	0	0
765-04336-000	ET	0	0
765-04337-000	RI	152,350	19,625
765-04338-000	RV	20,650	2,640
765-04339-000	RI	99,700	14,300
765-04340-000	RI	93,650	10,642
765-04341-000	RI	133,500	20,270
765-04342-000	RI	186,100	22,803
765-04343-000	RI	70,200	14,040
765-04344-000	CI	53,750	10,750

Parcel ID	Type	Total Appraised	Total Assessed
765-04345-000	RI	30,150	4,114
765-04346-000	ET	0	0
765-04347-000	RI	58,300	10,410
765-04348-000	RI	68,550	10,054
765-04349-000	RI	78,250	11,682
765-04350-000	CI	301,850	50,736
765-04350-001	CI	223,400	39,556
765-04351-000	ET	0	0
765-04352-000	ET	0	0
765-04353-000	ET	0	0
765-04354-000	ET	0	0
765-04355-000	RI	55,250	7,465
765-04356-000	RI	56,650	7,679
765-04357-000	CR	119,750	14,915
765-04357-100	EX	0	0
765-04358-000	CI	54,000	10,800
765-04359-000	CI	81,350	14,377
765-04360-000	CI	70,350	12,033
765-04361-000	CI	1,072,400	185,001
765-04362-000	CI	393,700	64,625
765-04362-001	EX	0	0
765-04363-000	CM	168,900	5,420
765-04363-001	EX	0	0
765-04364-000	CI	1,225,100	177,117
765-04365-000	CI	265,350	42,400
765-04366-000	CI	85,550	11,703
765-04367-000	CI	110,200	9,626
765-04368-000	CI	97,650	11,005
765-04369-000	CI	242,500	39,039
765-04370-000	CI	257,850	26,183
765-04371-000	CI	134,500	18,805
765-04372-000	CI	152,400	20,878
765-04373-000	CI	247,550	22,542
765-04374-000	CM	108,450	16,145
765-04375-000	CI	830,250	105,770
765-04376-000	CI	255,000	37,336
765-04376-000	CI	255,000	37,336
765-04378-000	VP	0	0
765-04378-001	CI	280,300	43,618
765-04379-000	CI	510.150	57,537
765-04380-000	ET	0	0
765-04381-000	ET	0	0
765-04382-000	ET	0	0
765-04384-000	ET	0	0
765-04385-000	ET	0	0
765-04388-000	ET	0	0
765-04389-000	ET	0	0
765-04390-000	ET	0	0
765-04391-000	CI	341,500	68,300
765-04392-000	RI	58,400	8,525
765-04393-000	RI	57,650	9,648
765-04394-000	RI	114,450	14,297
765-04395-000	RI	83,800	10,534
765-04396-000	RI	97,550	15,021
765-04397-000	CV	54,000	9,900
765-04398-000	CI	926,000	185,200
765-04399-000	CI	547,650	93,093
765-04400-000	CI	167,600	20,578
765-04401-000	CI	304,650	28,984
765-04402-000	CI	210,850	19,133
765-04403-000	RI	78,100	14,626
765-04404-000	RI	41,400	8,280

Parcel ID	Type	Total Appraised	Total Assessed
765-04405-000	RI	85,550	12,793
765-04406-000	CR	84,500	14,784
765-04407-000	RI	43,250	8,650
765-04408-000	RI	59,100	9,109
765-04409-000	CR	145,100	18,620
765-04410-000	RI	88,300	10,465
765-04411-000	RI	69,150	11,087
765-04412-000	RI	119,400	23,880
765-04413-000	RI	86,650	9,298
765-04414-000	RI	75,350	15,070
765-04415-000	RI	120,200	14,012
765-04416-000	RI	129,400	18,881
765-04417-000	RI	112,100	16,228
765-04418-000	RI	129,100	13,480
765-04419-000	RI	99,700	9,606
765-04421-000	RI	194,050	28,820
765-04424-000	RM	25,950	5,190
765-04427-000	RI	52,600	5,839
765-04428-000	RI	53,750	6,364
765-04430-000	RI	54,150	6,964
765-04431-000	CV	100,000	14,300
765-04432-000	RI	308,550	39,674
765-04433-000	CM	45,100	9,020
765-04434-000	CI	643,250	104,621
765-04435-000	EX	0	0
765-04436-000	EX	0	0
765-04437-000	EX	0	0
765-04438-000	RI	143,700	22,583
765-04439-000	EX	0	0
765-04440-000	EX	0	0
765-04441-000	EX	0	0
765-04442-000	CM	207,100	41,420
765-04443-000	CI	2,092,250	274,283
765-04444-000	EX	0	0
765-04445-000	EX	0	0
765-04446-000	EX	0	0
765-04447-000	EX	0	0
765-04513-000	RI	98,800	14,144
765-04514-000	RI	88,150	15,279
765-04515-000	RI	99,250	17,003
765-04516-000	RI	97,050	14,359
765-04517-000	CI	782,150	136,798
765-04518-000	CV	165,250	12,684
765-05462-000	RI	24,300	4,179
765-05462-001	CR	87,850	18,643
765-05463-000	RV	16,000	3,200
765-05469-000	RI	51,400	9,285
765-05470-000	RI	48,900	7,570
765-05471-000	RI	59,600	10,982
765-05472-000	RI	135,150	20,678
765-05473-000	RI	42,200	5,020
765-05474-000	RI	37,700	6,878
765-05475-000	RI	55,850	8,561
765-05476-000	RI	55,300	7,993
765-05477-000	RI	52,700	9,744
765-05483-000	RI	43,350	8,173
765-05484-000	RI	51,050	8,723
765-05485-000	RI	31,450	5,786
765-05486-000	RI	62,650	12,497
765-05506-002	EX	0	0
765-05520-000	CI	74,500	11,561
765-05520-000	CI	74,600	11,581

Parcel ID	Type	Total Appraised	Total Assessed
765-05521-000	CI	120,050	19,524
765-05524-000	CI	40,100	5,764
765-05525-000	EX	0	0
765-05526-000	RI	34,150	6,314
765-05527-000	RI	37,050	6,875
765-05529-000	RI	54,450	9,938
765-05530-000	RI	31,700	5,660
765-05532-000	RI	42,150	6,291
765-05533-000	CI	253,600	45,912
765-05534-000	CV	15,000	2,233
765-05535-000	RI	37,200	6,897
765-05536-000	RV	15,200	2,618
765-05537-000	RV	25,600	2,860
765-05538-000	RI	42,100	7,493
765-05539-000	RV	8,400	1,100
765-05541-000	CI	42,950	5,205
765-05541-001	EX	0	0
765-05572-010	CI	338,350	58,344
765-05573-000	ET	0	0
765-05574-000	ET	0	0
765-05575-000	ET	0	0
765-05576-000	ET	0	0
765-05577-000	ET	0	0
765-05578-000	RI	59,850	9,416
765-05579-000	ET	0	0
765-05580-000	ET	0	0
765-05581-000	ET	0	0
765-05582-000	ET	0	0
765-05583-000	ET	0	0
765-05584-000	RI	60,600	9,395
765-05585-000	ET	0	0
765-05586-000	ET	0	0
765-05587-000	ET	0	0
765-05588-000	ET	0	0
765-05589-000	ET	0	0
765-06024-000	RI	124,450	22,825
765-06025-000	CV	52,850	9,009
765-06026-000	RI	218,500	41,635
765-06027-000	CI	748,650	147,180
765-06028-000	RI	80,800	12,999
765-06029-000	RI	64,500	11,968
765-06030-000	RI	254,000	48,710
765-06031-000	RI	271,650	51,939
765-06032-000	RI	347,150	54,271
765-06033-000	RI	92,700	17,910
765-06034-000	RM	24,600	3,818
765-06035-000	RI	125,200	23,892
765-06036-000	CI	185,400	28,328
765-06037-000	EX	0	0
765-06038-000	EX	0	0
765-06039-000	RI	329,900	41,400
765-06040-000	CI	291,100	49,478
765-06139-000	RI	50,600	6,714
765-06140-000	RI	48,750	7,508
765-06141-000	RI	40,300	7,040
765-06142-000	EX	0	0
765-06143-000	CV	18,300	2,508
765-06144-000	RI	71,450	11,765
765-06145-000	RI	49,500	7,921
765-06147-000	RI	227,450	45,490
765-07123-000	RI	72,450	6,100
765-07124-000	RI	50,500	8,492

Parcel ID	Type	Total Appraised	Total Assessed
765-08241-000	RV	8,750	1,375
765-08242-000	RI	64,000	8,633
765-08243-000	RI	82,900	12,119
765-08539-000	RI	691,000	80,600
765-08540-000	RI	635,000	78,741
765-08541-000	RI	481,500	60,091
765-08542-000	RI	357,000	44,459
765-08543-000	RI	376,600	54,926
765-08544-000	RI	749,700	93,626
765-08545-000	RV	52,500	3,432
765-08546-000	RI	263,600	28,432
765-08547-000	RI	354,950	37,040
765-08548-000	RI	122,700	14,443
765-08549-000	RI	218,450	32,604
765-08550-000	RI	315,100	38,124
765-08551-000	RI	299,450	36,261
765-08552-000	RI	113,250	11,101
765-08553-000	RV	100,000	5,577
765-08554-000	RI	120,550	13,542
765-08555-000	RI	109,100	12,037
765-08556-000	RI	298,350	34,172
765-09759-000	EX	0	0
765-09760-000	EX	0	0
765-09761-000	EX	0	0
765-09762-000	EX	0	0
765-09763-000	CR	126,450	25,290
765-09764-000	RV	27,500	3,300
765-09765-000	RV	27,500	3,300
765-09766-000	PS	1,500	300
765-09767-000	EX	0	0
765-09768-000	EX	0	0
765-09769-000	EX	0	0
765-09770-000	EX	0	0
765-09914-000	CI	357,650	54,726
765-09915-000	CI	405,650	59,000
765-09917-000	CI	318,100	51,022
765-09918-000	ET	0	0
765-09919-000	EX	0	0
765-09920-000	CI	767,550	99,843
765-09921-000	RI	169,950	30,308
765-09922-000	RI	127,160	24,588
765-09923-000	RV	22,000	3,300
765-09924-000	RV	22,000	3,300
765-09925-000	EX	0	0
765-09926-000	EX	0	0
765-11917-000	RI	151,850	20,465
765-11918-000	RI	387,650	77,530
765-11919-000	CR	74,250	12,936
765-11920-000	RI	107,750	19,763
765-11921-000	RI	70,250	9,650
765-11922-000	RI	52,300	8,505
765-11923-000	RI	82,050	16,410
765-11924-000	RI	60,560	10,362
765-11925-000	RI	77,250	11,579
765-11926-000	RI	67,750	11,364
765-11927-000	RI	100,300	18,491
765-11928-000	RI	94,300	17,951
765-11929-000	RI	61,550	12,310
765-11930-000	RI	61,500	10,141
765-11931-000	RI	74,600	13,101
765-11932-000	RI	77,300	11,410
765-11933-000	RI	122,800	20,109

Parcel ID	Type	Total Appraised	Total Assessed
765-11934-000	RI	81,550	14,973
765-11935-000	RI	90,850	10,774
765-11936-000	RI	86,150	13,924
765-12867-000	CV	180,000	18,036
765-12868-000	CI	675,500	83,484
765-12868-001	CI	216,250	27,196
765-12869-000	RI	114,250	15,909
765-12870-000	RI	110,350	14,863
765-12871-000	CI	132,150	18,994
765-12872-000	CI	89,300	12,141
765-12873-000	CI	93,450	12,012
765-12874-000	CI	122,050	15,315
765-12875-000	CM	76,950	11,782
765-12875-003	EX	0	0
765-12876-000	CV	117,900	13,599
765-12877-000	CI	82,050	9,209
765-12878-000	EX	0	0
765-12879-000	RI	87,750	12,799
765-12880-000	RI	109,900	18,090
765-12881-000	EX	0	0
765-12882-000	RI	216,750	33,176
765-12883-000	RI	139,300	15,094
765-12884-000	RV	22,000	3,520
765-12885-000	RI	281,300	46,404
765-12886-000	EX	0	0
765-12887-000	EX	0	0
765-12888-000	RI	86,150	11,197
765-12889-000	RI	130,650	23,109
765-12894-000	CI	524,350	49,464
765-12899-000	CV	142,000	8,237
765-12900-000	RI	174,000	20,778
765-12901-000	CV	50,000	2,959
765-12904-000	CI	776,450	74,474
765-12905-000	CI	636,600	102,828
765-12906-000	CM	259,900	37,166
765-12907-000	CI	333,000	42,843
765-12908-000	CI	337,850	37,199
765-12932-000	PS	940,650	188,130
765-12932-001	CI	585,650	74,143
765-12933-000	EX	0	0
765-12934-000	CI	190,650	29,172
765-12935-000	CV	46,550	8,536
765-12936-000	RV	11,000	772
765-12937-000	RV	16,500	2,640
765-12938-000	RI	47,600	7,046
765-12939-000	RI	84,900	15,029
765-12940-000	RV	13,200	2,420
765-12941-000	RI	32,000	5,071
765-12942-000	RV	15,400	2,464
765-12943-000	CI	420,650	68,584
765-12944-000	CI	224,950	33,173
765-12945-000	RI	69,600	7,645
765-12946-000	CR	680,400	109,340
765-12947-000	RV	15,400	2,145
765-12948-000	RI	49,600	8,037
765-12949-000	RI	49,850	6,635
765-12950-000	RI	68,650	8,984
765-12951-000	RI	55,900	6,955
765-12952-000	RV	4,000	660
765-12953-000	RV	3,000	600
765-12954-000	CI	238,550	45,934
765-12956-000	RI	45,950	5,324

Parcel ID	Type	Total Appraised	Total Assessed
765-12956-000	RI	60,650	7,965
765-12957-000	RI	50,000	6,035
765-12958-000	RI	91,600	14,421
765-12959-000	RI	60,850	5,750
765-12960-000	RI	52,450	7,136
765-12961-000	CI	221,500	44,300
765-12962-000	RI	46,500	6,793
765-12964-000	RI	49,850	5,131
765-12967-000	RI	336,800	55,088
765-12970-000	RI	66,200	6,163
765-12971-000	RI	51,500	5,928
765-12972-000	RI	87,050	8,637
765-12973-000	RI	55,600	8,107
765-13020-000	CI	44,300	5,749
765-13020-001	EX	0	0
765-22041-000	CI	304,295	60,819
765-22042-000	CI	616,394	123,200
765-22043-000	CI	366,715	73,293
765-22044-000	CI	312,098	62,381
765-22045-000	CI	397,925	79,552
765-22046-000	CI	827,060	165,319
765-22047-000	CI	795,850	159,093
765-22048-000	CI	226,271	45,221
765-22049-000	CI	210,666	42,119
765-22050-000	RI	148,247	29,645
765-22051-000	RI	124,839	24,959
765-22052-000	RI	124,839	23,825
765-22053-000	RI	132,642	26,521
765-22054-000	RI	132,642	26,521
765-22055-000	RI	288,691	57,695
765-22056-000	RI	202,864	40,557
765-22057-000	RI	413,530	82,676
765-22058-000	RI	234,074	46,783
765-22059-000	RI	163,851	32,747
765-22060-000	RI	163,851	32,747
765-22061-000	RI	273,086	52,112
765-22062-000	CI	109,234	21,824
765-22063-000	CI	444,740	88,902
765-22064-000	CI	249,678	49,907
765-22065-000	CI	187,259	37,433
765-22066-000	CI	117,037	23,397
765-22067-000	CI	117,037	23,397
765-22068-000	CI	117,037	23,397
765-22367-000	RI	206,100	40,370
765-22368-000	RI	208,950	40,370
765-22369-000	RI	208,350	38,535
765-22370-000	RI	224,450	44,000
765-22371-000	RI	209,950	40,370
765-22372-000	RI	225,400	44,000
765-22373-000	RI	208,350	40,370
765-22374-000	RI	225,050	42,000
765-22375-000	RI	209,960	40,370
765-22376-000	RI	225,050	44,000
765-22377-000	RI	208,350	38,535
765-22378-000	RI	224,050	44,000
765-22379-000	RI	308,300	60,500
765-22380-000	RI	322,800	59,850
765-22381-000	CI	206,200	41,240
765-22382-000	CI	135,050	27,010
765-22383-000	CI	963,750	192,750
765-22384-000	CI	0	0
765-22549-000	CI	97,400	9,009

Parcel ID	Type	Total Appraised	Total Assessed
765-22550-000	CI	97,400	9,009
765-22551-000	CI	97,400	9,009
765-22552-000	CI	97,400	9,009
765-22553-000	CI	97,400	9,009
765-22554-000	CI	97,400	9,009
765-22555-000	CI	97,400	9,009
765-22556-000	CI	97,400	9,009
765-22557-000	CI	97,400	9,009
765-22558-000	CI	97,400	9,009
765-22559-000	CI	97,400	9,009
765-22560-000	CI	97,400	9,009
765-22561-000	CI	97,400	9,009
765-22562-000	CI	97,400	9,009
765-22563-000	CI	0	0
765-22564-000	CI	274,147	50,204
765-22565-000	CI	273,053	49,995
765-22566-000	CI	0	0
765-01887-002	EX	0	
765-23362-000	RI	234,000	46,800
765-23363-000	RI	214,600	42,920
765-23364-000	RI	225,900	45,180
765-23365-000	RI	306,600	61,320
765-23366-000	RI	337,250	67,450
765-23367-000	RI	321,650	64,330
765-23368-000	CI	0	0
765-23413-000	RI	85,450	17,090
765-23414-000	RI	65,100	13,020
765-23415-000	RI	76,900	15,380
765-23416-000	RI	134,950	26,990
765-23417-000	RI	81,700	16,340
765-23418-000	RI	303,700	60,740
765-23419-000	CR	0	0
765-01665-000	CI	249,300	42,743
765-01656-000	CI	194,000	32,895
765-01657-000	CI	230,400	30,778
765-01658-000	CI	170,100	30,602
765-01659-000	CI	202,350	32,340
765-01660-000	CI	124,050	16,701
765-01661-000	CI	210,900	38,988
765-01663-000	CM	80,150	10,687
765-01663-000	CM	80,150	10,687
765-01664-000	CI	130,200	10,802
765-01664-000	CI	130,200	10,802
765-01665-000	CI	128,450	19,734
765-01665-000	CI	128,450	19,734
765-01666-000	CI	251,450	27,199
765-01667-000	CV	130,000	25,080
765-01668-000	CM	168,750	24,138
765-01669-000	CI	338,850	52,124
765-01670-000	RI	165,250	27,367
765-01671-000	CI	114,100	18,690
765-01672-000	CV	27,200	4,400
765-01673-000	RI	131,500	18,682
765-01674-000	CR	155,050	27,311
765-01675-000	RI	89,450	10,090
765-01676-000	CI	74,900	7,794
		97,820,053	15,083,761

ANNUAL SCHOOL ELECTION BALLOT

A FAYETTEVILLE SCHOOL DISTRICT NO. 1 | B WASHINGTON COUNTY | C SEPTEMBER 19, 2000

INSTRUCTIONS TO VOTER

1. To vote you must blacken the Oval (▬) completely next to the candidate of your choice.
2. Use only the pencil provided.
3. After voting, deposit ballot in ballot box.

School Board Director. - 3yr. Pos 2

⬭ Howard Hamilton (Unopposed)

School Board Director. - 3yr. Pos 6

⬭ Pam Grondin (Unopposed)

School Tax
44.0 Mills

The total rate proposed above includes the uniform rate of 25.0 mills (the Statewide Uniform Rate") to be collected on all taxable property in the State and remitted to the State Treasurer pursuant to Amendment No. 74 to the Arkansas Constitution to be used solely for maintenance and operation of schools in the State. As provided in Amendment No. 74, the Statewide Uniform Rate replaces a portion of the existing rate of tax levied by this school District and available for maintenance and operation of the schools in this District. The total proposed school tax levy of 44.0 mills includes 19.3 mills for general maintenance and operation, 1.0 mill for current expenditures/dedicated maintenance and operation expenditures dedicated specifically for the purposes of purchasing school buses, purchasing furniture and equipment, purchasing computer software and renovation and repairing existing facilities and 23.7 mills for debt service as a continuing levy pledged for the retirement of existing bonded indebtedness. The 23.7 debt service mills are allocated as follows: 3.0 mills is a continuing levy dedicated exclusively to the retirement of the District's Bonds dated November 1, 1997 and May 1, 1998, and 20.7 mills is a continuing levy pledged for the retirement of all other existing bonded indebtedness. The surplus revenues produced by the 20.7 debt service mills may be used by the District for other school purposes.

If the proposed school tax levy is approved by the electors, then the total school tax rate shall be 44.0 mills (this being the effect of such approval not withstanding the results of the litigation referred to below). If the proposed school tax levy is not approved by the electors, then the total school tax rate shall be a lower rate determined in accordance with pending litigation in the Circuit Court of Washington County, Arkansas (the "Court") involving the rollback provisions of Amendment No. 59 to the Arkansas Constitution, in which the Court has ruled that the rollback provisions of Amendment No. 59 have been triggered (the "Rollback Millage Rate"). The total proposed tax levy of 44.0 mills represents an increase in total mills equal to the difference between the proposed levy of the 44.0 mills and the lower Rollback Millage Rate.

⬭ FOR TAX

⬭ AGAINST TAX

EXHIBIT
H

Fayetteville Public Schools

CELEBRATING THE PAST WHILE EMBRACING THE FUTURE

September 21, 2004

Ms. Lee Ann Kizzar
County Assessor
Washington County Courthouse
280 North College - Suite 360
Fayetteville, AR 72701

Dear Ms. Kizzar:

Please be informed that the Fayetteville School Districts millage structure at January 1, 2001 was as follows:

19.3 mills General Maintenance & Operation
23.7 mills Debt Service
1.0 mill Capital Outlay
44.0 mills

I have attached the school ballot from that election for your reference. Please call me if you have any questions.

Thank you,

Lisa Z. Morstad

Lisa Z. Morstad

EXHIBIT
G

1000 West Stone Street PO Box 849 Fayetteville, Arkansas 72702 (501) 444-3000

Added at the City Council Meeting on 2/1/05 B4
B-4

RESOLUTION NO. ______

A RESOLUTION AUTHORIZING THE PREPARATION OF CERTAIN DOCUMENTATION FOR THE SUBSEQUENT APPROVAL OF THE CITY COUNCIL RELATED TO THE PROPOSED ISSUANCE BY THE CITY OF FAYETTEVILLE TAX INCREMENT BONDS (HIGHWAY 71 EAST SQUARE REDEVELOPMENT DISTRICT PROJECT), SERIES 2005, IN A FORM AND AMOUNT TO PROVIDE A PROJECT FUND OF $3,500.000.00 (THE "BONDS") FOR THE PURPOSE OF FINANCING THE COSTS OF ACQUISITION AND DEMOLITION OF CERTAIN REAL PROPERTY LOCATED WITHIN THE DISTRICT; AND PRESCRIBING OTHER MATTERS RELATING THERETO

WHEREAS, in order to alleviate blight and encourage development within the Highway 71 East Square Redevelopment District (the "District") created pursuant to Ordinance No.4673 adopted on January 25, 2005, the City intends (i) to acquire certain real property and demolish certain existing structures thereon (the "Project"), which property is located within the District and consists primarily of the former Mountain Inn property, former Niblock Law Offices, former Red Bird Restaurant and the former Washington County Courts Building, and (ii) upon the satisfaction of certain conditions, to sell such cleared property to a private developer for the purpose of constructing a hotel, meeting and associated parking facilities thereon; and

WHEREAS, it has been determined that the most advantageous method of financing the costs of the Project is through the issuance by the City of its Tax Increment Bonds (the "Bonds") pursuant to Amendment 78 to the Arkansas Constitution ("Amendment 78") and Arkansas Code Annotated (2003 Supp.) Sections 14-168-301 *et seq.* (the "Act"); and

WHEREAS, the City has determined to consider the issuance of the Bonds, subject to the final approval of terms of the Bonds by ordinance of the City Council, and to authorize the Underwriters and Bond Counsel, hereinafter designated in Sections 2 and 3, respectively, with the advice and assistance of the Mayor, City Attorney and City staff, to take certain actions in preparation for the issuance and sale of the Bonds;

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

Section 1: The Bond Counsel, as hereinafter defined, with the advice and assistance of the Mayor, City Attorney and City staff, is hereby authorized to prepare documents relating to the issuance and sale of the Bonds, provided, however, the City Council shall first adopt an approving ordinance before any such documents are binding upon the City.

Section 2: The firm of Kutak Rock LLP is hereby designated as bond counsel ("Bond Counsel") in connection with the issuance and sale of the Bonds.

Section 3: The firm of Crews & Associates, Inc. is hereby designated as underwriter (the "Underwriter") for the purpose of marketing the Bonds and advising the City concerning the

financing of the Project. The sale of the Bonds to the Underwriter will be accomplished pursuant to the terms of a bond purchase agreement to be presented for the approval of the City Council.

Section 4: The provisions of this resolution are hereby declared to be separable and if a section, phrase or provision shall be declared to be invalid, such declaration shall not affect the validity of the remainder of the resolution.

Section 5: All resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

PASSED and **APPROVED** this _______ day of February, 2005.

APPROVED:

By: ______________________________
DAN COODY, Mayor

ATTEST:

By: ______________________________
SONDRA SMITH, City Clerk

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith

Fayetteville
ARKANSAS

Aldermen

Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
Ward 3 Position 1 - Robert K. Rhoads
Ward 3 Position 2 – Bobby Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
February 1, 2005

A meeting of the Fayetteville City Council will be held on February 1, 2005 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order
Roll Call
Pledge of Allegiance

A. CONSENT:

1. **Approval of the Minutes:** Approval of the January 4, 2005, January 6, 2005, and January 18, 2005 City Council meeting minutes.

2. **Appointment of Building Official:** A resolution appointing a building official for the City of Fayetteville in accordance with A.C.A. § 14-56-202(2).

3. **McClelland Consulting Engineers, Inc. Contract Amendment #1:** A resolution to approve amendment #1 of the contract with McClelland Consulting Engineers, Inc. in the amount of $25,100.00 for the Farmington Waterline Replacement Project.

B. UNFINISHED BUSINESS

1. **Planning Commission Appeal (Crystal Goedereis):** An appeal filed by Crystal Goedereis regarding Planning Commission's denial of RZN 04-1333 (J.B. Hays) for property located at 1882 Starr Drive as submitted by Crystal Goedereis. ***This item was tabled at the January 18, 2005 City Council Meeting to the February 1, 2005 City Council Meeting.***

2. **OMI Contract Amendment No. 11 (A):** A resolution approving amendment No. 11 (A) to the contract with Operations Management International (OMI) in the amount of $76,693.10 for extending the term of the agreement for operations, maintenance and management services and additional five (5) years; and approving a budget adjustment transferring $76,693.00 from Use of Fund Balance to PCP Operation Contract Fund. ***This resolution was tabled at the January 18, 2005 City Council Meeting to the February 1, 2005 City Council Meeting.***

C. NEW BUSINESS:

1. **Central Emergency Medical Services, Inc. Contract Renewal:** An ordinance waiving the requirements of formal competitive bidding and approving a contract for services in the amount of $250,000.00 between the City of Fayetteville and Central Emergency Medical Services, Inc. to operate and maintain an emergency ambulance service to serve the residents of Fayetteville.

2. **Dychem International Contract Extension:** An ordinance to waive competitive bidding and award an extension of a contract with Dychem International through the end of 2005.

D. PUBLIC HEARINGS:

1. **First Class Car Service/Cert. of Public Convenience & Necessity:** A resolution granting a Certificate of Public Convenience and Necessity to First Class Car Service for the operation of two (2) limousines within the city of Fayetteville, Arkansas.

E. INFORMATIONAL:

Council Tour: January 31, 2005 – 4:30 pm

CITY ATTORNEY AGENDA REQUEST

FOR: COUNCIL MEETING OF FEBRUARY 1, 2005

FROM:
KIT WILLIAMS, CITY ATTORNEY

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution Appointing A Building Official For The City Of Fayetteville In Accordance With A. C. A. § 14-56-202 (2)

APPROVED FOR AGENDA:

City Attorney	1-18-05 Date
Mayor	1/18/05 Date

ENTERED 1-18-05

RESOLUTION NO. ______

A RESOLUTION APPOINTING A BUILDING OFFICIAL FOR THE CITY OF FAYETTEVILLE IN ACCORDANCE WITH A. C. A. § 14-56-202(2).

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, pursuant to the requirements of A. C. A. § 14-56-202(2), hereby appoints Mr. Steve Cattaneo as the Building Official for the City of Fayetteville.

PASSED and **APPROVED** this 1st day of February 2005.

APPROVED:

By: ______________________
DAN COODY, Mayor

ATTEST:

By: ______________________
SONDRA SMITH, City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

Date: January 12, 2005

To: Kit Williams

From: Gary Dumas

Re: Agenda item preparation for Building Safety Division Head

Please proceed per your memo in the preparation of the appropriate agenda item regarding the Building Safety Division Head.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

TO: **Dan Coody**, Mayor
Gary Dumas, Director of Operations

FROM: **Kit Williams**, City Attorney

DATE: **January 4, 2005**

RE: **Building Safety Division Head**

Pursuant to A.C.A. §14-56-202 (2) and recent Arkansas Attorney General Opinions, our Chief of Building Safety (formerly inspections) shall be "such officer as the city council shall designate ...."

The Arkansas Attorney General states: "A.C.A. §14-56-202 makes it clear that the individual charged with the task of monitoring construction within the city will be appointed by the city council." (Arkansas Attorney General Opinion No. 2003-261.)

I have attached several Attorney General Opinions on this subject which all interpret A.C.A. §14-56-202 to require the head of building or construction inspection or safety to be appointed by the City Council rather than the Mayor.

I believe we need to promptly bring forth a Resolution in which the City Council appoints Steve Cattaneo to his current position. Please contact me about this and I will then proceed to present the appropriate Agenda item.

Where general zoning law of state provides for certain procedure and statutory provisions authorize the giving of permits by city council in special instances, a permit given by the council is valid, but if ordinances are not passed under provisions providing for issuance of permits, but under a statute which did not provide for permits, the provisions allowing for permits are not relevant in determining validity of permit. Meyer v. Seifert, 216 Ark. 293, 225 S.W.2d 4 (1949).

Cities, in certain instances, have the authority to regulate some features relating to public buildings. Where the ordinance is not before the reviewing court, the court cannot make a sweeping finding that the municipality cannot regulate, in any manner, any phase, aspect, or feature relating to the construction of a public building. Lavender v. Rogers, 232 Ark. 673, 339 S.W.2d 598 (1960); Lavender v. Rogers, 233 Ark. 161, 343 S.W.2d 103 (1961).

A board of adjustment had authority to authorize the enlargement of a kindergarten being operated in a residential district as a preexisting nonconforming use of the property. Williams v. Kuehnert, 243 Ark. 746, 421 S.W.2d 896 (1967).

Fire Prevention.

A town council has power to prohibit the erection of wooden buildings in certain districts of the town as a precaution against fire; and if such building be erected in violation of an ordinance prohibiting it, the council may promptly remove it without any prosecution or judicial proceedings of any kind against the owner of the building. McKibbin v. Fort Smith, 35 Ark. 352 (1880). See Paris v. Hall, 131 Ark. 104, 198 S.W. 705 (1917).

City may extend its fire limits, but cannot give it an ex post facto effect. Wilder v. City of Little Rock, 150 Ark. 439, 234 S.W. 479 (1921).

An ordinance prohibiting the construction of wooden buildings and enlargement and alteration of old buildings within fire limits is authorized. The term "alteration" means that an old building shall not be changed in such a way as to convert it into a new and different structure. Earle v. Shackleford, 177 Ark. 291, 6 S.W.2d 294 (1928).

Where city passed ordinances relative to guarding against destruction of buildings by fire and prohibited erection of nonfireproof building, a permit issued by the city council to erect a nonfireproof building was invalid where statute under which ordinances were passed did not provide for issuance of permits. Meyer v. Seifert, 216 Ark. 293, 225 S.W.2d 4 (1949).

Cited: Corning v. Watson, 252 Ark. 1277, 482 S.W.2d 797 (1972).

14-56-202. Additional powers of cities of the first class.

The following enlarged and additional powers are conferred upon cities of the first class. They shall have the power to:

(1) Regulate the building of houses;

(2) Provide that no house or structure shall be erected within the city limits except upon a permit to be issued by such officer as the city council shall designate; and

(3) Provide that no permit shall be issued for the building of any house or structure deemed to be unsafe, unsanitary, obnoxious, or detrimental to the public welfare.

History. Acts 1907, No. 352, § 1, p. 842; C. & M. Dig., § 7754; Pope's Dig., § 10053; A.S.A. 1947, § 19-2802.

CASE NOTES

ANALYSIS

Building of houses.
Permits.

Building of Houses.

The authority of a city of first class to regulate the building of houses does not give the city the authority to establish a

Opinion No. 2003-261

Is the attached Cabot City Ordinance, which proposes to appoint a city building official and set the salary for that position, in conflict with provisions of ACA 14-42-110 or any other State law? RESPONSE: No. Although A.C.A. § 14-42-110 affords the mayor a general power of appointment of department heads, A.C.A. § 14-56-202, which more particularly addresses the issue raised here, makes it clear that the individual charged with the task of monitoring construction within the city will be appointed by the city council. See Opinion No. 2003-254. Also, your description of the facts suggests that the building official would not qualify as a "department head."

September 2, 2003

The Honorable Bobby L. Glover
State Senator
P.O. Box 1
Carlisle, AR 72024

Dear Senator Glover:

I am writing in response to your request for my opinion on a question arising from the following facts, which are reported in a letter to you from two City of Cabot aldermen:

The City of Cabot adopted the Southern Building Code by ordinance 31-1997[.] The Southern Building Code on page section [sic] 102.2.1 authorizes the Governing Body of the City to appoint a Building Official. The city has an ordinance on the table to appoint the building Official and set his salary.

In researching City ordinances and resolutions we find no record of a building official being appointed by the Council or the Mayor. The Building Official will be the Chief inspector in the building inspection section. The inspection section is not a department. The building Chief inspector is directly under the city engineer. The City engineer is over the planning section. The planning section is directly under the Public Works Director. Therefore this position definitely is not a Department Head as discussed in Arkansas code 14-42-110.

On behalf of the two aldermen, you have posed a question I will paraphrase as follows:

Is the attached proposed Cabot City Ordinance, which would appoint a city building official and set the salary for that position, in conflict with the provisions of A.C.A. § 14-42-110 or any other law?

RESPONSE

In my opinion, the answer to your question is "no."

Your question is the same as one I recently addressed in the attached Ark. Op. Att'y Gen. No. 2003-254. In that opinion, I offered the following conclusion:

Although A.C.A. § 14-42-110 affords the mayor a general power of appointment of department heads, A.C.A. § 14-56-202 makes it clear that the individual charged with the task of monitoring construction within the city will be appointed by the city council. This express designation persuades me that notwithstanding the provisions of A.C.A. § 14-42-110, the legislature would give effect to the hiring process specified in subsection 102.2.1 of the Standard Building Code, which the legislature has authorized the city to incorporate into its ordinances pursuant to A.C.A. § 14-55-207.

Although I am neither equipped nor authorized to act as a finder of fact, if the background information recited above is accurate, it would appear that the "building official" could not properly be designated as a "department head" – a conclusion that would only reinforce my previous opinion that the city council, not the mayor, should determine who should serve as the building official and under what terms. Accordingly, I believe the proposed ordinance you have attached to your request is consistent with Arkansas law.

Assistant Attorney General Jack Druff prepared the foregoing, which I hereby approve.

Sincerely,

MIKE BEEBE
Attorney General

MB:JD/cyh

Enclosure

20030902

Opinion No. 2003-254

Does the mayor's authority to appoint and remove department heads, pursuant to provisions of ACA 14-42-110, apply to the appointment or hiring of a "building official" for the City? Q2) Is it a conflict for a council member to vote on this issue if the council member is in the residential construction, development or home inspection business and has a monetary interest which may be affected by the "building official's" authority? RESPONSE: Q1) In my opinion, the city council, not the mayor, has the authority to appoint a "building official." ACA sec. 14-56-202. Q2) Yes.

August 26, 2003

The Honorable Susan Schulte
State Representative
#13 Sunbeam Circle
Cabot, AR 72032

Dear Representative Schulte:

I am writing in response to your request for my opinion on two questions relating to the hiring of a "building official" for the City of Cabot. You report the following facts:

The City of Cabot has, by Ordinance, adopted the Southern Building Code. The Southern Building Code provides for the appointment of a "building official" responsible for enforcement of code provisions. (Section 102.2.1, Standard Building Code.) Members of the City Council now seek to present an Ordinance to the Council appointing an individual as "building official" and specifying his salary as $35,000.00 annually.

The City Attorney has concluded that only the Mayor has the authority to make the appointment, pursuant to A.C.A. § 14-42-110 as previously interpreted in AG Opinion Number 91-395.

This dispute has prompted you to pose the following questions:

Does the Mayor's authority to appoint and remove department heads pursuant to A.C.A. § 14-42-110 apply to the appointment or hiring of a "building official" for the City?

Is it a conflict for a council member to vote on this issue if the council member is in the residential construction, development or home inspection business and has a monetary interest which may be affected by the "building official's" authority?

RESPONSE

In my opinion, the answer to your first question is probably "no," and the answer to your second question, assuming the council member indeed has a "monetary interest" in the building official's performance, is "yes."

Question 1: Does the Mayor's authority to appoint and remove department heads pursuant to A.C.A. § 14-42-110 apply to the appointment or hiring of a "building official" for the City?

In my opinion, it does not.

Section 14-42-110 of the Code (Repl. 1998) provides in pertinent part:

(a)(1) Mayors in cities of the first class and second class and incorporated towns shall have the power to appoint and remove all department heads, including city and town marshals when an ordinance has been passed making city and town marshals appointed, unless the city or town council shall, by a two-thirds (2/3) majority of the total membership of the council, vote to override the mayor's action.

Section 14-55-207 of the Code (Repl. 1998) provides in pertinent part:

Every municipality in the State of Arkansas is authorized by the passage of a municipal ordinance to adopt by reference technical codes, regulations, or standards, without setting forth the provisions of the code or parts thereof, if three (3) copies of the code, or the pertinent parts thereof, and any related documents are filed in the office of the clerk of the municipality for inspection and view by the public prior to the passage of the ordinance.

The term "technical codes" shall include any building, zoning, health, electrical, or plumbing codes, and the term "regulations" shall include any criminal code of the State of Arkansas.

You report that the Cabot city council has in fact adopted the Standard Building Code, which provides for the establishment of a "building department" headed by a "building official."

Subsection 102.2.1 of the Standard Building Code provides in pertinent part:

The building official shall be appointed or hired by the applicable governing authority and shall not be removed from office except for cause after full opportunity has been given to be heard on specific charges before such applicable governing authority.

(Emphasis added.) Section 14-56-202 of the Code further offers the following regarding the regulation of building in a city of the first class such as Cabot:

The following enlarged and additional powers are conferred upon cities of the first class. They shall have the power to:

(1) Regulate the building of houses;

(2) Provide that no house or structure shall be erected within the city limits except upon a permit to be issued by such officer as the city council shall designate; and

(3) Provide that no permit shall be issued for the building of any house or structure deemed to be unsafe, unsanitary, obnoxious, or detrimental to the public welfare.

(Emphasis added.)

At issue is whether the provisions just quoted supersede A.C.A. § 14-42-110 by locating the power to appoint the building official in the city council as opposed to the mayor. Applying standard principles of statutory interpretation, I believe this question should be answered in the affirmative. It is accepted in the construction of statutes that a general statute does not apply where there is a specific statute governing a particular subject matter. Donoho v. Donoho, 318 Ark. 637, 887 S.W.2d 290 (1994). Although A.C.A. § 14-42-110 affords the mayor a general power of appointment of department heads, A.C.A. § 14-56-202 makes it clear that the individual charged with the task of monitoring construction within the city will be appointed by the city council. This express designation persuades me that notwithstanding the provisions of A.C.A. § 14-42-110, the legislature would give effect to the hiring process specified in subsection 102.2.1 of the Standard Building Code, which the legislature has authorized the city to incorporate into its ordinances pursuant to A.C.A. § 14-55-207.

Having offered this opinion, I must acknowledge the alternative possibility that the legislature, in sanctioning the general practice of adopting codes and standards by reference, did not further intend to change the mayor's authority with respect to the hiring and appointment of department heads. The relevant legislative history provides some support for this possibility. Prior to the enactment of Acts 524 and 914 of 1995, A.C.A. § 14-42-110 provided in pertinent part:

Unless otherwise provided by state law, mayors in cities of the first class and second class shall have the power to appoint and remove all department heads . . . unless the city or town council shall, by a two-thirds (2/3) majority of the total membership of the council, vote to override the mayor's action.

(Emphasis added.) The emergency clause to Act 914 announced that the amendment, which included striking the highlighted language, was necessary in order to ensure that vacancies be promptly filled, presumably by vesting the power of appointment, subject to certain qualifications, in a single individual.

However, even assuming Acts 524 and 914 of 1995 were generally intended to expand a mayor's power of appointment, the fact remains that A.C.A. § 14-56-202(2), which has not been repealed expressly or by implication, specifies that the officer charged with issuing building permits, as is the "building official" in this instance, shall be appointed by the city council. As previously noted, it is well established that where a special statute governs a particular subject, it will apply instead of a general law. Brown & Root, Inc. v. Hempstead County Sand and Gravel, Inc., 767 F.2d 464 (8th Cir. 1985). If the legislature intends to relocate this power of appointment in the mayor, I believe it must do so expressly and directly.

Notwithstanding your suggestion to the contrary, I do not believe my predecessor's reasoning in Opinion No. 91-395 supports the conclusion that the mayor, as opposed to the city council, has the power to appoint the building official. Opinion No. 91-295 merely held that the mayor had the authority to appoint the police and fire chiefs, subject to the right of the city council, upon the mayor's request, to remove these officers. This opinion has no bearing on the issue of who has the authority to appoint a building official. As noted above, I believe A.C.A. § 14-56-202(2) vests this authority in the city council.

Question 2: Is it a conflict for a council member to vote on this issue if the council member is in the residential construction, development or home inspection business and has a monetary interest which may be affected by the "building official's" authority?

Assuming the council member in fact has a "monetary interest" in the building official's performance, I believe the answer to this question is "yes."

In Ark. Op. Att'y Gen. No. 91-302, one of my predecessors offered the following conclusion regarding the status of a municipal building inspector:

It is my opinion that a City Building Inspector would likely be deemed a municipal "officer" by a court faced with the question. His duties and compensation are usually set by city ordinance, and he is ordinarily appointed by the governing body. See generally A.C.A. § 14-56-202 (which refers to building inspectors as "officer[s]").

Accord Ark. Op. Att'y Gen. No. 2000-210. I fully agree with this conclusion.

In Ark. Op. Att'y Gen. No. 95-099, this office set forth the standard for determining whether a municipal officer faces a conflict of interests:

With regard, generally, to the existence of a conflict, it has been stated that the phrase "conflict of interest," when used to suggest disqualification of a public official from performing his or her duties, ordinarily refers to "a clash between the public interest and the private pecuniary interest of the individual concerned." Gardner v. Nashville Housing Auth., 514 F.2d 38 (6th Cir. 1975). The "conflict of interest theory" is based "on the fact that an individual occupying a public position uses the trust imposed in him and the position he occupies to further his own personal gain. It is the influence he exerts in his official position to gain personally in spite of his official trust which is the evil the law seeks to eradicate." City of Coral Gables v. Weksler, 164 So.2d 260, 263 (Fla. App. 1964). See also generally 63A Am. Jur. 2d Public Officers and Employees § 321 (1984).

The furtherance of the officer's personal interest is thus the focal point of the unlawful conflict of interest theory. See Van Hovenberg v. Holman, 201 Ark. 370, 144 S.W.2d 719 (1940).

In Ark. Op. Att'y Gen. No. 2000-072, another of my predecessors elaborated as follows:

The common law prohibition against conflicts of interest is reflected in the following description of the public policy underlying the principle:

A public office is a public trust . . . and the holder thereof may not use it directly or indirectly for personal profit, or to further his own interest, since it is the policy of law to keep an official so far from temptation as to insure his unselfish devotion to the public interest. Officers are not permitted to place themselves in a position in which personal interest may come into conflict with the duty which they owe to the public, and where a conflict of interest arises, the office holder is disqualified to act in the particular matter and must withdraw.

67 C.J.S. Officers § 204. See also Ops. Att'y Gen. 99-349; 98-275; 94-283; and 94-446, citing Van Hovenberg v. Holman, 201 Ark. 370, 144 S.W.2d 719 (1940); Madden v. United States Associates, 40 Ark. App. 143, 844 S.W.2d 374 (1992); Acme Brick Co. v. Missouri Pacific R.R., 307 Ark. 363, 821 S.W.2d 7 (1991); and 63A Am. Jur. 2d Public Officers and Employees § 321.

The above-quoted policy statement concerning conflicts of interest makes clear that in situations where a common law conflict of interest is present, it may be appropriate for the affected public servant to abstain from participating in any decision-making procedure that would impact upon his or her personal interests, so as to avoid the temptation of placing his self-interest above the interest of those he was elected to represent. This policy statement appears to indicate that the wrong to be avoided is the placing of self-interest above public duty. Whether a wrong of this nature has occurred is entirely a question of fact and can only be established by the presentation of factual evidence showing both the motivation and the effect of the public servant's act.

Applying the above principles to the particular facts of this case should be relatively straightforward. If, as your question suggests, the council member indeed has a "monetary interest" in the building official's decisions, it would appear that he should abstain from voting on the appointment pursuant to the common-law conflict of interests doctrine. However, determining whether any such monetary interest exists will entail conducting a factual inquiry of the sort that I am neither equipped nor authorized to undertake.

102.2 Other laws. The provisions of this code shall not be ~~deemed to nullify any provisions of local, state or federal law.~~

102.3 Application of references. References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

102.4 Referenced codes and standards. The codes and standards referenced in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and referenced codes and standards, the provisions of this code shall apply.

102.5 Partial invalidity. In the event any part or provision of this code is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions.

102.6 Existing structures. The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change, except as is specifically covered in this code, the *International Property Maintenance Code* or the *International Fire Code*, or as is deemed necessary by the building official for the general safety and welfare of the occupants and the public.

2100 Version

SECTION 103 DEPARTMENT OF BUILDING SAFETY

103.1 Creation of enforcement agency. ~~The department of building safety is hereby created and the official in charge thereof shall be known as the building official.~~

103.2 Appointment. The building official shall be appointed by the chief appointing authority of the jurisdiction.

103.3 Deputies. In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the building official shall have the authority to appoint a deputy building official, the related technical officers, inspectors, plan examiners and other employees. Such employees shall have powers as delegated by the building official. For the maintenance of existing properties, see the *International Property Maintenance Code*.

SECTION 104 DUTIES AND POWERS OF BUILDING OFFICIAL

104.1 General. The building official is hereby authorized and directed to enforce the provisions of this code. The building official shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

104.2 Applications and permits. The building official shall receive applications, review construction documents and issue permits for the erection, and alteration, demolition and moving of buildings and structures, inspect the premises for which such permits have been issued and enforce compliance with the provisions of this code.

104.3 Notices and orders. The building official shall issue all necessary notices or orders to ensure compliance with this code.

104.4 Inspections. The building official shall make all of the required inspections, or the building official shall have the authority to accept reports of inspection by approved agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The building official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

104.5 Identification. The building official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

104.6 Right of entry. Where it is necessary to make an inspection to enforce the provisions of this code, or where the building official has reasonable cause to believe that there exists in a structure or upon a premises a condition which is contrary to or in violation of this code which makes the structure or premises unsafe, dangerous or hazardous, the building official is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If such structure or premises is unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

104.7 Department records. The building official shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records for the period required for retention of public records.

102.6 Existing structures. The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change, except as is specifically covered in *Arkansas Fire Prevention Code* Volumes I and II, or as is deemed necessary by the building official and/or the fire official for the general safety and welfare of the occupants and the public.

2002 ARK. Amendments

SECTION 103
DEPARTMENT OF BUILDING SAFETY

103.1 Creation of enforcement agency. Local jurisdictions are authorized to establish a department to be called the building department and the person in charge shall be known as the building official.

★ **Section 103.2 Deleted.**

103.3 Deputies. In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the building official shall have the authority to appoint a deputy building official, the related technical officers, inspectors, plan examiners and other employees. Such employees shall have powers as delegated by the building official

SECTION 104
DUTIES AND POWERS OF BUILDING OFFICIAL

104.1 General. The building official is hereby authorized and directed to enforce the provisions of this code. The building official shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

104.2 Applications and permits. The building official shall receive applications, review construction documents and issue permits for the erection, and alteration, demolition and moving of buildings and structures, inspect the premises for which such permits have been issued and enforce compliance with the provisions of this code.

104.3 Notices and orders. The building official shall issue all necessary notices or orders to ensure compliance with this code.

104.4 Inspections. The building official shall make all of the required inspections, or the building official shall have the authority to accept reports of inspection by approved agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The building official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

104.5 Identification. The building official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

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104.7 Department records. The building official shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records for the period required for retention of public records.

104.8 Liability. The building official, member of the board of appeals or employee charged with the enforcement of this code, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by legal representative of the jurisdiction until the final termination of the proceedings. The building official or any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of this code.

104.9 Approved materials and equipment. Materials, equipment and devices approved by the building official shall be constructed and installed in accordance with such approval.

104.9.1 Used materials and equipment. The use of used materials which meet the requirements of this code for new materials is permitted. Used equipment and devices shall not be reused unless approved by the building official.

104.10 Modifications. Wherever there are practical difficulties involved in carrying out the provisions of this code, the

To: Fayetteville City Council

Thru: Dan Coody, Mayor
Gary Dumas, Director of Operations
Gary Coover, City Engineer

From: Sid Norbash, Staff Engineer

Subject: Highway 62 (Farmington) Waterline Relocation Project
Engineering Contract Amendment #1 with McClelland Consulting Engineers, Inc.

BACKGROUND

Highway 62 is scheduled for improvements and widening in Farmington from Hwy 170 intersection and proceed along Hwy 62 west for approximately one mile (please see attached map). Fayetteville owns the water distribution system in Farmington and is responsible for the relocation of water mains in conflict with the planned highway construction.

In 2004 McClelland Consulting Engineers, Inc. was selected and awarded a contract to perform the following services:

The Agreement defines the Scope of Services as following Phases:

1. Preliminary Design Phase Services
2. Final Design Phase Services
3. Bidding Phase services
4. Construction Phase Services
5. Post-Construction Phase Service

The City Council approved the not to exceed contract in the amount of $60,000 for performing above Phase #1, which included the following items of work:

- Preliminary engineering plan for the water line relocation work
- Project cost estimate
- Project right-of-way needs
- Project schedule
- Engineering surveys of proposed water line construction routes
- Schematic engineering design

The above tasks have been accomplished to date by McClelland Engineers at the cost $45,400, leaving a balance of $14,600 on this contract. The attached Amendment #1 is to perform Phases #2 & #3 mentioned above, which are final design and bidding phases of this contract. The work for Phases #4& #5 will be followed later through future Amendment #2 to this contract.

DISCUSSION / STATUS

McClelland Engineering has fulfilled the scope of their current agreement with the City of Fayetteville, having furnished the necessary engineering analyses for the Preliminary Design Phase. The next two phases of the work will be to complete the final design and provide the bidding and construction contract documents. The attached not to exceed Amendment No. 1 has been negotiated with McClelland Consulting Engineers, Inc. in the amount of $25,100 to perform the above mentioned tasks.

Please be advised that since there is a balance of $14,600 on the existing contract the cost of completing the work is as follows:

Cost of completion of design and bidding phase services	$39,700
Less balance on existing contract	$14,600
Net cost of Amendment #1	$25,100

McClelland Engineers have submitted a preliminary construction cost estimate which is attached. Table #1 estimates the cost of the relocations necessitated by the Highway Department's construction. Table #2 estimates the highly desired additional improvements to the system, per David Jurgens, Water & sewer Maintenance Superintendent.

RECOMMENDATION:

The Staff recommends award of the Amendment #1 to the Engineering Contract with McClelland Consulting Engineers, Inc. in the amount of $25,100.

FUNDING FOR 2005:

2004 expenditure	**$45,400.00**
2005 Budget	$1,000,000
Amendment #1	$ 25,100
Remaining Funds	$ 974,900

Preliminary cost estimates are as follows:

From attached Table #1 Cost of the necessitated relocations $880,602

From attached Table #2 Cost of the additional improvements	$209,076
Estimated Engineering for construction management	$ 80,000
Total estimated	$1,169,678
Available Budget	$ 974,900
Over-Run	$ 194,778

The reason for the estimated cost over-run is that the original estimate did not include the additional improvements which involve four water line looping areas to provide much better service to the customers. If this work is performed as part of this large project the City will obtain better prices for the construction.

During the final design phase, all efforts will be made to bring this project within the 2005 budget. Final evaluation will be made after official bids are received, and Staff will provide final recommendations to the Council.

SN/sn
Attachments: Amendment #1
Vicinity Map
Cost Estimates

RESOLUTION NO. ______

A RESOLUTION TO APPROVE AMENDMENT #1 OF THE CONTRACT WITH MCCLELLAND CONSULTING ENGINEERS, INC. IN THE AMOUNT OF $25,100.00 FOR THE FARMINGTON WATERLINE REPLACEMENT PROJECT

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 approves Amendment #1 of the contract with McClelland Consulting Engineers, Inc. (attached as Exhibit A) in the amount of $25,100.00 for final design and bidding services for the Farmington Waterline Replacement Project.

PASSED and **APPROVED** this 5th day of February, 2005.

APPROVED:

By: ______________________________
DAN COODY, Mayor

ATTEST:

By: ______________________________
SONDRA SMITH, City Clerk

RESOLUTION NO. 77-04

A RESOLUTION TO APPROVE AN AGREEMENT FOR ENGINEERING SERVICES WITH MCCLELLAND CONSULTING ENGINEERS, INC. IN THE AMOUNT OF $60,000.00 FOR PLANNING, FIELD SURVEYS AND RIGHT-OF-WAY SERVICES RELATED TO THE HIGHWAY 62 WATER MAIN RELOCATION IN FARMINGTON AND TO APPROVE A BUDGET ADJUSTMENT OF $60,000.00

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 approves as Agreement For Engineering Services with McClelland Consulting Engineers, Inc. (attached as Exhibit "A") in the amount of $60,000.00 for planning, field surveys and right-of-way services related to the Highway 62 water main relocation in Farmington and approves a budget adjustment of $60,000.00 (attached as Exhibit "B") to pay for this contract.

PASSED and **APPROVED** this the 18th day of May, 2004.

APPROVED:

By: Dan Coody
DAN COODY, Mayor

ATTEST:

CITY CLERK/TREASURER CITY OF FAYETTEVILLE ARKANSAS WASHINGTON COUNTY

By: Sondra Smith
SONDRA SMITH, City Clerk

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT
CONSTRUCTION PLANS FOR STATE HIGHWAY

HWY. 170 - WEST (FARMINGTON) (S)

WASHINGTON COUNTY

ROUTE 62 SECTION 01

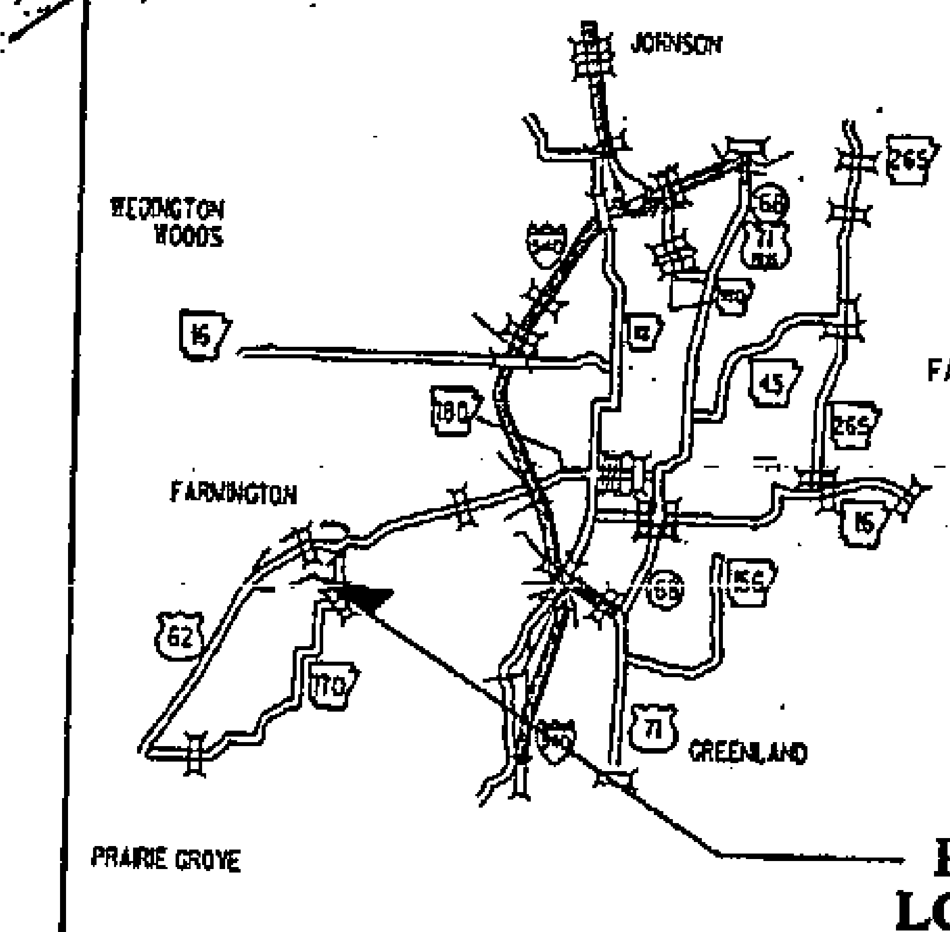
JOB 040369

F. A. P. STP-0072 (29)

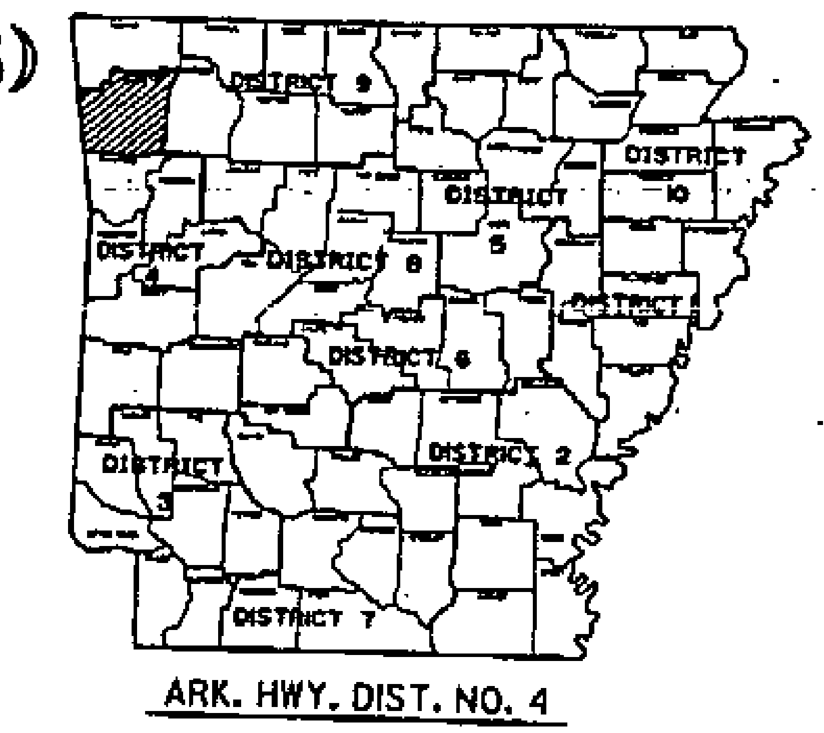
NOT TO SCALE

STATE	JOB NO.	SHEET NO.
6 ARK.	040369	1

HWY. 170 - WEST (FARMINGTON) (S)



VICINITY MAP

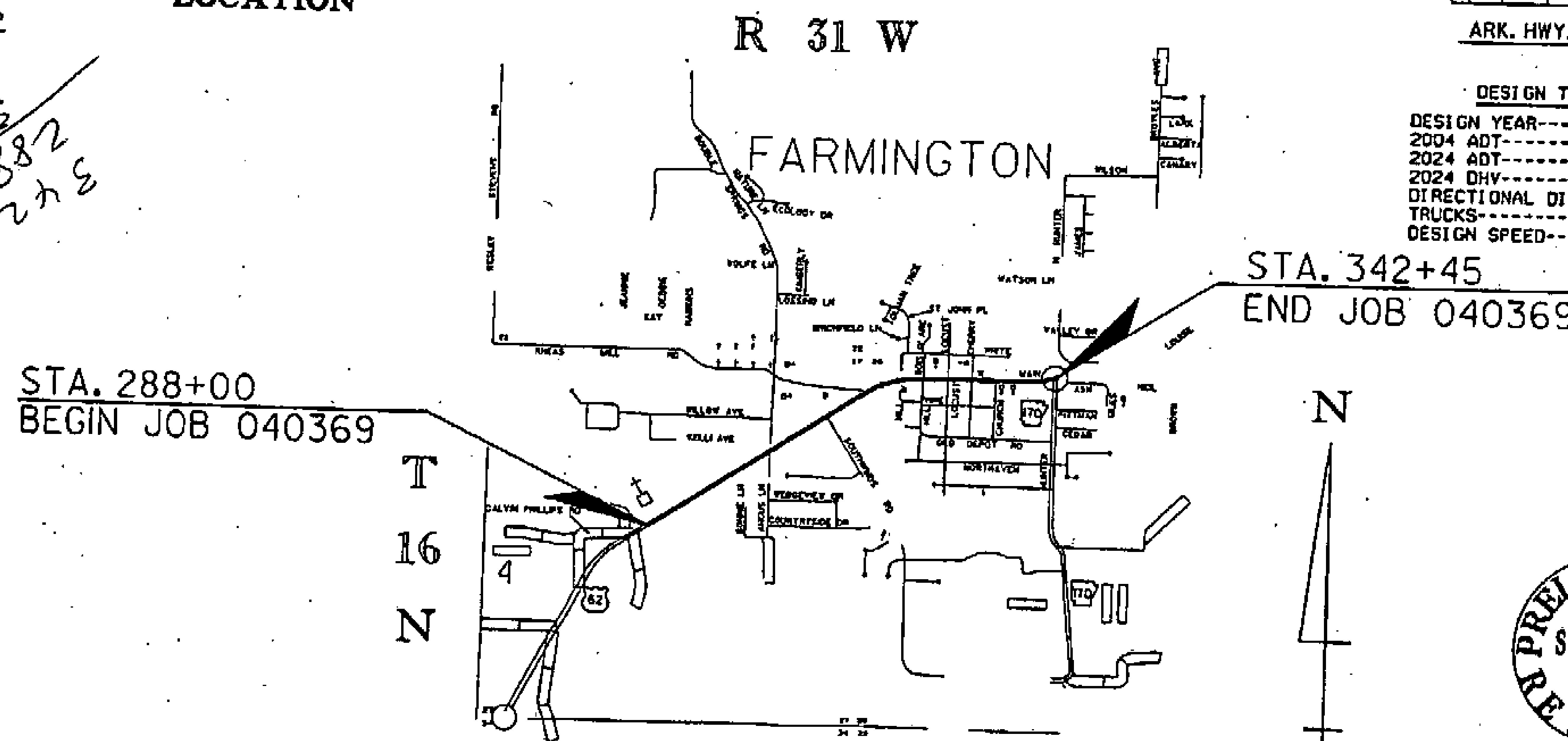


ARK. HWY. DIST. NO. 4

DESIGN TRAFFIC DATA

DESIGN YEAR------------------- 2024
2004 ADT--------------------17600
2024 ADT--------------------26400
2024 DHV-------------------- 2904
DIRECTIONAL DISTRIBUTION---- 60%
TRUCKS---------------------- 13%
DESIGN SPEED------------ 40 MPH

288
342



PRELIMINARY SUBJECT TO REVISION

MID-POINT OF PROJECT
LAT. = N 36°01'02"
LONG. = W 94°16'26"

GROSS LENGTH OF PROJECT	5445.00	FEET	1.031	MILES
NET " " BRIDGES	0000.00	"	0.000	"
NET " " ROADWAY	5445.00	"	1.031	"
NET " " PROJECT	5445.00	"	1.031	"

P.E. JOB 040369
NON PART.

040369

TABLE NO. 1
PRELIMINARY COST ESTIMATE
HIGHWAY 62 WATER REPLACEMENT IN FARMINGTON
CITY OF FAYETTEVILLE
WATER MAIN ALONG HIGHWAY 62
September 14, 2004 Revised 12/7/04

Item	Unit of Measure	Estimated Quantity	Estimated Unit Price	Extended
12" PVC Water Main	Ft	2175	$50	$108,750
8" PVC Water Main	Ft	3118	$40	$124,720
6" PVC Water Main	Ft	245	$35	$8,575
6" DIP Water Main	Ft	90	$40	$3,600
2" PVC Water Main	Ft	975	$20	$19,500
1" Service Line	Ft	555	$18	$9,990
3/4" Service Line	Ft	210	$17	$3,570
12" Butterfly Valve	Ea	8	$1,650	$13,200
8" Gate Valve	Ea	9	$1,000	$9,000
6" Gate Valve	Ea	15	$900	$13,500
2" Gate Valve	Ea	5	$400	$2,000
12" x 12" Tapping Tee and Valve	Ea	4	$5,000	$20,000
12" x 8" Tapping Tee and Valve	Ea	1	$3,000	$3,000
8" x 8" Tapping Tee and Valve	Ea	3	$2,500	$7,500
6" x 6" Tapping Tee and Valve	Ea	8	$2,200	$17,600
2 1/4" or 2" Connection	Ea	6	$500	$3,000
Three Way Fire Hydrant	Ea	9	$2,500	$22,500
Remove Existing Fire Hydrant	Ea	7	$600	$4,200
Ductile Iron Fittings	Lb	6000	$5	$30,000
Water Meter Setting	Ea	17	$500	$8,500
Dual Water Meter Setting	Ea	3	$600	$1,800
Reconnect Exist. Water Meter or Service Line	Ea	8	$100	$800
12" Service Saddle and Corp. Stop	Ea	12	$100	$1,200
8" Service Saddle and Corp. Stop	Ea	7	$70	$490
2" Service Saddle and Corp. Stop	Ea	7	$50	$350
Cut and Cap 12" Main	Ea	4	$800	$3,200
Cut and Cap 8" Main	Ea	4	$700	$2,800
Cut and Cap 6" Main	Ea	8	$600	$4,800
Cut and Cap 2 1/4" Main	Ea	1	$500	$500
24" Bored Steel Casing	Ft	60	$450	$27,000
24" Direct Bury Steel Casing	Ft	50	$180	$9,000
16" Bored Steel Casing	Ft	284	$350	$99,400
16" Direct Bury Steel Casing	Ft	86	$100	$8,600
2" Bored Steel Casing	Ft	216	$40	$8,640
2" Direct Bury Steel Casing	Ft	15	$25	$375
Abandon Exist. Gate Valve	Ea	33	$80	$2,640
Asphalt Surface Restoration	Sy	850	$50	$42,500
Highway Surface Restoration	Sy	35	$65	$2,275
Concrete Surface Restoration	Sy	640	$60	$38,400
Sidewalk Restoration	Sy	10	$40	$400
Curb and Gutter Replacement	Ft	20	$20	$400
Granular Backfill	Tn	1420	$18	$25,560
Trench Safety System	Ea	1	$20,000	$20,000
	Subtotal			$733,835
	Contingencies @ 20%			$146,767
	Estimated Construction Total			$880,602
	Table No. 2 Total			$209,076
	Estimated Construction Total for Project			$1,089,678

TABLE NO. 2
PRELIMINARY COST ESTIMATE
HIGHWAY 62 WATER REPLACEMENT IN FARMINGTON
CITY OF FAYETTEVILLE
WATER MAIN INTERCONNECTIONS AWAY FROM HWY. 62
September 14, 2004 Revised 12/7/04

Item	Unit of Measure	Estimated Quantity	Estimated Unit Price	Extended
8" PVC Water Main	Ft	1146	$40	$45,840
6" PVC Water Main	Ft	1343	$35	$47,005
2" PVC Water Main	Ft	40	$20	$800
1" Service Line	Ft	135	$18	$2,430
3/4" Service Line	Ft	75	$17	$1,275
8" Gate Valve	Ea	1	$1,000	$1,000
6" Gate Valve	Ea	4	$900	$3,600
2" Gate Valve	Ea	2	$400	$800
6"x 6" Tapping Tee and Valve	Ea	4	$2,200	$8,800
8" Connection	Ea	1	$1,800	$1,800
6" Connection	Ea	3	$1,600	$4,800
2 1/4" or 2" Connection	Ea	2	$500	$1,000
Ductile Iron Fittings	Lb	700	$5	$3,500
Reconnect Exist. Water Meter or Service Line	Ea	11	$100	$1,100
8" Service Saddle and Corp. Stop	Ea	6	$70	$420
6" Service Saddle and Corp. Stop	Ea	5	$65	$325
16" Direct Bury Steel Casing	Ft	20	$100	$2,000
12" Bored Steel Casing	Ft	60	$280	$16,800
12" Direct Bury Steel Casing	Ft	54	$80	$4,320
2" Bored Steel Casing	Ft	103	$40	$4,120
Abandon Exist. Gate Valve	Ea	1	$80	$80
Asphalt Surface Restoration	Sy	200	$50	$10,000
Highway Surface Restoration	Sy	15	$65	$975
Concrete Surface Restoration	Sy	40	$60	$2,400
Sidewalk Restoration	Sy	10	$40	$400
Curb and Gutter Replacement	Ft	20	$20	$400
Granular Backfill	Tn	180	$18	$3,240
Trench Safety System	Ea	1	$5,000	$5,000
	Subtotal			$174,230
	Contingencies @ 20%			$34,846
	Estimated Construction Total			$209,076

AMENDMENT NO. 1

TO

AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

FAYETTEVILLE HIGHWAY 62 WATER MAIN RELOCATION

RELOCATION OF WATER MAINS IN FARMINGTON, ARKANSAS

FINAL DESIGN AND BIDDING SERVICES

The Agreement for Professional Engineering Services executed on May 18, 2004 for Relocation of Water Mains in Farmington, Arkansas is hereby amended. This Amendment entered into and executed on the date indicated beneath the signature blocks, by and between the City of Fayetteville (hereinafter "City of Fayetteville") and McClelland Consulting Engineers, Inc. (hereinafter "McClelland") changes the authorized Scope of the Project, and the Fees and Payments due to the requested increase in scope of services on the Farmington water main project.

The Agreement defines the Scope of Services for:

1. Preliminary Design Phase Services
2. Final Design Phase Services
3. Bidding Phase Services
4. Construction Phase Services
5. Post-Construction Phase Services

However, only the Preliminary Design Phase Services were authorized for completion in the basic Agreement and were covered in Section 6, Payments to McClelland.

The purpose of this Amendment No. 1 is to authorize McClelland to complete Final Design Phase Services and Bidding Phase Services as defined in the Agreement, and to establish compensation for these services.

SECTION 2 – BASIC SERVICES OF MCCLELLAND

McClelland is hereby authorized to complete Final Design Phase Services as defined under Section 2.3 of the Agreement, to include preparation of property mapping and detailed easement documents as defined under Subsection 2.3.6. McClelland is further hereby authorized to complete Bidding Phase Services as defined under Section 2.4 of the Agreement.

SECTION 6 – PAYMENTS TO MCCLELLAND

Compensation for Final Design Phase Services excluding easement preparation shall be based upon cost reimbursement, plus profit, as established under Subsection 6.1.1 for Preliminary Design Phase Services. Compensation for easement preparation services shall be based on a unit price of $400 per easement. The total contract amount authorized for Final Design Phase Services shall be as follows:

Final Design Phase Services, Cost Reimbursement not to exceed:	$17,600
Final Design Phase Services, Profit:	$ 2,100
Easement Preparation Services, 41 estimated @ $400/Ea	$16,400
Total Final Design Contract Amount Authorized	$36,100

Compensation for Bidding Phase Services shall be based upon cost reimbursement, plus profit, as established under Subsection 6.1.1 for Preliminary Design Phase Services. The total contract amount authorized for Bidding Phase Services shall be as follows:

Bidding Phase Services, Cost Reimbursement, not to exceed:	$ 3,200
Bidding Phase Services, Profit:	$ 400
Total Bidding Phase Contract Amount Authorized	$ 3,600

The combined total contract amount authorized for both Final Design and Bidding is $39,700. It is estimated that $14,600 of the $60,000 previously authorized for the Preliminary Design Phase Services can be transferred to Final Design and Bidding Phase Services, so that an Agreement Amendment Total Contract Amount for Preliminary Design, Final Design and Bidding Services is eighty-five thousand one hundred dollars ($85,100). Consequently, this Amendment No. 1 authorizes an additional twenty-five thousand one hundred dollars ($25,100) to the originally approved sixty thousand dollars ($60,000).

All other provisions and conditions of the original Agreement remain in full force and effect. Final Design and Bidding Services shall be completed to conform to the requirements of the Arkansas Highway and Transportation Department's project schedule.

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: ______________________ Attest: ______________________
Mayor

Date: ______________________

FOR: McCLELLAND CONSULTING ENGINEERS, INC.:

By: [signature] Attest: [signature]

Date: 12-1-04

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

1-Feb-05
City Council Meeting Date

Sid Norbash, Staff Engineer	Engineering	Operations
Submitted By	Division	Department

Action Required:

Approval of the Amendment #1 to the existing contract with **McClelland Consulting Engineers, Inc.** in the amount of **$25,100** for **Hwy 62-Farmington-Waterline Replacement Project**

$25,100	$1,000,000	Hwy 62-Farmington Waterline Replacement Project
Cost of this request	Category/Project Budget	Program Category / Project Name
5400-5600-5808-00	$ -	Water System Improvements
Account Number	Funds Used to Date	Program / Project Category Name
04034-10	$1,000,000	Water & Sewer
Project Number	Remaining Balance	Fund Name

Budgeted Item [X]   Budget Adjustment Attached [ ]

Department Director — 1-18-05 Date

City Attorney — 1-18-05

Finance and Internal Service Director — 1-19-05 Date

Mayor — Date

Previous Ordinance or Resolution # 77-04
Original Contract Date: 5/18/2004
Original Contract Number: 956

Received in City Clerk's Office
ENTERED 1-18-05

Received in Mayor's Office

RECEIVED
JAN 14 2005
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy Pate, Interim Zoning and Development Administrator

Date: January 5, 2005

Subject: Rezoning for Hays (RZN 04-1333)

RECOMMENDATION

Planning Staff recommends denial of an appeal to rezone approximately 5.73 acres of property from RSF-1, Residential Single Family 1 unit/acre, to R-O, Residential/Office.

BACKGROUND

The subject property currently is developed with a dental office on approximately 1.59 of a 5.73-acre tract located on Starr Dr. The property is bordered to the north by the Barrington Park subdivision, which is zoned RSF-4, Residential Single Family 4 units/acre. To the west, the property was developed as a Planned Unit Development with primarily single and two family homes. To the south of this property is the St. Joseph's School. The subject property was annexed by the City in July of 2004 as part of the "island annexations", and was zoned RSF-1 at that time.

The applicant requested to rezone the subject property from RSF-1, Residential Single Family 1 unit/acre to R-O, Residential Office. Planning Staff originally supported this request, finding general compatibility of surrounding properties. The Planning Commission voted 5-3 for denial of the requested zoning change, with Commissioners Shackleford, Vaught, and Myres voting in favor.

DISCUSSION

Planning Commission discussion regarding the proposed rezoning to R-O included compatibility and the amount of property being requested for rezoning. In general, the Planning Commission found that the amount of acreage that is being requested would not be in harmony with the surrounding development, and not compatible with land use objectives and policies of the General Plan 2020.

BUDGET IMPACT

None.

Tabled to Feb. 1st mtg 1/18/05

December 28, 2004

To: City Clerk
From: Crystal Goedereis
Re: 1882 Starr Rezoning RZN-04-1333 J.B. Hays

Dear City Clerk,

My name is Crystal Goedereis and I live at 1760 Starr Drive. I am the representative for J.B. Hays on this matter. We are asking for an appeal to be filed objecting to the planning commissions decision based on these findings;

1) Planning Staff recommended that this rezoning be passed.
2) That we were forcibly annexed and was reassured by the City Council that our zoning issues would be heard even though we objected to the annexation without proper zoning at the time. The Council stated, " We need to bring everyone in and then rezone because that is the only way to be fair." FAIR TO WHOM!!!!!
3) There are several issues with this piece of property due to Starr being designated as a 70 foot collector street on the future street map such as, street set backs, parking set backs, sewer setbacks and drainage. We did not make the decision to have Starr designated as a collector nor to be annexed.
4) Due to the annexation it is hard to have proper insurance due to the fact that it is a non-conforming use and if the structure was to ever be destroyed i.e. fire, wind etc. it currently could not be rebuilt. The annexation has also changed the borrowing base because the property must be viewed as what it is zoned as.

In closing I would also like to say that we want and appreciate our chance to be heard at Council.

Sincerely,

Crystal Goedereis

ORDINANCE NO. ______

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 04-1333 FOR PROPERTY LOCATED AT 1882 STARR DRIVE CONTAINING APPROXIMATELY 5.73 ACRES FROM RSF-1, RESIDENTIAL SINGLE FAMILY, ONE UNIT PER ACRE TO R-O, RESIDENTIAL OFFICE.

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 RSF-1, Residential Single Family, One Unit Per Acre to R-O, Residential Office 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 __________, 2005.

APPROVED:

By:______________________
DAN COODY, Mayor

ATTEST:

By: ________________________
Sondra Smith, City Clerk

EXHIBIT "A"
RZN 04-1333

A PART OF THE W ½ OF THE SE ¼ OF SECTION 1, TOWNSHIP 16 NORTH, RANGE 30 WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT THAT IS NORTH 872.72 FEET FROM THE SOUTHWEST CORNER OF THE W ½ OF THE SE ¼ OF SAID SECTION 1, SAID POINT OF BEGINNING LOCATED ON THE WEST LINE OF SAID 80 ACRE TRACT, AND RUNNING THENCE NORTH 624.24 FEET ALONG SAID WEST LINE; THENCE LEAVING SAID WEST LINE AND RUNNING N89°40'42"E 400.0 FEET ALONG THE SOUTH LINE OF THE MADISON AVENUE SUBDIVISION, PHASE 1, THENCE LEAVING SAID SOUTH LINE AND RUNNING SOUTH 624.24 FEET; THENCE S89°40'42"W 400.0 FEET TO THE POINT OF BEGINNING, CONTAINING 5.73 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS. SUBJECT TO THE JOE FRED STARR RIGHT OF WAY ALONG THE WEST LINE AND ANY OTHER EASEMENTS AND/OR RIGHT OF WAYS OF RECORD.

Fayetteville
ARKANSAS

PC Meeting of December 13, 2004

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Leif Olson, Associate Planner
THRU:	Dawn Warrick, AICP, Zoning & Development Administrator
DATE:	December 7, 2004

RZN 04-1333: (J.B. HAYS, 373): Submitted by CRYSTAL GOEDEREIS for property located at 1882 STARR DR. The property is zoned RSF-1, RESIDENTIAL SINGLE-FAMILY 1 UNIT / ACRE. The request is to rezone the subject property to R-O, RESIDENTIAL OFFICE.
Property Owner: J.B. HAYS Planner: LEIF OLSON

RECOMMENDATION:

Staff recommends to approve the request to rezone the property R-O, Residential Office based on the findings herein.

BACKGROUND:

PLANNING COMMISSION ACTION:	**Required**	**YES**
	○ Approved	**○ Denied**
Date: December 13, 2004		
CITY COUNCIL ACTION:	**Required**	**YES**
	○ Approved	**○ Denied**

Property description: The approximately 3.35 acres of property is located east of Starr Dr. and south of Mission Blvd (State Highway 45). This property was an annexed by the City Council as part of the "island annexation" in the summer of 2004. At that time of annexation the property was zoned RSF-1, Residential Single-Family 1 unit per acre. At this time, the property contains a structure that is currently used as a dental office.

Background: The City's General Plan 2020 recommended the annexation of unincorporated islands surrounded by the city limits. This parcel was identified in the Plan as a candidate for annexation by the City. In the spring of 2004 Staff was directed to begin the process of identifying, mapping, and notifying the property owners that would be impacted. The subject property officially came into the city limits on July 20, 2004.

Public Comment: Staff has received comments and concerns with the requested rezoning from surrounding property owners. Concerns raised by property owners in the area include the type of use allowed with zoning request, possible future expansion of the current facility, access and parking, and buffering and screening.

Proposal: Crystal Goederies, the applicant's representative, has conveyed in the attached letter the owner's (J.B. Hays) intent to retain the existing professional office building on the subject property. The applicant states that the reason for the zone change is so that the zoning designation will conform to the land use.

Request: The applicant is requesting the property be rezoned from RSF-1, Residential Single Family 1 unit/acre, to R-O, Residential Office.

Recommendation: Staff recommends approval of the requested R-O zoning based on the findings herein.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	Single-family residential	RSF-4, Residential Single-family 4 units/acre
South	Vacant	R-A, Residential Agricultural
East	Single and two family residential	RSF-4, Residential Single-family 4 units/acre
West	Single family residential	R-A, Residential Agricultural

INFRASTRUCTURE:

Streets: Currently the site has access to Starr Drive. At the time of any future development, this street will need to be brought up to current standards along the property frontage. These improvements may include right-of-way dedication, pavement, curb and gutter, storm drainage and sidewalks.

Adjacenet Master Street Plan Street:
West: Starr Rd. (Collector)

Water: The site currently does have access to public water. The nearest water main is an 8" main to the west along Star Drive. Water service will need to be extended within the property at the time of development. Additional connections may be required to complete looped systems.

Sewer: The site currently has access to a 6" sewer line located along Starr Dr. There also is a 24" sewer line located in a utility easement on the subject property to the north. Sewer service will need to be extended within the property at the time of development.

Fire: No response at this time.

Police: It is the opinion of the Fayetteville Police Department that this rezoning **will not** substantially alter the population density nor will it create an undesirable increase on police services. Access to this property is a concern because of the road system on Starr Road. The speed and road type are of concern to the Fayetteville Police Department due to the potential for accidents but we do not believe this should prohibit the rezoning request.

LAND USE PLAN: General Plan 2020 designates this site **Residential.** Rezoning this property to R-O 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 property is currently used as a dental office and is surrounded by vacant property and residential single- and two-family dwellings. An R-O zoning designation currently exists north of the subject property at the corner of Starr Dr. and Mission Blvd. A Residential Office zoning designation allows for the development of residential dwellings, office buildings, and limited eating places with the approval of a conditional use. Rezoning the property R-O will allow for a mixed development compatible with the surrounding residential uses, as well as bring the existing use into conformity.**

The proposed rezoning is consistent with future land use planning objectives, principles, and policies for residential areas. In the Guiding Policies for residential areas, Ch. 9.8d it states: "Manage non-residential development within and adjoining residential neighborhoods to minimize nuisances". Additionally, Ch. 9.8e states: "encourage mixed uses in new developments to promote better community design, maintain human scale, and enhance pedestrian activity".

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

Finding: **The proposed zoning is justified. The applicant has stated the intent is to have the land use conforming to the zoning in order to allow this use to become conforming in nature.**

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

Finding: **Because the property is currently used for a professional office (dentist) the**

rezoning would not appreciably increase traffic danger or congestion. Additionally, any future expansion of this use would require compliance with all applicable city ordinances.

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 would not substantially alter the population density in the area, based on the R-O zoning requested.**

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**

161.15 District R-O, Residential Office

(A) *Purpose.* The Residential-Office District is designed primarily to provide area for offices without limitation to the nature or size of the office, together with community facilities, restaurants and compatible residential uses.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 11	Manufactured home park
Unit 12	Offices, studios and related services
Unit 25	Professional offices

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 13	Eating places
Unit 24	Home occupations
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities

(C) *Bulk and area regulations.*
(Per dwelling unit for residential structures)

(1) *Lot width minimum.*

Manufactured home park	100 ft.
Lot within a manufactured home park	50 ft.
Single-family	60 ft.
Two-family	60 ft.
Three or more	90 ft.

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 sq. ft.
Townhouses: Development	10,000 sq. ft.
Individual lot	2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	6,500 sq. ft.
Three or more	8,000 sq. ft.
Fraternity or Sorority	1 acre

(3) *Land area per dwelling unit.*

Manufactured home	3,000 sq. ft.
Townhouses & apartments: No bedroom One bedroom Two or more bedrooms	 1,000 sq. ft. 1,000 sq. ft. 1,200 sq. ft.
Fraternity or Sorority	500 sq. ft. per resident

(D) *Density.*

Units per acre	4 to 24

(E) *Setback regulations.*

Front	30 ft.
Front, if parking is allowed between the right-of-way and the building	50 ft.
Side	10 ft.
Side, when contiguous to a residential district	15 ft.
Rear, without easement or alley	25 ft.
Rear, from center line of public alley	10 ft.

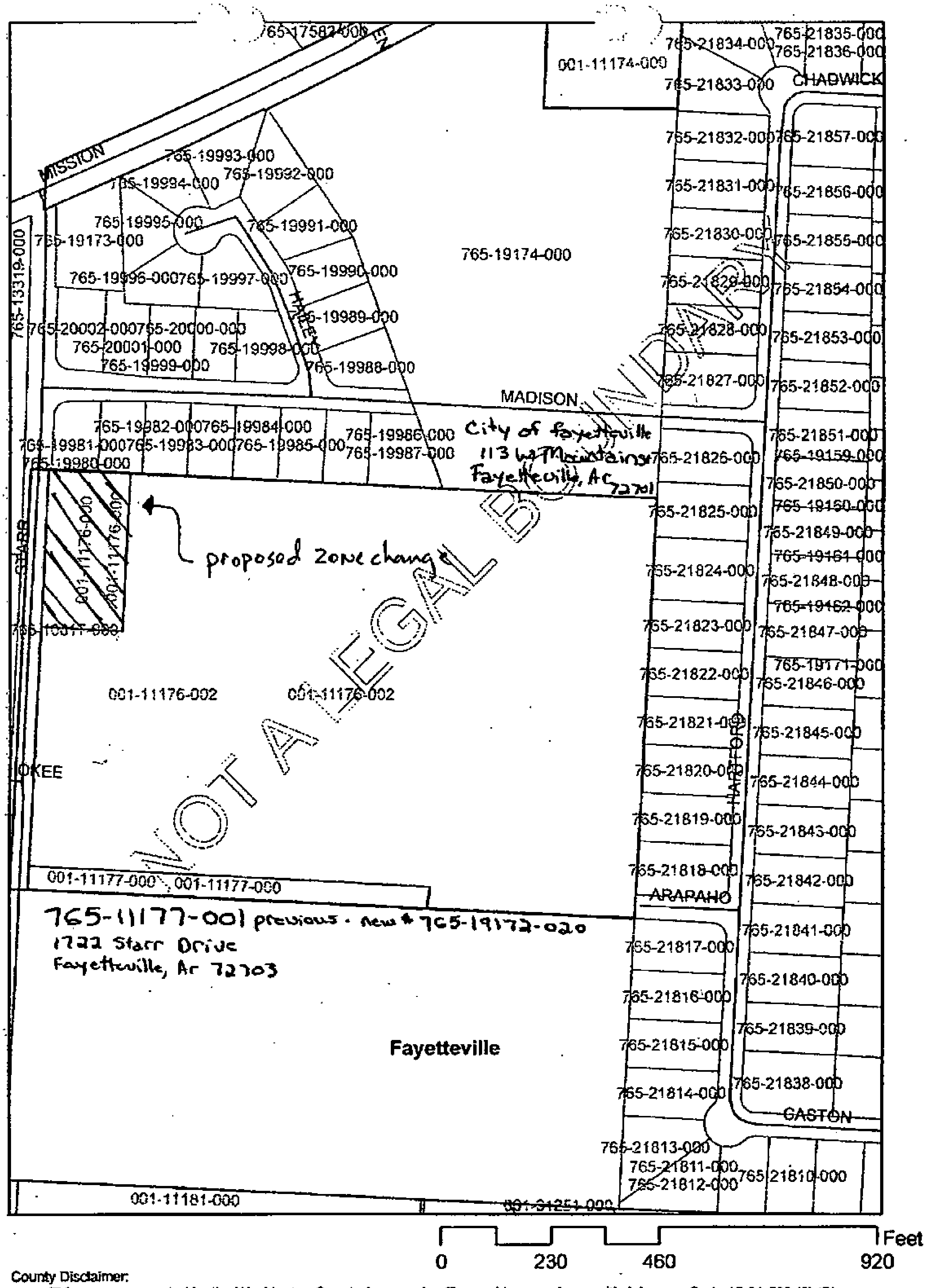
(F) *Height regulations.* There shall be no maximum height limits in R-O Districts, provided, however, that any building which exceeds the height of 20 feet shall be set back with any boundary line of any RSF or RMF District an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot.

To: City Planning Commission
Re: In response to questions 6&7 on application

6 a) J. B. Hays- no plans to change at this time.
b) This has always been an office and it should be maintained as one.
c) The property relates well to surrounding uses. There is R-O on Starr, Highway 45 and Highway 265.
d) See map. This location is currently served by city water and sewer.

7 a) The land use planning objectives is to keep the area maintained as is, that is what we are proposing.
b) The zoning is needed to protect the property in case of a fire that the office could be rebuilt.
c) It has always been an office since it was built and is one now therefore no increase in traffic would occur.
d) The office will not alter the population density and as I have previously noted it already has city water and sewer.
e) When we were forcibly annexed the city council bought this piece in as RSF-1 It has never been RSF-1 and therefore should be zoned what it has always been used for.



County Disclaimer:

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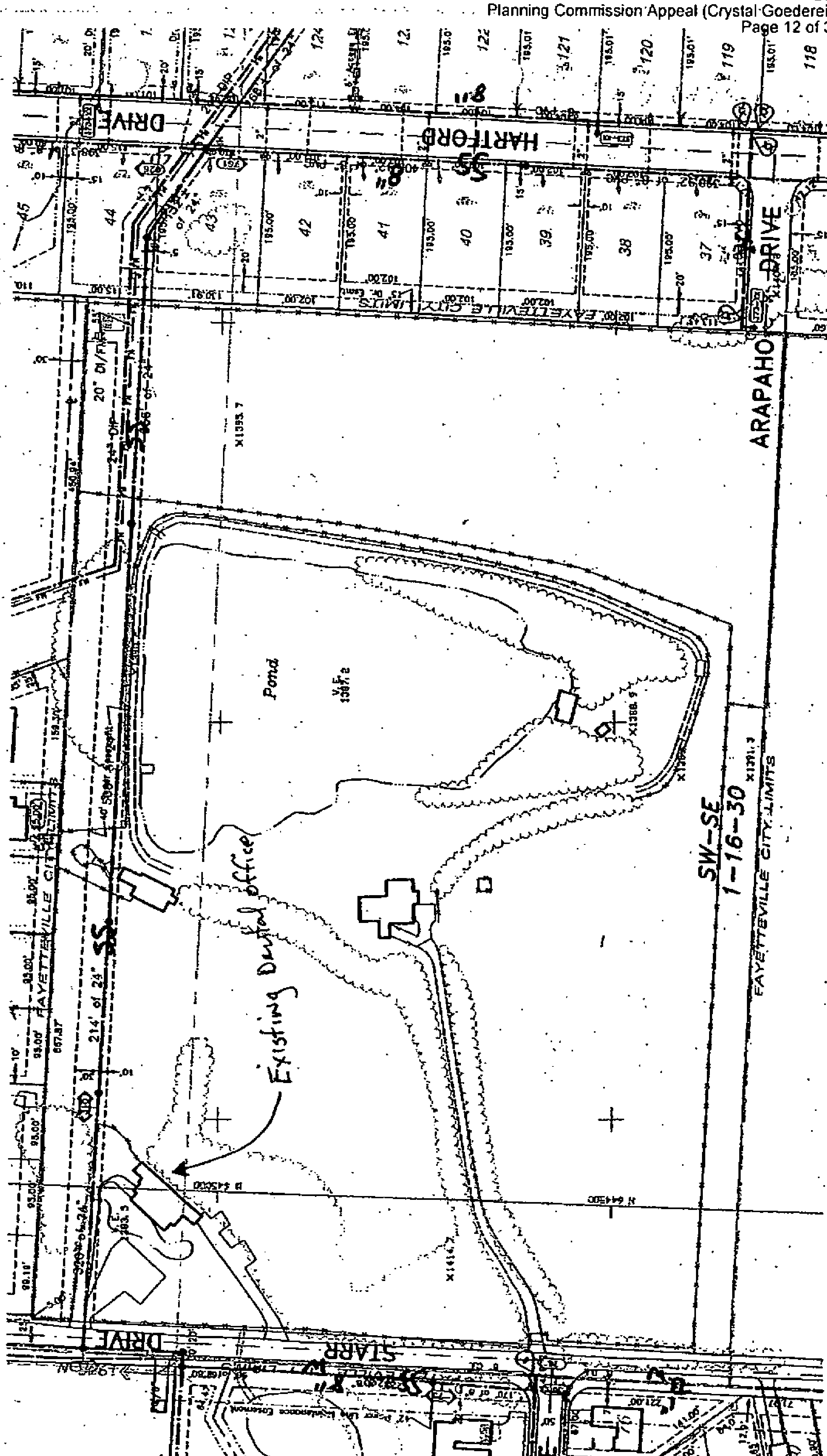
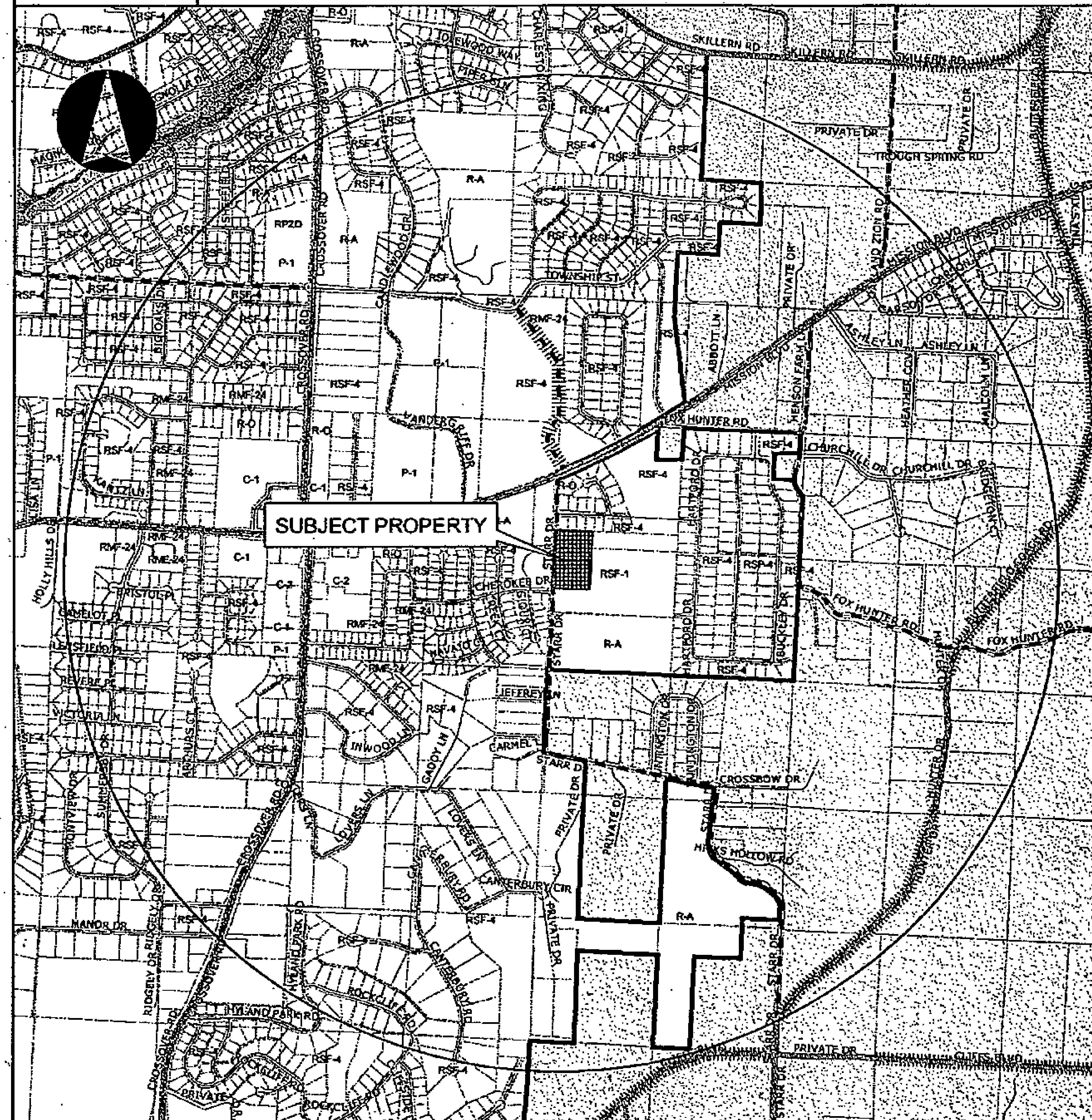

HARTFORD DRIVE
ARAPAHO DRIVE
STARR DRIVE
Pond
Existing Dental office
SW-SE
1-16-30
FAYETTEVILLE CITY LIMITS
214' of 24"
SS

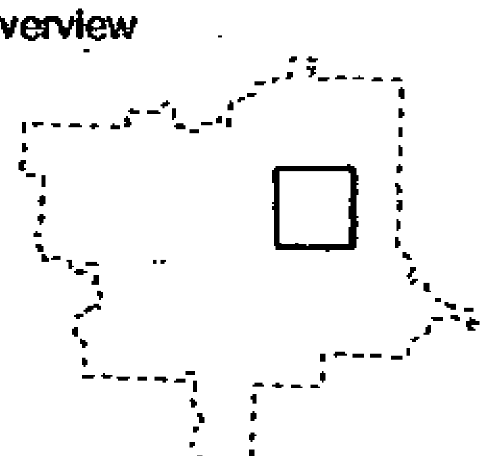
RZN04-1333

One Mile View

J.B. HAYS



Overview



Legend

Subject Property

RZN04-1333

Boundary

Planning Area

Overlay District

Outside City

Master Street Plan

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

Received 35 of this Petition

December 06, 2004

I am a homeowner and would like to protest RZN 04-1332: (J.B. HAY, 373); Submitted by CRYSAL GOEDEREIS for property located at 1760 STARR DRIVE. The property is zoned RSF-1, SINGLE FAMILY-1 UNIT/ACRE and contains approximately 5.99 acres. The request is to rezone the subject property to RMF-12, Residential Multi-family, 12 units per acre.

Property Owner: JB HAYS Planner: LEIF OLSON

I would also like to protest RZN 04-1333: (J.B. HAYS, 373): Submitted by CRYSTAL GOEDEREIS for property at 1882 N STARR DRIVE. The property is zoned RSF-1, SINGLE FAMILY-! UNIT/ACRE and contains approximately 3.04 acres. The request is to rezone the subject property to R-O, Residential Office.

Property Owner: JBHAYES Planner: LEIF OLSON

I AM AGAINST ANY ZONING CHANGE FROM SINGLE FAMILY TO MULTI-FAMILY FOR THESE PROPERTIES.

Signed: Susan M. Young

December 06, 2004

I am a homeowner and would like to protest RZN 04-1332: (J.B. HAY, 373); Submitted by CRYSAL GOEDEREIS for property located at 1760 STARR DRIVE. The property is zoned RSF-1, SINGLE FAMILY-1 UNIT/ACRE and contains approximately 5.99 acres. The request is to rezone the subject property to RMF-12, Residential Multi-family, 12 units per acre.

Property Owner: JB HAYS   Planner: LEIF OLSON

I would also like to protest RZN 04-1333: (J.B. HAYS, 373): Submitted by CRYSTAL GOEDEREIS for property at 1882 N STARR DRIVE. The property is zoned RSF-1, SINGLE FAMILY-! UNIT/ACRE and contains approximately 3.04 acres. The request is to rezone the subject property to R-O, Residential Office.

Property Owner: JBHAYES   Planner: LEIF OLSON

I AM AGAINST ANY ZONING CHANGE FROM SINGLE FAMILY TO MULTI-FAMILY FOR THESE PROPERTIES.

Signed: Dan & Marie Schroeder
2082 Hailey Drive

We are against rezoning of this property due to following concerns:

1) Most importantly are property values of our homes that we take much pride in. It is an investment to us. This complex would no doubt impact our resale value.

2) Starr Road CAN NOT handle the increased traffic flow. St. John's school has already made the traffic flow heavier esp. in Am. My children cross Starr Rd. to go to Vandergriff. I'm concerned about their safety with even more traffic in that area!

JERRY D SWEETSER
1907 STARR DRIVE
FAYETTEVILLE AR 72701

DECEMBER 15, 2004

CITY OF FAYETTEVILLE
PLANNING COMMISSION
113 WEST MOUNTAIN
FAYETTEVILLE AR 72701-6083

RE: REZONING MEETING
DECEMBER 13

TO WHOM IT MAY CONCERN:

WE HAVE NO OBJECTION TO THE REZONING OF RZN 04-1332 & RZN 04-1333 LOCATED AT STARR DRIVE. HOWEVER, WE ARE CONCERNED ABOUT THE FOLLOWING ISSUES:

1. SITE DISTANCE ON STARR DRIVE AT "DIP" AREA

2. AMOUNT OF TRAFFIC FLOW COMING FROM THE SCHOOL, CHURCH, AND NEIGHBORHOODS TO THE SOUTH ARE MAKING IT EXTREMELY DIFFICULT TO ENTER HIGHWAY 45. WE WOULD LIKE TO SUGGEST INSTALLING A STOP LIGHT AT STARR DRIVE & HIGHWAY 45 BEFORE ADDING MORE TRAFFIC TO THIS ALREADY HEAVILY CONGESTED AREA.

3. NO SIDEWALK RUNNING NORTH TO SOUTH FROM THE SCHOOL TO HIGHWAY 45. THE SCHOOL CHILDRED ARE CUTTING ACROSS OUR PROPERTY DUE TO NOT HAVING A SIDEWALK IN THIS AREA. AS YOU CAN IMAGINE, OLDER PEOPLE AND CHILDRED ON SKATE BOARDS DO NOT MIX WELL. WE WOULD LIKE TO SEE A SIDEWALK INSTALLED TO PREVENT ACCIDENTS. WE WOULD HAVE NO OBJECTION TO THE SIDEWALK BEING INSTALLED ON THE WEST SIDE OF STARR DRIVE ALONG OUR PROPERTY LINE.

SINCERELY,

JERRY D SWEETSER

RECEIVED
DEC 22 2004
CITY OF FAYETTEVILLE
PLANNING DIVISION

December 13, 2004

City of Fayetteville Planning Commission
Ref: RZN 04-1332
12/13/04 Meeting

Dear Members of the City of Fayetteville Planning Commission,

I am writing to voice my opposition to the rezoning request submitted by Dr. J.B. Hays, (RZN 04-1332). This request is to rezone the 5.99 acres located at 1760 Starr Drive from RSF-1, single family to RMF-12, multi-family.

I have been a resident of Fayetteville since 1979 and my family is in the process of purchasing a home at 1819 Hartford from Jim and Robin Shaddox (Shaddox Construction). This will be the fourth home I have owned since moving to Fayetteville. While I am not opposed to growth and development, I firmly believe that a rezoning of the property on Starr Drive would be a mistake and negatively impact the Barrington and surrounding neighborhoods in numerous ways.

In particular, a rezoning of the Starr Drive property would significantly change the overall character of the general area due to the RMF-12 zoning, property values would be eroded, neighborhood traffic would be well beyond the capacity of any of the available roadways, and the safety of pedestrians and automobiles would be certainly jeopardized.

While very opposed to this rezoning, we not opposed to new development in property owned by Dr. Hays. The development of single-family residential property that is in keeping with the integrity of our neighborhood and those that surround us would be welcomed.

In closing, we ask that you please denying Dr. J.B. Hays' request for the rezoning of this parcel to RMF-12. Please do not allow Mr. Hays' proposal to pass!

Thank you for your consideration. We appreciate your time and attention to this matter.

Sincerely,

Robert and Laurie Brady
1819 Hartford
(currently living at 265 Rebecca Street)
442-0812

RECEIVED
DEC 13 2004
CITY OF FAYETTEVILLE
PLANNING DIVISION

December 8, 2004

James & Rhonda Kinnally

1962 N. Buckley Dr.

Fayetteville, AR 72701

Ref: RZN 04-1332

Members of the City of Fayetteville Planning Commission,

I am sending this letter to you because I would like to voice my opposition to the rezoning request submitted by J.B. Hays, (RZN 04-1332). This request is to rezone the subject property 5.89 acres located at 1760 Starr Drive from RSF-1, single family to RMF-12, multi-family.

I firmly believe that rezoning would negatively impact our neighborhood in many ways.

1) **No other properties adjacent to or in close proximity to the subject property currently carry an RMF-12 zoning.** To allow this rezoning would significantly change the overall character of the general area and affect the makeup of our neighborhood.

2) **Our property values will be financially eroded.** Adjacent multifamily housing, no matter how upscale or attractive, will decrease marketability of existing homes.

3) **The addition of a potentially large number of children will continue to overload our neighborhood schools.** (McNair Middle School is already overpopulated and Vandergriff is almost at full capacity). 4) **NO further multifamily units are currently needed for Fayetteville,** as there is an abundance of vacant rentals currently for lease by management companies. There are currently around 4500 apartments in the city of Fayetteville under the management of Lindsey Management Co. According to figures provided by Lindsey Management, 10% or approximately 450 of these units are currently vacant, with the upscale units (such as the Cliffs Townhouses) having the highest vacancy rate.

5) **TRAFFIC.** This pretty much speaks for itself, as we all know how extremely difficult it is to turn from Starr Road onto Hwy 45, especially in the morning. The congestion from St. Joseph's, as well as the surrounding neighborhoods is already more than the street can handle.

6) **There is a safety issue at hand due to the lake on this property.** Multifamily housing will inevitably bring many children, and this is a dangerous place for children to play. Several other area multifamily complexes have had drowning deaths in bodies of water much smaller than this one.

I could continue with further reasons to deny this rezoning request, but for sake of brevity, please consider that there are many reasons we are opposed to this rezoning. We would, however, like to make it known that we are absolutely not opposed to development in our backyards and neighborhoods. In fact, we are very receptive to single-family residential development that is in keeping with the integrity of our neighborhood and those that surround us.

In closing, I ask that you please denying Dr. J.B. Hays' request for the rezoning of this parcel to RMF-12. I appreciate your time and attention to this matter.

Please do not allow Mr. Hays' proposal to pass!

Sincerely,

December 7, 2004

Ref: RZN 04-1332

Members of the City of Fayetteville Planning Commission:

I am sending this letter to you because I would like to voice my opposition to the rezoning request submitted by J.B. Hays, (RZN 04-1332). This request is to rezone the subject property 5.99 acres located at 1760 Starr Drive from RSF-1, single family to RMF-12, multi-family.

I believe that rezoning would negatively impact our neighborhood in many ways.

1. No other properties adjacent to or in close proximity to the subject property currently carry an RMF-12 zoning. To allow this rezoning would significantly change the overall character of the general area and affect the makeup of our neighborhood.

2. Our property values will be financially eroded. Adjacent multifamily housing, no matter how upscale or attractive, will decrease marketability of existing homes.

3. The addition of a potentially large number of children will continue to overload our neighborhood schools. McNair Middle School is already overpopulated and Vandergriff Elementary School is almost at full capacity.

4. No further multifamily units are currently needed for Fayetteville, as there is an abundance of vacant rentals currently for lease by management companies. There are currently around 4500 apartments in the city of Fayetteville under the management of Lindsey Management Co. According to figures provided by Lindsey Management, 10% or approximately 450 of these units are currently vacant, with the upscale units (such as the Cliffs Townhouses) having the highest vacancy rate.

5. The traffic situation pretty much speaks for itself, as we all know how extremely difficult it is to turn from Starr Road onto Highway 45, especially in the morning. The congestion from St. Joseph Catholic Church and School as well as the surrounding neighborhoods is already more than the street can handle.

6. There is a safety issue at hand due to the lake on this property. Multifamily housing will inevitably bring many children, and this is a dangerous place for children to play. Several other area multifamily complexes have had drowning deaths in bodies of water much smaller than this one.

I could continue with further reasons to deny this rezoning request, but for the sake of brevity, please consider that there are many reasons we are opposed to this rezoning. We

From:ADMINITSRATION 5248002 12/10/2004 14:26 #071 P.002/002

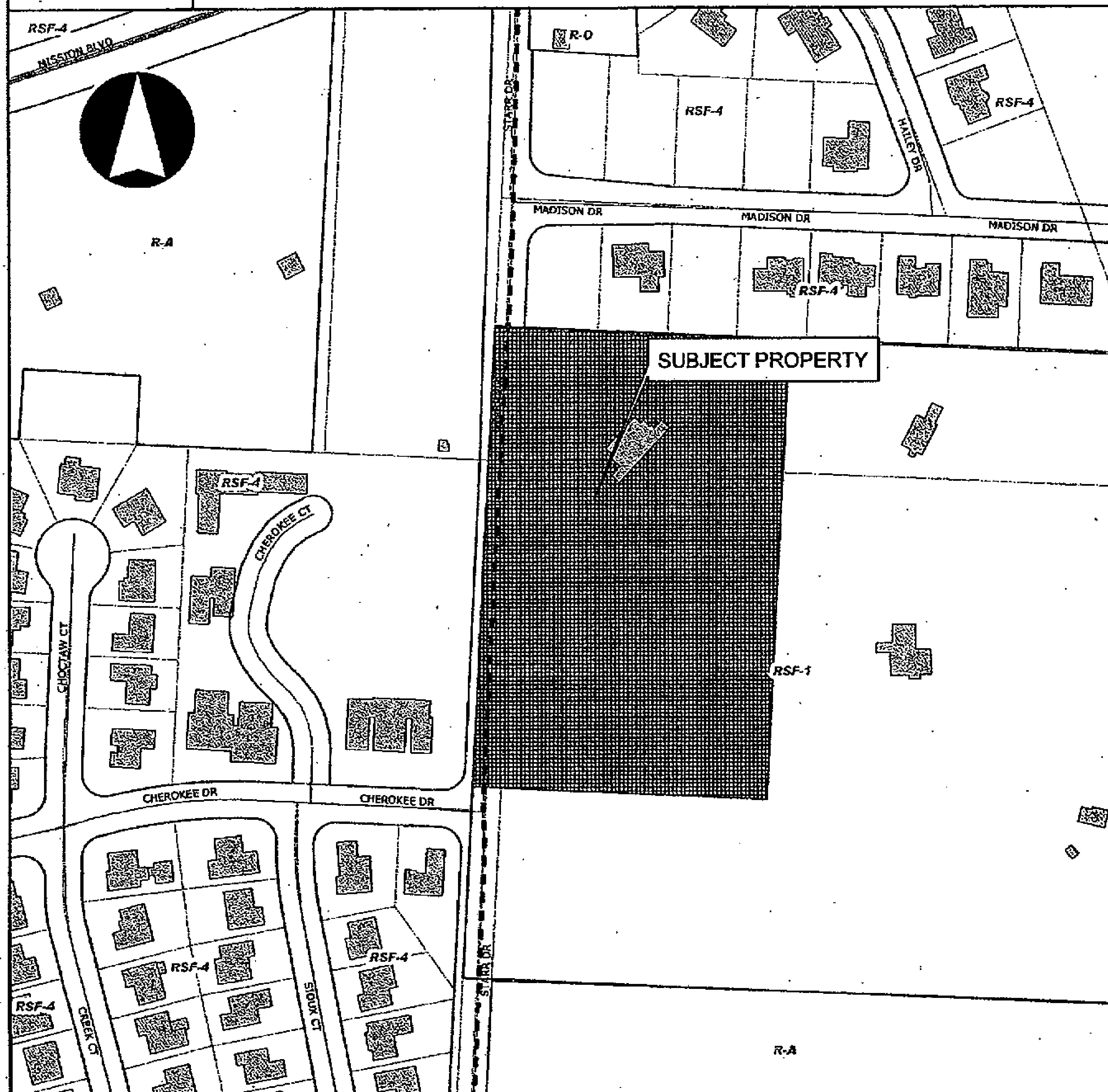
would, however, like to make it known that we are absolutely not opposed to development in our backyards and neighborhoods. In fact, we are very receptive to single-family residential development that is in keeping with the integrity of our neighborhood and those that surround us.

In closing, I ask that you please denying Dr. J.B. Hays' request for the rezoning of this parcel to RMF-12. I appreciate your time and attention to this matter.

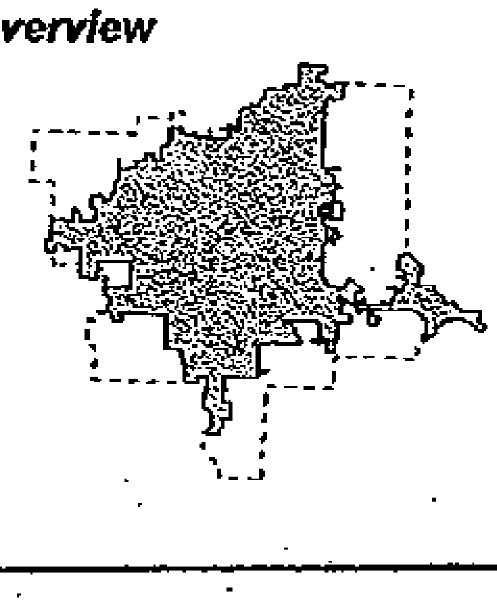
Sincerely,

Kent Raymick
2019 North Barrington Drive
Fayetteville, AR 72701
479-444-6718

RZN04-1333	J.B. HAYS
Close Up View	



Overview



Legend
Overlay District
Master Street Plan
Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector
FLOODWAY
100 YEAR
500 YEAR
LIMIT OF STUDY
BaseLine Profile
RZN04-1333
Fayetteville
Outside City

0 75 150 300 450 600 Feet

RZN 04-1333: Rezoning (J.B. HAYS, 373): Submitted by CRYSTAL GOEDEREIS for property located at 1882 N STARR DRIVE. The property is zoned RSF-1, SINGLE FAMILY - 1 UNIT/ACRE and contains approximately 5.73 acres. The request is to rezone the subject property to R-O, Residential Office.

Ostner: The last item on our agenda is RZN 04-1333 for JB Hays.

Olson: This is another portion of the same property that was brought in with the island annexation. This property is zoned RSF-1, it is located at 1882 Starr Drive. It is approximately 3.35 acres and currently there is a dental office that exists on this piece of property. It is an existing non-conforming use right now with the RSF-1 designation. The applicant is requesting a zone change to R-O, Residential Office to bring this dental office into conformity. Staff has received some comments and concerns from surrounding property owners. Most of these include the type of use allowed with the zoning request. The possible future expansion of the current facilities, access with the parking, buffering and screening and things of that nature. The surrounding land use again, is primarily RSF-4 and R-A. However, at the corner of Mission and Starr Drive there is an R-O designation with an existing bank facility there. This site has access to Starr Drive. At the time of any future new development this street would need to be brought up to current standards along the property frontage. It does have access to public water. It has access to public sewer. The police department is of the opinion that this rezoning will not substantially alter the population density nor create an undesirable increase in police services. For this rezoning request staff does recommend approval for the R-O designation.

Goodereis: My name is Crystal Goodereis again. This is a little bit of a different nature of a beast. What we are dealing with here is we were forcibly annexed. The dental clinic has existed for over 16 years. It has always been there. What we have done is we have segregated that part out and said we needed to make it R-O. I live at 1760 Starr, which is probably two stones throw away from the dental clinic. Currently right now we have our animals out in the front pasture. The ground is not going to change, the use or anything else. What we are doing is protecting our rights, if it went vacant, as you just heard a discussion, for six months or so that we could still use it as a dental clinic or whatever we deem necessary in that space. Starr is also slated to be a collector road, which means that it is going to be a 70' wide road. In doing so, it would take out a lot of the parking for the front. Therefore, that is why the R-O designation for further up for parking for the dental clinic is necessary. We don't see any problems with it. We are not planning on changing that as long as I live at that property there will be nothing developed in the front of it. All we are going is bringing a non-compliant into compliance which we were forcibly annexed to do so. If you have any questions I would be glad to answer them.

Ostner: I will open it to the public. Would anyone like to speak to this rezoning request?

Long: My name is Larry Long, I am the president of the Starr Drive association. We are a long standing association of about 60 homes that obviously, go along and around Starr Drive. I did not bring all of the letters and emails but my neighborhood association has met both face to face and electronically and I guess all of us can be very thankful that I didn't bring all of those tonight to read to you. In fact, I will try to be brief. I can give you the essence and you are just going to have to trust me that I'm an honest person. They were strongly and uniformly opposed to any type of development in our neighborhood that is inconsistent with the character of the neighborhood. We felt that both of these proposals on this property were indeed inconsistent with the character of our neighborhood. Our association was honored to come before this body about 10 years ago on another proposed development in our area. You were kind enough to listen to us for almost an hour and a half as we made presentation after presentation and engineering studies. It all came down to does this property fit? Is it compatible with the other homes and the properties in the area? The commissioners voted overwhelmingly that it was indeed, not. It was denied. The truth be known, either one of these proposals tonight are far less compatible than this one that was denied 10 years ago by this body overwhelmingly. However, we are not against the RSF-4. We think that is fine and we are happy to invite that type of development. We expect it. Our primary concern is with the R-O designation. To expand anything that is commercial smack dab in the middle of a residential, almost rural neighborhood, for those of you who may or may not have visited our location, is probably inappropriate. Driving by there the other day I saw 12 cars in front of the dental clinic. To be honest with you, I was unaware that it was a dental clinic. I thought it was a facility that manufactured dental apparatus so I would like some clarity on that and what is allowed in the R-O designation. I think it is our opinion that if you are going to have this type of property and expand it, this would be a two, almost three fold expansion of a property that already has 12 cars working in an apparently light manufacturing type of environment. Are we talking about 50, 60 or 100 cars in the near future? These of course, are our fears. Would there be another location in Fayetteville somewhere, a light industrial area, an empty mini mall that might be more appropriate for this kind of an activity. We understand that there was a dental office, Dr. Stanberry did operate there for many years but that was a dental office with one, or for a short while, two dentists were there. It was very, very light activity. Perhaps this whole discussion is premature. It invites a

PZD. We certainly want to know what is going to happen before anything transpires. Thank you very much.

Ostner: Thank you Mr. Long. Is there further comment about this rezoning issue?

Hopmann: My name is Cheryl Hopmann, I live at 3551 Madison Drive. I have a question about two concrete structures that were started that are directly behind my house, about 10' from my fence and go the entire width of my property and onto the properties on both sides of me. My question is just how do the zoning decisions that you are going to make tonight, how do they affect those structures? Will they be completed or will they be left as they are? That is my question.

Ostner: I will try to get to that when we close the discussion.

Marx: My name is Ronnie Marx, I live in the 1600 block of Starr Drive with my family, which is barely two blocks from this proposed change. We believe that this thing is properly zoned single family one and should remain that way. The dental office did not pose an issue for us when it was a dental office. I don't know what it has transpired into today since it has new ownership but in the past as a family dental thing it has not been an issue. I don't see why a family dental place can't continue to exist with this zoning. We believe that this is correct. It is right smack in the middle of single family and we are very concerned with R-O and what it could bring in the future with new ownership of the property or even this ownership of the property. People change their minds. As you mentioned earlier, things change. That is what we are concerned about. Almost seven years ago we were drawn to this area because of large lots with the houses. We had a little breathing room, a place for our kids to play baseball in the front yard and things like that and we believe it should remain that way and ask that you please tonight let this remain the way it is. Thank you very much.

Yang: We live at 3437 E. Madison Drive, right behind the dental office. We are glad that the dental office was eventually annexed into the city because in March when they first moved in there was a lot of noise. We found out there was nothing that we could do at that time because it was in the county. They wanted to build an internal driveway coming up north of the house which comes against our property. For some reason they abandoned it because I think the water storage kind of cut it off. This summer when they annexed, we had a lot of concerns, the same as Larry mentioned. Once we rezone that into R-O it kind of opens up a new avenue for a lot of things. The irony of that, if we don't approve that, if we oppose it what difference does it makes? They are grand fathered in as a dental office so it doesn't matter if you approve or disapprove. I do not know. This is a fundamental question I have regarding what we can do into making a difference. I guess that would be a fundamental issue for the development. Also, I think if we have no commercial development at all and no office expansion particularly coming towards the north, which is our property because there is not much room there anymore. Also, I would like to find out what they are going to do with the north part of the internal driveway. I hope that they can simply abandon that because it is coming up real close to the property and they have plenty of space south going down Starr Drive to expand. That would be our concern also is how they reuse the land and what will happen with this property.

Taylor: My name is John Taylor, I'm a member of the Starr Drive association. I am here to tell you that Larry Long didn't lie. There is a large group of people that are opposed to this application. I am one of them. That area, as you all know, is a residential area. It is best as a single family home area. Those that have bought homes in the area and continue to live there believe that. I believe it as well. The staff did mention that there is R-O on the corner of Mission and Starr, that is almost ½ mile away to the north and it is on Mission, it only happens to be partly on Starr. Starr Road, as you all know, is primarily single family dwellings or agriculture. I request respectively that you maintain our single family neighborhood and reject the R-O application.

Ostner: Thank you. Is there further comment from the public?

West: I am Steve West and I live on Madison Drive. We bought our house a year and a half or two years ago. I know that there is an empty field behind us and I'm not fool enough to think that it is going to be like that forever. We were told that that is zoned for residential and so we rolled the dice on that. We thought that if they were to build something we expected houses. I never envisioned that there is a possibility that I might be looking back at an Appleby's or an insurance office. That is what really bothers me about this. It was zoned for residential and I would expect that it be kept as residential.

Ostner: Is there further public comment?

Seaton: I'm Tonya Seaton, I live at 1132 Huntington Drive. Our property is just south of the Starr Drive property that we are talking about tonight. I agree with everyone else here but I just wanted to be heard that this property has no business being zoned R-O. It is strictly residential. My concern, I don't know if anyone else mentioned this tonight, that is a scary road that we live on, Starr Drive. There is a hill right there where that property is if you have ever been out there. As you top that hill if there is some kind of office with lots of cars there, there are going to be some accidents. We need to consider that road there. We don't need anymore cars on it than what are already there. We have a school there now and I pray every day that there is not an accident. Cars just fly through there. The police are right. They can't control it enough and they can't handle anymore businesses out there. They have no business to be in there. We just like it the way it is. Thank you.

Ostner: Would anyone else like to speak? I am going to close it to the public and talk to the Commissioners. I have a question for staff. These reports got a little mixed up at this point. Is this the report that I'm supposed to be reading where you all are recommending R-O?

Pate: Yes.

Ostner: If you could just shortly explain that.

<Laughter in Public Forum>

Pate: Staff's recommendation for this property, speaking with the applicant, it was annexed as an island and the City Council voted that the future land use plan does show this specific area to be residential. North of this is to be mixed use. Approximately 350' based on the scale of this plan is R-O property. Directly to the west of this property, adjacent to it was a property that was developed as a P.U.D. several years ago in the 90's as a two family residential development. South of this property is the St. Joseph's school that was recently constructed. There is an existing mixture of uses in the surrounding area. Granted, directly to the west there are single family residences. To the east, on this property proper there is an agricultural type of use. The other requested rezoning and Barrington Park subdivision to the east. Staff feels that the use is consistent with our General Plan and the Future Land Use Plan. Those the impotence for this request is to bring the use into compliance, obviously, we have to look at it further than just the use as we looked at the other request tonight. We believe that this use is compatible with this area. A Residential Office use does not necessarily dictate it has to be an office type of use. It can be purely residential, it can be single family residential, two family residential and we have gone over the other uses that would be allowed by right within the R-O zoning district. Just to reiterate, they would include single family dwellings, two family dwellings, office, studios, related services and professional offices.

Allen: I would like to know if the applicant has met with the neighborhood association and tried to way lay any of their concerns in any manner.

Goodereis: Mrs. Allen, I have lived on that road for a year and two months and I never knew they existed. I have redecorated, re-landscaped and everything else. We met with Barrington because we knew they were there. Honest as I stand here I did not know a Starr Drive association was there. I met with the neighbors on Cherokee because I did know some of them so we have talked with some of them. As far as it goes with alleviating some of their fears, we are not planning on doing anything. First of all, Starr is on the future street use as a 70' collector. Before anything was done out there you would have to go ahead and improve the streets, as you have pointed out all night long. It is not feasible to do that. All we are trying to do is to bring a non-conforming use into a conforming use. I understand some of their concerns and I too share them.

Allen: I think so often just conversation can take care of things and I just wondered if those efforts have been made.

Goodereis: I did post my phone number at a friends house for anyone who had any concerns. Nobody called me. I did not know that there was an organized person nor did I know Larry Long or I assure you that Dr. Hays and I would have met with them the same as we did with the people at Barrington. We are not here trying to hide anything or say anything, we are doing it just exactly by the book as we were told that we needed to do it. We are certainly not afraid to hear comments or concerns just as we did with Barrington and we came up with what we think is an admirable solution to that situation.

Allen: That wasn't my indignation. I just think that so often people's concerns can be tended to with some face to face conversation.

Goodereis: I agree whole heartedly but I'm telling you standing here living for a year and two months at 1760 Starr Road I never even knew there was one that existed.

Allen: Then I wanted to ask staff if this rezoning were pulled and they had a Conditional Use could you have a dental office there?

Pate: Not in the RSF-1 zoning district.

Vaught: What about the RSF-4?

Pate: A dental clinic is located under Use Unit 12, Offices, Studios and related services, which is not a Conditional Use in either one of those zoning districts.

Ostner: The compromise to me would seem to be a PZD which is not really being proposed. That is the juggling area between the residential and commercial that more angles are scrutinized.

Goodereis: I agree completely with you Mr. Chair. Unfortunately, you don't have a non-development PZD. We are not developing any of it. Therefore, we cannot defray the cost on something we are not developing. That is why we couldn't go with a PZD. We waited around and tried to wait, Jeremy knows I waited three months to submit this, but it is hard for us to even get insurance with a non-complying in a situation since we have been forcibly annexed into either the dental lab or anything. Insurance companies do not want to insure you when they are not sure that you are going to be able to rebuild. All of these issues have hit us head on too. The PZD, we would love to go with a PZD but we can't. We are not developing it. We can't do a conceptual PZD. We have to do an actual one. There is probably approximately 17 acres of this ground that is not going to be touched from RSF-1 because we want to maintain our grandfatheringship and be allowed to have our R-A there. If we change the zoning and go with a PZD we could get into a technical situation with that.

Ostner: This is extremely difficult because I completely agree with the residents that the flavor is purely residential. I can also see staff's saying that there is a mixed use in the area. There really is. Starr Drive is a collector but it doesn't have to be expanded or built upon without a development proposal, not a rezoning proposal.

Anthes: As we learned earlier this evening, as long as this business remains in operation without a six month lag in time in this zoning are they allowed to continue a business as this dental office or a similar use as long as the building is maintained and rented continuously?

Williams: As long as they are continuing to use it, yes. However, this is the same sort of situation that Jeff Collins faced when he asked for a rezoning because he had built a structure that was a non-conforming use because we had made a mistake and did not have the land labeled properly. He has insurance problems, refinancing problems and things like that. That would remain although his business, as long as it continued, did not have a six month gap, could continue to operate and be grand fathered in as a non-conforming use.

Anthes: I guess I don't see it the same as the Collins property because number one, this wasn't a zoning mistake and number two, I don't think it has the same sort of adjacency as that property. However, we do have a school that is right by there that has a large parking lot and a lot of activity and people coming back and forth. It is not absurd to think of neighborhood commercial centers around schools and that kind of thing developing as we have in other parts of town. I am kind of alarmed however, that whenever I look at this I see that it is nearly six acres of property. I think about how much development that would be allowed by right on nearly six acres if we rezoned out of hand. As staff pointed out, the R-O designation doesn't necessarily mean offices will develop but it would allow multi-family and right on the same piece of property we just stepped down a request for multi-family zoning and said that was inappropriate, it needs to be single family.

Vaught: I think it is only 3.35 acres, is there a typo in the report?

Anthes: The report says 5.73 acres.

Graves: It got corrected.

Shackelford: Is it 3.35 or is it 5.73 acres?

Olson: What has happened is the legal description that we were given earlier actually split the dental office and so the applicant came back with a new property description, which we have the right maps however, the acreage at the beginning is not accurate.

Pate: It should be 5.73 acres. Just to clarify, Use Unit 26 is not an allowed right in this zoning district.

Anthes: Duplexes or a mobile home park would be by right.

Allen: If the applicant has no plans to build and the business stays exactly the same and is grand fathered in then I don't see the need to rezone.

Goodereis: I guess Ms. Allen, the only reason that we have the need to rezone is our insurance issues and our assurance that if the clinic burned down we could rebuild it because right now under present zoning it couldn't be rebuilt. As Brenda Thiel pointed out, when we were forcibly annexed in we asked to not be annexed, to leave us alone. They couldn't do that. Then we asked that we please address these issues right then and there. The City Attorney may remember back, they would not do that for us because they said they needed to bring all of the bodies in as one zoning but if I had any problems I could always go through the zoning to get it rezoned and they assured me that that would be no problem because it is a non-conforming use because it has been there for 16 or 17 years. That is the reason. If it burned down tomorrow we could not rebuild, not even under the grand fathering clause if anything happened to it. We are just trying to bring it into the way that the city brought us in to be conforming with the property use. The reason that someone had a question about the 5.73. Dr. Stanberry owned both pieces of property, he did not acquire them from the same person. When he went to build his clinic the legal for the first piece of ground, the little bitty corner, the 1.59 that he had gotten, he just acquired that so that he could build his clinic. What he did is he built it right on the property line. It divided that dental clinic, as staff pointed out, exactly in half. All we did was make it a triangle. One of the reasons that we did that was to protect the parking. When Starr, not if, but when Starr becomes a collector street that is on the future road map we will need the extra space up above for parking because you will alleviate our parking lot. There will be no place to go. We just took a rectangle. I believe staff included a map in that so that you can see exactly what we are proposing and how we are proposing it. When Starr moves out to that 70' collector it will take and cut almost all of the parking lot out so the parking will be forced towards the school.

Shackelford: This map that shows the specific triangle that we are rezoning, I'm confused between 3.35 and 5.73 acres, what we are being asked to rezone. Here is where I'm coming down on this. I am in somewhat agreement that this is comparable to the situation we had in west Fayetteville where we had a zoning mistake. It is not a zoning mistake on this but there is a forced annexation. As I look at this property is it purely residential, probably not. Is it mixed use? It is getting to be that. Will Starr look significantly different in the future? Absolutely. It is designated to be a collector and this area of town is going to change. My concern is are we rezoning more of a node here to R-O than what we need to rezone? That is what I'm wanting to look at. Specifically what tract, this triangle that I'm talking about, I'm confused. Can you point me to a page?

Trumbo: I see rectangles, I haven't seen any triangles.

Goodereis: The confusion that you are having is coming from asking if it is going to the full boundary. No it is not. The boundary that it is set for is if you can see on the aerial pictures, where Cherokee is, what Mr. Jenkins surveyed out was a direct rectangle starting right approximately at the Cherokee line and heading north towards the end of our property. That makes a direct rectangle. It only goes back into the property approximately 200' and that just encompasses the back of the dam off of that part. It is just a plain rectangle.

Allen: Could you just rezone an acre of it?

Goodereis: An acre wouldn't encompass the dental clinic. It was on 1.59 acres. There you go again, we will still have the issue of the parking. That is why we did what we did. When Starr becomes a collector, as you can see from that aerial, Starr right there is narrow. When it becomes a collector it will take out our parking. We went straight up to Cherokee and made a straight rectangle and back down.

Anthes: I'm looking at this and it looks like if we come out Cherokee Drive and come out straight and make a rectangle that Crystal is talking about the access to the existing house will go through this new tract of land. Would there then be an access easement through the property? Are we splitting that? I'm confused. How do we rezone just a piece of it?

Shackelford: By legal description. There are two legal descriptions associated.

Goodereis: We are not wanting to change the rest of it because we will not get rid of the animals. We were forcibly annexed in. Therefore, we are keeping the animals. As I said before, the PZD is not an option.

Trumbo: My question is why are you asking for over five acres to rezone just a small dental office?

Goodereis: The dental office isn't so small. If you could actually see it you would understand. It is situated on the piece of ground in a pie shape, I don't know how else to better describe it. Therefore, it takes out a huge chunk right there. The almost three acres that it sat on before, that was divided completely in half. Therefore, we had to extend the boundary back further and go up. All we are trying to do is do this one time in order to get our driveways and everything in there for when Starr becomes a collector. We know that it is going to. We just don't know when. I can stand here as sure as I'm standing here and tell you there is no future development planned for that.

Anthes: We understand that. You have to understand though that these land use rights convey with the property. You can sell this tomorrow and somebody else could have a very different idea. We have to look at that.

Goodereis: I agree totally but you asked why we asked for that and that's why. When we went to get it surveyed we didn't want to pay for a survey. We were satisfied with just doing it with the property the way that it was, that wasn't an option because staff called me up and said hey, it is going right through the middle of the dental clinic, we can't divide a structure. That's when we had to pay a surveyor to come out and resurvey it and that is why the easiest option was to go with a rectangle. We had 24 hours to do that.

Pate: Mr. Williams, I know that it is not appropriate for the Planning Commission nor the staff to require or request a Bill of Assurance limiting develop on this property. However, we would be happy to speak with the applicant to see if that is something that she would like to offer limiting development on this property.

Williams: I wouldn't even want to suggest it. It is something that has to be totally voluntarily given. You just need to make a decision as the Planning Commission on what has been presented tonight by the applicant. Although you can change a rezoning request to a different rezoning you can't make it smaller. You can't do a lot split for them and say we will do part of it but not all of it. Keep in mind too that obviously, the City Council is going to make a final decision on this. You are just giving a recommendation to the City Council and they will get to listen to the citizens again one way or the other and also Dr. Hays and Crystal also. I would encourage you, since it is almost midnight, to go ahead and make a decision on the request that has been requested tonight and if the applicant wants to change something in the interim by talking to the Planning Division they can certainly do that. I don't think we can do any changing for them.

Anthes: I took a note here when one of the neighbors was speaking and there was something here about some additional structures that were under construction that were left incomplete. Is that on this property?

Goodereis: Yes, it is on the property that is not being addressed. That is going to be a garage. It complied with and confirmed with the county at the time. We were told being as we were annexed in, that would not stop us from building.

Anthes: That is not on this property?

Goodereis: No.

Anthes: That is what I was confirming.

Shackelford: Based on the City Attorney's opinion and the fact that anything we do is a recommendation to an elected board that will make a final decision I am going to make a motion. As I stated earlier, this was a forced annexation that brought this property into the city. Also, as I stated earlier, I don't think rezoning is the responsibility of fixing non-conforming property. I think a rezoning is more towards the future land use of the property. The big question is is this a mixed use area or is this a purely residential area? There is basic argument for both sides to be made. Where I am going to come down is that the property has been used as a Residential Office in the past. There is mixed use in this area and it is on a road that is designated to be a pretty significant road in the future. With that being said, I am going to make a motion that we recommend approval of RZN 04-1333 with the specific designation of R-O.

Vaught: I will second. Thank you for the citizens who turned out and held in there through a very long meeting. My encouragement would be to me this is in a way another policy decision we talked about earlier. Please contact your council members and let them know your feelings. This will all be addressed at that level as well. I would encourage the applicant to continue to meet with the neighbors and maybe find other ways to help alleviate some of the fears of what could happen on this property. I think there are other means necessary.

Allen: You certainly know that there is a neighborhood association available now.

Shackelford: I would also like to add for the record that part of the reason I'm making this recommendation, the property has a pretty significant easement through the middle of it to meet the existing house and there obviously, would be a lot of off site improvements that would be required. I think that if this property were to develop prior to Starr Drive being improved it is going to be somewhat cost prohibitive. I think we are somewhat lucky by the situation that the infrastructure or lack thereof is in such dire need that likely if any development happens on this property it will be years down the road when I think that this part of town is going to look significantly different.

Allen: Commissioner Shackelford, I wondered other than the school, where you are seeing this mixed use from driving out there I am not aware of where it is.

Shackelford: The P.U.D. across the street, the multi-family uses, obviously, the school.

Ostner: The P.U.D. is not across the street, it is further down.

Shackelford: I think the school is primarily.

Vaught: The P.U.D. is directly across the street, look at the map and also the R-O on the corner of Mission and Starr.

Trumbo: I am going to vote against this based on Use Unit 11. This is significant acreage to me and Use Unit 11 allows manufactured home parks and even though I don't believe there is anything planned here and there is nothing underhanded, that is not an appropriate place for that use and for that reason I am going to vote against this and let the aldermen fight it out.

Ostner: I am going to fall on the nay side of this. I don't think R-O is quite appropriate here. I know we have a P.U.D. across the street. It looks like a residential P.U.D. to me. Just because it is a P.U.D. to me does not make it mixed use enough to warrant the uses that come with this R-O zoning district in this particular space so I am going to vote no. We have a motion and a second. Is there further discussion? Could you call the roll please?

Roll Call: Upon the completion of roll call the motion to recommend approval of RZN 04-1333 failed by a vote of 3-5 with Commissioners Graves, Trumbo, Allen, Anthes and Ostner voting no.

Thomas: The motion is denied.

Ostner: With a rezoning request I have seen the option for a different zoning.

Williams: The petitioner can appeal to the City Council or look at a different zone.

Ostner: Are there any announcements? We stand adjourned.

Meeting adjourned: 12:10 a.m.

Fayetteville

City Council Meeting of January 18, 2005

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

From: Greg Boettcher, Water/Wastewater Director Greg Boettcher

Date: December 22, 2004

Subject: Resolution approving Amendment Number 11 (A) with Operations Management International, Inc. authorizing acquisition of an electric generation unit for the Noland Wastewater Plant and extension of the operating agreement for 5 years. A budget adjustment of $76,693.10 is included for residual electric rate impacts for calendar year 2005 only, funds to come from use of fund balance and to be added to Watewater Treatment Plant Program/Services and Charges.

RECOMMENDATION

Fayetteville City Administration recommends approval of "Amendment No. 11 (A) to the Agreement for Operations, Maintenance and Management Services for the City of Fayetteville, Arkansas Wastewater Treatment Plant." This contract amendment increases the 2005 contract value by $76,693.10 to cover the residual electric rate effects for calendar year 2005. This amendment increases the 2005 contract to a total of $4,561,018.10.

BACKGROUND

Final design of the Noland Wastewater Plant Improvements includes the installation of a second standby electric generating unit at a cost of approximately $350,000.00 to handle the increased needs of the facility. An opportunity has been discovered whereby the City can acquire a larger backup electric generation unit that enables lowered electric costs by nature of load management capabilities. Energy cost savings are such that the City can recover the principal and interest payments from energy cost savings provided that the equipment is financed over a five year term. At the end of this five-year payback period; all energy costs savings will be captured by the City of Fayetteville plus the City shall have acquired a self-funded equipment asset. This concept has multiple applications within the Fayetteville Wastewater System Improvements Project, as standby electric generating units have been designed for both the new West Side Wastewater Treatment Plant and for the new Hamestring Lift Station. The Noland Plant's application is simply the first to be released for bids; hence the current desire to move forward with this activity. In order to minimize the electric generation system costs, coordinate load management practices, secure buy-in from plant operations and meet tight time schedules; it is proposed to use a contract amendment with OMI to secure the financing, planning, installation and operation of the Noland Generator Project.

While the Noland Generator Project will be self-funding once the new rates are in effect; there is a residual energy cost impact that represents a one-time, up front project expenditure. This initiation cost is due to the fact that electric load management in 2005 will not impact electric charges until the start of 2006, therefore, the first year costs must

Tabled ~~indefinitely~~ to 2/1/05 @ 1/18/05 mtg adjust for this startup expense. This rate residual impact is predicted at $76,693.10 for 2005; hence the increase in OMI's contract value and the associated budget adjustment.

DISCUSSION

Fayetteville has a narrow window of opportunity to simultaneously capture capital cost savings and operating cost savings.. The acquisition of load management electric generating equipment for its wastewater treatment facilities has predicted capital cost savings of $1.75 million ($350,000 at Noland, $1,000,000 at West Plant and $400,000 at Hamestring). The use of OMI contract amendments to acquire, finance and repay such costs provides Fayetteville with the ability to capture the energy costs savings at the end of the 5-year repayment period, equating to reduced operating costs over time.

With the Noland Wastewater Project's Contract EP-2 scheduled for a bid opening on February 15, 2005; it is desirable to finalize this decision to enable issuance of an addendum deleting the proposed smaller standby power system.

BUDGET IMPACT

The contract amendment increases the OMI contract value by $76,693.10 in 2005 and will require a budget adjustment to transfer said amount from use of water and sewer fund balance. This one-time implementation expense offers an immediate capital cost savings of $350,000.00 plus operating costs savings after retiring the 5-year equipment financing.

RESOLUTION NO. ______

A RESOLUTION APPROVING AMENDMENT NO. 11 (A) TO THE CONTRACT WITH OPERATIONS MANAGEMENT INTERNATIONAL (OMI) IN THE AMOUNT OF $76,693.10 FOR THE ACQUISITION OF AN ELECTRIC GENERATING UNIT; EXTENDING THE TERM OF THE AGREEMENT FOR OPERATIONS, MAINTENANCE AND MANAGEMENT SERVICES AN ADDITIONAL FIVE (5) YEARS; AND APPROVING A BUDGET ADJUSTMENT TRANSFERRING $76,693.00 FROM USE OF FUND BALANCE TO PCP OPERATION CONTRACT FUND.

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 approves Amendment No. 11 (A) to the contract with Operations Management International (OMI) in the amount of $76,693.10. A copy of Amendment No. 11 (A), marked Exhibit "A" is attached hereto, and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby agrees to extend the Agreement for Operations, Maintenance and Management Services an additional five (5) years.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment transferring $76,693.00 from Use of Fund Balance to PCP Operation Contract Fund.

PASSED and APPROVED this 18th day of January 2005.

APPROVED:

By: __________________________
DAN COODY, Mayor

ATTEST:

By: __________________________
SONDRA SMITH, City Clerk

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department / Division / Program	Date Requested	Adjustment Number
2004	Department: Water & Wastewater Division: Wastewater Treatment Program: Wastewater Treatment Plant	12/22/2004	

Project or Item Requested:

Adjust wastewater plant operations budget by $76,693.10 for amendment 11(A) relating to the acquisition and financing of a generator system for the Noland Wastwater Plant. Adjustment is for the one-time residual electric rate impacts in calendar year 2005

Project or Item Deleted:

$76,693.10 will be the Use of Fund Balance.

Justification of this Increase:

This expenditure is the upfront expense to initiate a self-funding equipment acquistion that has benefits of $350,000 capital project cost savings, 5-year financing thru electric energy savings and direct energy cost savings to City after 5-year repayment period.

Justification of this Decrease:

This investment in equipment and future savings is a cost-effective use of water and sewer funds. Sufficient funding remains to comply with City Policy.

Increase Budget (Decrease Revenue)

Account Name	Account Number				Amount	Project Number
PCP operation contract	5400	5100	5328	00	76,693	

Decrease Budget (Increase Revenue)

Account Name	Account Number				Amount	Project Number
Use of fund balance	5400	0940	4999	99	76,693	

Approval Signatures

	Date
Requested By	
Budget Manager	12-22-04
Department Director	12-20-04
Finance & Internal Services Director	12-21-04
Mayor	

Budget Office Use Only

Type: A B C D E

	Initial	Date
Date of Approval		
Posted to General Ledger		
Posted to Project Accounting		
Entered in Category Log		

AMENDMENT NO. 11(A)
TO
AGREEMENT FOR OPERATIONS, MAINTENANCE AND MANAGEMENT SERVICES FOR THE CITY OF FAYETTEVILLE, ARKANSAS WASTEWATER TREATMENT PLANT

THIS AMENDMENT NO. 11(A) to the Agreement for Operations, Maintenance and Management Services for the City of Fayetteville, Arkansas Wastewater Treatment Plant dated September 1, 1994 (the "Agreement"), made effective on the 1st day of January, 2005, by and between the City of Fayetteville, Arkansas, whose address for any formal notice is 113 W. Mountain St, Fayetteville, Arkansas 72701 (hereinafter the "City") and Operations Management International, Inc., with offices at 9193 S. Jamaica Street, Suite 400, Englewood, Colorado 80112 (hereinafter "OMI") is made and entered into for purposes of amending certain provisions of the Agreement, to prevent the facilities covered by the Agreement from being deemed to be used in the trade or business of OMI pursuant to Section 141 (b) of the Internal Revenue Code of 1986, as amended.

NOW THEREFORE, the City and OMI agree to amend the Agreement as follows:

1. Article 4.3 is hereby deleted in its entirety and replaced with the following Article 4.3:

   4.3 OMI estimates the cost for services for calendar year 2005 shall be Four Million Five Hundred Sixty One Thousand Eighteen Dollars ($4,561,018.00). Details of said cost are shown in Appendix J. The base fee shall be negotiated each year in September for the upcoming calendar year. Should the City and OMI fail to agree, the base fee will be determined by the application of the base fee adjustment formula shown in Appendix F. Should the actual expenditures exceed estimated expenditures by more than Twenty Thousand Dollars ($20,000), in any year of this Agreement, specific approval will be obtained from the City prior to OMI incurring additional costs.

2. Article 7.1 is hereby deleted in its entirety and replaced with the following Article 7.1:

   7.1 This initial term of this Agreement shall be five (5) years and four (4) months commencing on September 1, 1994 and ending on December 31, 1999, followed by two (2) successive five (5) year options, each renewable at the sole discretion of OMI. The City has exercised its options to extend through December 31, 2008. In consideration of OMI's agreement to fund the Power Generator Project at the Noland WWTP, described in Appendix L, the City is hereby extending this Agreement through and including December 31, 2013.

3. A new Appendix L is added in the form attached hereto.

This Amendment No. 11(A) together with the Agreement constitutes the entire agreement between the Parties and supersedes all prior oral and written understandings with respect to the subject matter set forth herein. Unless specifically stated all other terms and conditions of the Agreement shall remain in full force and effect. Neither this Amendment nor the Agreement may be modified except in writing signed by an authorized representative of the Parties.

The Parties, intending to be legally bound, indicate their approval of the Amendment by their signatures below.

OPERATIONS MANAGEMENT INTERNATIONAL, INC.

____
Roger B. Quayle
Senior Vice President
Date:___________________________

CITY OF FAYETTEVILLE

____
Dan Coody
Mayor
Date:___________________________

Appendix J

COST DETAIL

The annualized estimated costs for calendar year 2005 are as follows:

Description		Existing 2005 Estimated Costs		Amended 2005 Estimated Costs
Direct Labor & Benefits	$	1,671,071.00	$	1,671,071.00
Labor Markup	$	501,321.00	$	501,321.00
Electricity	$	642,720.00	$	588,480.00
Electrical Markup	$	-	$	-
Other Direct Costs	$	1,288,073.00	$	1,304,771.00
Other Direct Costs Markup	$	128,807.00	$	130,477.10
Subtotal	**$**	**4,231,992.00**	**$**	**4,196,120.10**
Fixed Fee	$	82,349.00	$	81,651.00
Lift Station Odor Control	$	69,362.00	$	69,362.00
Capital Item Amortization	$	100,622.00	$	100,622.00
Power Generator Project				
Equipment Amortization	$	-	$	113,263.00
Total Est. O & M Budget	**$**	**4,484,325.00**	**$**	**4,561,018.10**
Total Est. Annualized Budget	$	4,484,325.00	$	4,561,018.10
Estimated Increase			$	76,693.10

The following are some of the major reasons for cost circumstances:

1. Continued increase in the efficient use of technological automation and job-sharing within the OMI network.

2. Continued upward pressure on the cost of fuel and vehicle expenses.

3. Ever increasing cost to maintain community-expected high level of performance with many pieces of equipment nearing the end of their life cycle and destined to be replaced or upgraded as part of the ongoing Wastewater Improvement Project.

4. Continued population growth causing a related increase in sludge production and ultimate sludge disposal costs.

5. Additional costs for maintenance of 4-5 new sewage lift stations during the next year.

6. Potentially less expensive sludge disposal alternatives continue to be evaluated, which may or may not become feasible within the next 12 months.

7. Addition of the Power Generator Project as described in Appendix L hereto.

Appendix L

POWER GENERATOR PROJECT - SCOPE OF WORK

Due to significantly increased emphasis on preventing all possible wastewater overflows and/or interruptions in wastewater treatment capability by the Arkansas Department of Environmental Quality and the United States Environmental Protection Agency, as well as currently available favorable electrical rate structures it has become necessary for the City to install full-backup power generation equipment at the Paul R. Noland wastewater treatment plant (WWTP). In addition, the City anticipates installing full-backup power generation equipment at the new Westside WWTP facility and at the expanded Hamestring sewer lift station facility in accordance with the respective construction sequencing as these facilities are constructed.

The cost of the power generation equipment (the "Equipment") to effect the implementation of the power generation system at the Noland WWTP is $715,000.

OMI hereby agrees to locate, procure and finance the cost of the Equipment at an annual interest rate of seven percent over the course of sixty (60) months on behalf of the City in accordance with the amortization schedule set forth in Attachment 1 to this Appendix L and the City hereby agrees that it will purchase the Equipment from OMI over the course of such sixty (60) month period (the "Amortization Period"). The City's first payment to OMI will be due in the month following the installation complete date, currently estimated to be May 15, 2005. The City may elect to complete purchase of the Equipment at any time during the Amortization Period without incurring any early payment penalties.

Copies of purchase orders, bills of sale or invoices evidencing OMI's purchase will be furnished to the City upon request.

Title and risk of loss to the Equipment will remain with OMI at all times during the Amortization Period. At the end of the Amortization Period, title and risk of loss for and to the Equipment will transfer to the City.

If for any reason the Agreement is terminated by either party prior to the end of the Amortization Period, the City will pay to OMI the remaining balance due, in full, within thirty (30) days following termination. In the event the City refuses to or fails to make payment within thirty (30) days following termination OMI may exercise all rights available to it, including but not limited to, removal of the Equipment from the Noland WWTP.

OMI may sell or assign this Amendment 11(A) and the Equipment to a third party in its sole discretion at any time during the Amortization Period.

Costs for diesel fuel will be provided directly by the City of Fayetteville as described in Article 3.8 of this Agreement. Costs for natural gas, applicable taxes, insurance, maintenance, and monitoring fees will be included in the actual cost of services as shown in Appendix J, and costs for these items in subsequent years during the Term will be provided to the City in accordance with the provisions of the Agreement.

The parties agree that they intend to install power generation systems at the new Westside WWTP and the expanded Hamestring sewer lift station at the appropriate time during the construction sequencing for each of these facilities, and that they intend to amortize the cost of each of these systems over a five year period. The parties will amend this Appendix L as necessary to address the terms and conditions agreed upon with respect to the power generation systems to be installed at the Westside WWTP and the Hamestring sewer lift station.

Attachment 1 to Appendix L

AMORTIZATION SCHEDULE

Data

LOAN DATA

Loan amount: 715,000.00
Annual interest rate: 7.00%
Term in years: 5
Payments per year: 12
First payment due: 5/1/2005

TABLE DATA

Table starts at date:
or at payment number: 1

PERIODIC PAYMENT

Entered payment:
Calculated payment: $14,157.86

CALCULATIONS

Use payment of: $14,157.86
1st payment in table: 1

Beginning balance at payment 1: $715,000.00
Cumulative interest prior to payment 1: $0.00

Table

No.	Payment Date	Beginning Balance	Interest	Principal	Ending Balance	Cumulative Interest
1	5/1/2005	715,000.00	4,170.83	9,987.02	705,012.98	4,170.83
2	6/1/2005	705,012.98	4,112.58	10,045.28	694,967.70	8,283.41
3	7/1/2005	694,967.70	4,053.98	10,103.88	684,863.82	12,337.39
4	8/1/2005	684,863.82	3,995.04	10,162.82	674,701.00	16,332.43
5	9/1/2005	674,701.00	3,935.76	10,222.10	664,478.90	20,268.18
6	10/1/2005	664,478.90	3,876.13	10,281.73	654,197.17	24,144.31
7	11/1/2005	654,197.17	3,816.15	10,341.71	643,855.46	27,960.46
8	12/1/2005	643,855.46	3,755.82	10,402.03	633,453.43	31,716.28
9	1/1/2006	633,453.43	3,695.14	10,462.71	622,990.71	35,411.43
10	2/1/2006	622,990.71	3,634.11	10,523.74	612,466.97	39,045.54
11	3/1/2006	612,466.97	3,572.72	10,585.13	601,881.84	42,618.26
12	4/1/2006	601,881.84	3,510.98	10,646.88	591,234.96	46,129.24
13	5/1/2006	591,234.96	3,448.87	10,708.99	580,525.97	49,578.11
14	6/1/2006	580,525.97	3,386.40	10,771.46	569,754.52	52,964.51
15	7/1/2006	569,754.52	3,323.57	10,834.29	558,920.23	56,288.08
16	8/1/2006	558,920.23	3,260.37	10,897.49	548,022.74	59,548.45
17	9/1/2006	548,022.74	3,196.80	10,961.06	537,061.68	62,745.25
18	10/1/2006	537,061.68	3,132.86	11,025.00	526,036.68	65,878.11
19	11/1/2006	526,036.68	3,068.55	11,089.31	514,947.37	68,946.66
20	12/1/2006	514,947.37	3,003.86	11,154.00	503,793.38	71,950.52
21	1/1/2007	503,793.38	2,938.79	11,219.06	492,574.31	74,889.31
22	2/1/2007	492,574.31	2,873.35	11,284.51	481,289.81	77,762.66
23	3/1/2007	481,289.81	2,807.52	11,350.33	469,939.47	80,570.18
24	4/1/2007	469,939.47	2,741.31	11,416.54	458,522.93	83,311.50

25	5/1/2007	458,522.93	2,674.72	11,483.14	447,039.79	85,986.22
26	6/1/2007	447,039.79	2,607.73	11,550.12	435,489.67	88,593.95
27	7/1/2007	435,489.67	2,540.36	11,617.50	423,872.17	91,134.30
28	8/1/2007	423,872.17	2,472.59	11,685.27	412,186.90	93,606.89
29	9/1/2007	412,186.90	2,404.42	11,753.43	400,433.46	96,011.31
30	10/1/2007	400,433.46	2,335.86	11,822.00	388,611.47	98,347.18
31	11/1/2007	388,611.47	2,266.90	11,890.96	376,720.51	100,614.08
32	12/1/2007	376,720.51	2,197.54	11,960.32	364,760.19	102,811.61
33	1/1/2008	364,760.19	2,127.77	12,030.09	352,730.10	104,939.38
34	2/1/2008	352,730.10	2,057.59	12,100.26	340,629.84	106,996.97
35	3/1/2008	340,629.84	1,987.01	12,170.85	328,458.99	108,983.98
36	4/1/2008	328,458.99	1,916.01	12,241.85	316,217.14	110,899.99
37	5/1/2008	316,217.14	1,844.60	12,313.26	303,903.88	112,744.59
38	6/1/2008	303,903.88	1,772.77	12,385.08	291,518.80	114,517.36
39	7/1/2008	291,518.80	1,700.53	12,457.33	279,061.47	116,217.89
40	8/1/2008	279,061.47	1,627.86	12,530.00	266,531.47	117,845.75
41	9/1/2008	266,531.47	1,554.77	12,603.09	253,928.38	119,400.52
42	10/1/2008	253,928.38	1,481.25	12,676.61	241,251.77	120,881.76
43	11/1/2008	241,251.77	1,407.30	12,750.55	228,501.22	122,289.07
44	12/1/2008	228,501.22	1,332.92	12,824.93	215,676.28	123,621.99
45	1/1/2009	215,676.28	1,258.11	12,899.75	202,776.54	124,880.10
46	2/1/2009	202,776.54	1,182.86	12,974.99	189,801.55	126,062.97
47	3/1/2009	189,801.55	1,107.18	13,050.68	176,750.86	127,170.14
48	4/1/2009	176,750.86	1,031.05	13,126.81	163,624.05	128,201.19
49	5/1/2009	163,624.05	954.47	13,203.38	150,420.67	129,155.66
50	6/1/2009	150,420.67	877.45	13,280.40	137,140.27	130,033.12
51	7/1/2009	137,140.27	799.98	13,357.87	123,782.40	130,833.10
52	8/1/2009	123,782.40	722.06	13,435.79	110,346.60	131,555.16
53	9/1/2009	110,346.60	643.69	13,514.17	96,832.43	132,198.85
54	10/1/2009	96,832.43	564.86	13,593.00	83,239.43	132,763.71
55	11/1/2009	83,239.43	485.56	13,672.29	69,567.14	133,249.27
56	12/1/2009	69,567.14	405.81	13,752.05	55,815.09	133,655.08
57	1/1/2010	55,815.09	325.59	13,832.27	41,982.82	133,980.67
58	2/1/2010	41,982.82	244.90	13,912.96	28,069.86	134,225.57
59	3/1/2010	28,069.86	163.74	13,994.12	14,075.75	134,389.31
60	4/1/2010	14,075.75	82.11	14,075.75	0.00	134,471.42

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

18-Jan-05
City Council Meeting Date

Greg Boettcher	Wastewater Treatment	Water and Wastewater
Submitted By	Division	Department

Action Required:

Resolution approving Amendment Number 11 (A) with Operations Management International, Inc. authorizing acquisition of an electric generation unit for the Noland Wastewater Plant and extension of the operating agreement for 5 years. A budget adjustment of $76,693.10 is included for residual electric rate impacts for calendar year 2005 only, funds to come from use of fund balance and be added to Services and Charges.

$76,693.10		vater Treatement Plant/Services and C
Cost of this request	Category/Project Budget	Program Category / Project Name
5100.5328.00 ~~5400.0940.4999.99~~	$ -	Use of Fund Reserves
Account Number	Funds Used to Date	Program / Project Category Name
	$ -	Water and Sewer
Project Number	Remaining Balance	Fund Name

Budgeted Item [X] Budget Adjustment Attached [X]

Department Director — Date: 12-20-04

Previous Ordinance or Resolution # ______

Original Contract Date: 1-Sep-94

Original Contract Number: ______

City Attorney — Date: 12/21/04

Received in Mayor's Office: 12/21/04 PH.

Chief Administrative Officer
Finance + External Services — Date: 12/21/04

Received in City Clerk's Office: 12-20-04

ENTERED 12-21-04

Mayor — Date: 12/28/04

Comments:

Fayetteville
ARKANSAS

WATER AND WASTEWATER DIVISION
DEPARTMENTAL CORRESPONDENCE

TO: **Mayor and City Council**

FROM: Matt Taylor, P.E. MWT
Burns & McDonnell

DATE: January 11, 2005

RE: **Revised Copy of Amendment 11A**
OMI's Contract

Attached is a slightly revised copy of Amendment 11A to OMI's contract with the City. The primary changes are listed below with a brief explanation of each.

1. The total contract amount for calendar year 2005 has been increased approximately \$8,400 (0.18% of total) to \$4,569,412.89 due primarily to corrections to sales tax estimates and the addition of an extended warranty for the generator proposed at the Noland Treatment Facility.

2. The interest rate has not changed, but it is described in the revised contract in terms of the prime rate plus 2%.

3. Sales tax and the four-year extended warranty (5 years total) are addressed in the revised contract text.

4. OMI removed text that gave them the right to sell or assign the work included in Amendment 11A.

The revisions to Amendment 11A are appropriate and reflect OMI's efforts to be as accurate as possible. My recommendation is to approve the revised contract amendment as submitted.

AMENDMENT NO. 11(A)

TO

AGREEMENT FOR OPERATIONS, MAINTENANCE AND MANAGEMENT SERVICES FOR THE CITY OF FAYETTEVILLE, ARKANSAS WASTEWATER TREATMENT PLANT

THIS AMENDMENT NO. 11(A) to the Agreement for Operations, Maintenance and Management Services for the City of Fayetteville, Arkansas Wastewater Treatment Plant dated September 1, 1994 (the "Agreement"), made effective on the 1st day of January, 2005, by and between the City of Fayetteville, Arkansas, whose address for any formal notice is 113 W. Mountain St, Fayetteville, Arkansas 72701 (hereinafter the "City") and Operations Management International, Inc., with offices at 9193 S. Jamaica Street, Suite 400, Englewood, Colorado 80112 (hereinafter "OMI") is made and entered into for purposes of amending certain provisions of the Agreement, to prevent the facilities covered by the Agreement from being deemed to be used in the trade or business of OMI pursuant to Section 141 (b) of the Internal Revenue Code of 1986, as amended.

NOW THEREFORE, the City and OMI agree to amend the Agreement as follows:

1. Article 4.3 is hereby deleted in its entirety and replaced with the following Article 4.3:

   4.3 OMI estimates the cost for services for calendar year 2005 shall be Four Million Five Hundred Sixty Nine Thousand Four Hundred Twelve Dollars and Eighty-Nine Cents ($4,569,412.89). Details of said cost are shown in Appendix J. The base fee shall be negotiated each year in September for the upcoming calendar year. Should the City and OMI fail to agree, the base fee will be determined by the application of the base fee adjustment formula shown in Appendix F. Should the actual expenditures exceed estimated expenditures by more than Twenty Thousand Dollars ($20,000), in any year of this Agreement, specific approval will be obtained from the City prior to OMI incurring additional costs.

2. Article 7.1 is hereby deleted in its entirety and replaced with the following Article 7.1:

   7.1 This initial term of this Agreement shall be five (5) years and four (4) months commencing on September 1, 1994 and ending on December 31, 1999, followed by two (2) successive five (5) year options, each renewable at the sole discretion of OMI. The City has exercised its options to extend through December 31, 2008. In consideration of OMI's agreement to fund the Power Generator Project at the Noland WWTP, described in Appendix L, the City is hereby extending this Agreement through and including December 31, 2013.

3. A new Appendix L is added in the form attached hereto.

This Amendment No. 11(A) together with the Agreement constitutes the entire agreement between the Parties and supersedes all prior oral and written understandings with respect to the subject matter set forth herein. Unless specifically stated all other terms and conditions of the Agreement shall remain in full force and effect. Neither this Amendment nor the Agreement may be modified except in writing signed by an authorized representative of the Parties.

The Parties, intending to be legally bound, indicate their approval of the Amendment by their signatures below.

OPERATIONS MANAGEMENT INTERNATIONAL, INC.

____
Roger B. Quayle
Senior Vice President
Date:______________________

CITY OF FAYETTEVILLE

____
Dan Coody
Mayor
Date:______________________

Appendix J

COST DETAIL

The annualized estimated costs for calendar year 2005 are as follows:

Description		Existing 2005 Estimated Costs		Amended 2005 Estimated Costs
Direct Labor & Benefits	$	1,671,071.00	$	1,671,071.00
Labor Markup	$	501,321.00	$	501,321.00
Electricity	$	642,720.00	$	588,480.00
Electrical Markup	$	-	$	-
Other Direct Costs	$	1,288,073.00	$	1,305,526.74
Other Direct Costs Markup	$	128,807.00	$	130,552.67
Subtotal	**$**	**4,231,992.00**	**$**	**4,196,951.41**
Fixed Fee	$	82,349.00	$	81,667.16
Lift Station Odor Control	$	69,362.00	$	69,362.00
Capital Item Amortization	$	100,622.00	$	100,622.00
Power Generator Project				
Equipment Amortization	$	-	$	120,810.32
Total Est. O & M Budget	**$**	**4,484,325.00**	**$**	**4,569,412.89**
Total Est. Annualized Budget	$	4,484,325.00	$	4,569,412.89
Estimated Increase			$	85,087.89

The following are some of the major reasons for cost circumstances:

1. Continued increase in the efficient use of technological automation and job-sharing within the OMI network.

2. Continued upward pressure on the cost of fuel and vehicle expenses.

3. Ever increasing cost to maintain community-expected high level of performance with many pieces of equipment nearing the end of their life cycle and destined to be replaced or upgraded as part of the ongoing Wastewater Improvement Project.

4. Continued population growth causing a related increase in sludge production and ultimate sludge disposal costs.

5. Additional costs for maintenance of 4-5 new sewage lift stations during the next year.

6. Potentially less expensive sludge disposal alternatives continue to be evaluated, which may or may not become feasible within the next 12 months.

7. Addition of the Power Generator Project as described in Appendix L hereto.

Appendix L

POWER GENERATOR PROJECT - SCOPE OF WORK

Due to significantly increased emphasis on preventing all possible wastewater overflows and/or interruptions in wastewater treatment capability by the Arkansas Department of Environmental Quality and the United States Environmental Protection Agency, as well as currently available favorable electrical rate structures it has become necessary for the City to install full-backup power generation equipment at the Paul R. Noland wastewater treatment plant (WWTP). In addition, the City anticipates installing full-backup power generation equipment at the new Westside WWTP facility and at the expanded Hamestring sewer lift station facility in accordance with the respective construction sequencing as these facilities are constructed.

The City has reviewed available options and has determined that it desires to install a power generation system manufactured by PowerSecure, Inc. The cost of the power generation equipment (the "Equipment") to effect the implementation of the power generation system at the Noland WWTP, including applicable sales taxes and a four-year extended warranty, is estimated to be $762,645.00.

OMI hereby agrees to procure and finance the cost of the Equipment at an annual interest rate of prime plus two percent (2%), currently seven percent (7%) over the course of sixty (60) months on behalf of the City in accordance with the amortization schedule set forth in Attachment 1 to this Appendix L and the City hereby agrees that it will purchase the Equipment from OMI over the course of such sixty (60) month period (the "Amortization Period"). The City's first payment to OMI will be due in the month following the installation complete date, currently estimated to be May 15, 2005. The City may elect to complete purchase of the Equipment at any time during the Amortization Period without incurring any early payment penalties. OMI makes no representations or warranties to the City with respect to the Equipment nor does it make any representations with respect to the savings the City may realize following installation of the Equipment. OMI shall pass through to the City any warranties provided by PowerSecure, but shall have no other responsibility for the manufactured quality of the generators.

Copies of purchase orders, bills of sale or invoices evidencing OMI's purchase will be furnished to the City upon request.

Title and risk of loss to the Equipment will remain with OMI at all times during the Amortization Period. At the end of the Amortization Period, title and risk of loss for and to the Equipment will transfer to the City.

If for any reason the Agreement is terminated by either party prior to the end of the Amortization Period, the City will pay to OMI the remaining balance due, in full, within thirty (30) days following termination. In the event the City refuses to or fails to make payment within thirty (30) days following termination OMI may exercise all rights available to it, including but not limited to, removal of the Equipment from the Noland WWTP.

OMI may sell or assign this equipment purchase to a third party in its sole discretion at any time during the Amortization Period.

Costs for diesel fuel will be provided directly by the City of Fayetteville as described in Article 3.8 of this Agreement. Costs for natural gas, applicable taxes, insurance, maintenance, and monitoring fees will be included in the actual cost of services as shown in Appendix J, and costs for these items in subsequent years during the Term will be provided to the City in accordance with the provisions of the Agreement.

The parties agree that they intend to install power generation systems at the new Westside WWTP and the expanded Hamestring sewer lift station at the appropriate time during the construction sequencing for each of these facilities, and that they intend to amortize the cost of each of these systems over a five year period. The parties will amend this Appendix L as necessary to address the terms and conditions agreed upon with respect to the power generation systems to be installed at the Westside WWTP and the Hamestring sewer lift station.

Attachment 1 to Appendix L

ESTIMATED AMORTIZATION SCHEDULE

Amortization Table

LOAN DATA

Loan amount: 762,645.00
Annual interest rate: 7.00%
Term in years: 5
Payments per year: 12
First payment due: 5/1/2005

TABLE DATA

Table starts at date:
or at payment number: 1

PERIODIC PAYMENT

Entered payment:
Calculated payment: $15,101.29

CALCULATIONS

Use payment of: $15,101.29
1st payment in table: 1
Beginning balance at payment 1: $762,645.00
Cumulative interest prior to payment 1: $0.00

Table

No.	Payment Date	Beginning Balance	Interest	Principal	Ending Balance	Cumulative Interest
1	5/1/2005	762,645.00	4,448.76	10,652.52	751,992.48	4,448.76
2	6/1/2005	751,992.48	4,386.62	10,714.66	741,277.82	8,835.39
3	7/1/2005	741,277.82	4,324.12	10,777.16	730,500.65	13,159.51
4	8/1/2005	730,500.65	4,261.25	10,840.03	719,660.62	17,420.76
5	9/1/2005	719,660.62	4,198.02	10,903.26	708,757.35	21,618.78
6	10/1/2005	708,757.35	4,134.42	10,966.87	697,790.49	25,753.20
7	11/1/2005	697,790.49	4,070.44	11,030.84	686,759.65	29,823.64
8	12/1/2005	686,759.65	4,006.10	11,095.19	675,664.46	33,829.74
9	1/1/2006	675,664.46	3,941.38	11,159.91	664,504.55	37,771.12
10	2/1/2006	664,504.55	3,876.28	11,225.01	653,279.54	41,647.39
11	3/1/2006	653,279.54	3,810.80	11,290.49	641,989.05	45,458.19
12	4/1/2006	641,989.05	3,744.94	11,356.35	630,632.71	49,203.13
13	5/1/2006	630,632.71	3,678.69	11,422.59	619,210.11	52,881.82
14	6/1/2006	619,210.11	3,612.06	11,489.23	607,720.89	56,493.88
15	7/1/2006	607,720.89	3,545.04	11,556.25	596,164.64	60,038.91
16	8/1/2006	596,164.64	3,477.63	11,623.66	584,540.98	63,516.54
17	9/1/2006	584,540.98	3,409.82	11,691.46	572,849.52	66,926.36
18	10/1/2006	572,849.52	3,341.62	11,759.66	561,089.86	70,267.99
19	11/1/2006	561,089.86	3,273.02	11,828.26	549,261.59	73,541.01
20	12/1/2006	549,261.59	3,204.03	11,897.26	537,364.34	76,745.04
21	1/1/2007	537,364.34	3,134.63	11,966.66	525,397.68	79,879.66
22	2/1/2007	525,397.68	3,064.82	12,036.47	513,361.21	82,944.48
23	3/1/2007	513,361.21	2,994.61	12,106.68	501,254.53	85,939.09
24	4/1/2007	501,254.53	2,923.98	12,177.30	489,077.23	88,863.07
25	5/1/2007	489,077.23	2,852.95	12,248.33	476,828.90	91,716.02
26	6/1/2007	476,828.90	2,781.50	12,319.78	464,509.11	94,497.53
27	7/1/2007	464,509.11	2,709.64	12,391.65	452,117.47	97,207.16
28	8/1/2007	452,117.47	2,637.35	12,463.93	439,653.53	99,844.51
29	9/1/2007	439,653.53	2,564.65	12,536.64	427,116.89	102,409.16
30	10/1/2007	427,116.89	2,491.52	12,609.77	414,507.12	104,900.67

Amortization Table

LOAN DATA

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Cumulative interest prior to payment 1: $0.00

Table

No.	Payment Date	Beginning Balance	Interest	Principal	Ending Balance	Cumulative Interest
31	11/1/2007	414,507.12	2,417.96	12,683.33	401,823.80	107,318.63
32	12/1/2007	401,823.80	2,343.97	12,757.31	389,066.48	109,662.61
33	1/1/2008	389,066.48	2,269.55	12,831.73	376,234.75	111,932.16
34	2/1/2008	376,234.75	2,194.70	12,906.58	363,328.17	114,126.86
35	3/1/2008	363,328.17	2,119.41	12,981.87	350,346.30	116,246.28
36	4/1/2008	350,346.30	2,043.69	13,057.60	337,288.70	118,289.96
37	5/1/2008	337,288.70	1,967.52	13,133.77	324,154.93	120,257.48
38	6/1/2008	324,154.93	1,890.90	13,210.38	310,944.55	122,148.38
39	7/1/2008	310,944.55	1,813.84	13,287.44	297,657.11	123,962.23
40	8/1/2008	297,657.11	1,736.33	13,364.95	284,292.16	125,698.56
41	9/1/2008	284,292.16	1,658.37	13,442.91	270,849.24	127,356.93
42	10/1/2008	270,849.24	1,579.95	13,521.33	257,327.91	128,936.89
43	11/1/2008	257,327.91	1,501.08	13,600.21	243,727.71	130,437.97
44	12/1/2008	243,727.71	1,421.74	13,679.54	230,048.17	131,859.71
45	1/1/2009	230,048.17	1,341.95	13,759.34	216,288.83	133,201.66
46	2/1/2009	216,288.83	1,261.68	13,839.60	202,449.23	134,463.34
47	3/1/2009	202,449.23	1,180.95	13,920.33	188,528.90	135,644.30
48	4/1/2009	188,528.90	1,099.75	14,001.53	174,527.37	136,744.05
49	5/1/2009	174,527.37	1,018.08	14,083.21	160,444.16	137,762.12
50	6/1/2009	160,444.16	935.92	14,165.36	146,278.80	138,698.05
51	7/1/2009	146,278.80	853.29	14,247.99	132,030.80	139,551.34
52	8/1/2009	132,030.80	770.18	14,331.11	117,699.70	140,321.52
53	9/1/2009	117,699.70	686.58	14,414.70	103,285.00	141,008.10
54	10/1/2009	103,285.00	602.50	14,498.79	88,786.21	141,610.60
55	11/1/2009	88,786.21	517.92	14,583.37	74,202.84	142,128.52
56	12/1/2009	74,202.84	432.85	14,668.44	59,534.41	142,561.37
57	1/1/2010	59,534.41	347.28	14,754.00	44,780.40	142,908.65
58	2/1/2010	44,780.40	261.22	14,840.07	29,940.34	143,169.87
59	3/1/2010	29,940.34	174.65	14,926.63	15,013.71	143,344.52
60	4/1/2010	15,013.71	87.58	15,013.71	0.00	143,432.10

Acct #	Month	kWh	Off Peak Demand	Peak kW	Fuel Cost	Debt Cost	Usage Cost stnd Rate	$ Off Peak (best case)	$ Off Peak (worse case)
86778-001	Oct-04	967,200.00	1,920.00	0.00	-0.000057	0.003750	41,687.60	$26,629.20	$49,669.20
86778-001	Sep-04	1,033,200.00	1,920.00	0.00	0.000367	0.002520	43,568.60	$28,147.20	$51,187.20
86778-001	Aug-04	1,119,600.00	1,968.00	0.00	0.000750	0.002520	46,377.56	$30,239.04	$53,855.04
86778-001	Jul-04	1,024,800.00	2,160.00	0.00	0.001464	0.002520	45,062.00	$28,477.20	$54,397.20
86778-001	Jun-04	1,051,200.00	2,160.00	0.00	0.003093	0.003720	45,814.40	$29,084.40	$55,004.40
86778-001	May-04	898,800.00	2,160.00	0.00	0.003636	0.00114	41,471.00	$25,579.20	$51,499.20
86778-001	Apr-04	1,140,000.00	2,160.00	0.00	0.001515	0.00114	48,345.20	$31,126.80	$57,046.80
86778-001	Mar-04	834,000.00	2,160.00	0.00	-0.002168	0.00075	39,624.20	$24,088.80	$50,008.80
86778-001	Feb-04	1,095,600.00	2,160.00	0.00	0.001774	0.00075	47,079.80	$30,105.60	$56,025.60
86778-001	Jan-04	868,800.00	2,160.00	0.00	0.002606	0.00075	40,616.00	$24,889.20	$50,809.20
86778-001	Dec-03	1,066,800.00	2,160.00	0.00	-0.003987	0.00156	46,259.00	$29,443.20	$55,363.20
86778-001	Nov-03	1,074,000.00	2,160.00	0.00	-0.001582	0.00156	46,464.20	$29,608.80	$55,528.80
	Total	12,174,000.00			0.007411	0.022680	$532,369.56	$337,418.64	$640,394.64

The figures above are directly from Ozarks Electric and reflect the absolute 'best case' scenario for potential savings. There will be costs to operate and maintain the generation equipment, which will directly offset the potential savings in a given year, as well as the very real potential that we may miss one or more of the coincidental peak demand periods and end up 'saving' something less than is described by these figures. One other thing of importance to note is that these figures are based on a 'fully loaded' Noland treatment plant, and the potential savings will be less when the West Side plant comes on line. The current estimation of a five year period during which the potential savings should come close to equaling the actual costs is considered to be as accurate as can be determined at this point in time.

Schedule of action items related to installation of power generation equipment at the Paul R. Noland wastewater treatment facility by Power Secure in 2005.

Action	Date
Agreement Signing	1/18/05
Receipt of IDG® System Submittal	2/18/05
Equipment Shipping Date to Site	5/16/05
Substantial Completion of Installation	5/23/05
Final Commissioning/Start-up	6/1/05

City Council Meeting of February 1, 2005

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

From: Chris Bosch, Fire Chief CB

Date: January 10, 2005

Subject: Resolution approving a contract for ALS/Transport Ambulance Service with CEMS in the amount of $250,000.

RECOMMENDATION

The Fire Department recommends approval of a Resolution awarding the annual contract for Advanced Life Support Ambulance Transport service to Central Emergency Medical Service, Inc. (CEMS) in the amount of $250,000.

BACKGROUND

This agreement involves an annual contract for Advanced Life Support Ambulance Transport service between the City of Fayetteville and CEMS.

DISCUSSION

As you know, for the past several years the City of Fayetteville has contracted with CEMS to provide advanced life support transport ambulance service on behalf of the citizens of Fayetteville. Currently the Fire Department maintains a strong and effective relationship with CEMS and both agencies working toward providing the most efficient and effective emergency medical service in the region. Both agencies collaborate to maintain a tiered emergency response system with the Fire Department providing Basic Life Support in conjunction with CEMS' providing Advanced Life Support and transport ambulance service. This tiered system of service ensures that the Citizens of Fayetteville receive care as quickly as possible.

During 2004 the City of Fayetteville conducted a research project focused on finding methods of improving the emergency medical system in Fayetteville. This study resulted in a joint recommendation from the City Research Team and representatives from Washington County to share the expense of contracting with a consultant in an effort to begin developing an improved EMS response system for the City of Fayetteville and Washington County. It is anticipated this study will begin after the first of the year with the selection of a consultant who will develop and present his/her recommendations once completed.

BUDGET IMPACT

This is a budgeted item with an overall annual cost of $250,000. This cost is paid out in twelve (12) equal installments with CEMS submitting monthly bills for service.

ORDINANCE NO. ______

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING A CONTRACT FOR SERVICES IN THE AMOUNT OF $250,000.00 BETWEEN THE CITY OF FAYETTEVILLE AND CENTRAL EMERGENCY MEDICAL SERVICES, INC. TO OPERATE AND MAINTAIN AN EMERGENCY AMBULANCE SERVICE TO SERVE THE RESIDENTS OF FAYETTEVILLE.

WHEREAS, providing high-quality, reliable emergency ambulance service to the citizens of our community is of great importance to the City of Fayetteville, and;

WHEREAS, Central Emergency Medical Services, Inc. is the only provider of emergency ambulance services in reasonable proximity to the City of Fayetteville, and;

WHEREAS, were it not for the services offered by the Central Emergency Medical Services, Inc., the City of Fayetteville would be required to assume the duty of providing emergency ambulance service to its citizens.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby finds that such circumstances constitute an exceptional situation where competitive bidding is not feasible or practical, and waives the requirements of formal competitive bidding and approves a contract for services in the amount of $250,000.00 between the City of Fayetteville and Central Emergency Medical Services, Inc. to operate and maintain an emergency ambulance service to serve the residents of Fayetteville. A copy of the agreement is attached hereto marked Exhibit "A" and made a part hereof.

PASSED and APPROVED this 1st day of February 2005.

APPROVED:

By: ______________________
DAN COODY, Mayor

ATTEST:

By: ______________________
SONDRA SMITH, City Clerk

CITY OF FAYETTEVILLE
CONTRACT FOR EMERGENCY MEDICAL TRANSPORT SERVICES

This Agreement is entered into on this **1st** day of, **January 2005** between the City of Fayetteville, hereinafter known as the "City" and Central Emergency Medical Service, hereinafter known as "CEMS, "an Arkansas not-for-profit corporation.

WHEREAS the City has determined that a public need exists for an emergency ambulance service that operates within the city limits of Fayetteville to serve Fayetteville residents,

WHEREAS CEMS has developed an emergency ambulance service that operates within the City limits and serves Fayetteville residents.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the City and CEMS agree as follows:

1. This Agreement will begin on the date first written above.

2. CEMS agrees to develop, operate, and maintain an Advanced Life Support (ALS) Emergency Ambulance Service that serves Fayetteville residents and responds to all emergency medical calls for service within the city limits of Fayetteville, Arkansas. This ALS service will be provided in conjunction with the Fayetteville Fire Department's emergency response units with the Fayetteville Fire Department agreeing to provide Basic Life Support (BLS) Non-Transport Emergency Response Service. The Fire Department shall maintain control over the use of Fire Apparatus as First Response Units and CEMS shall maintain control over the use of Ambulances.

3. The Fayetteville Fire Department agrees to operate according to the established patient treatment protocols, as identified by the CEMS' Medical Director, from the time patient contact is made until the time the patient is removed from the incident scene and transported, via ALS Ambulance, to a recognized medical treatment facility or hospital, or until CEMS personnel determine the call is a no-transport.

4. CEMS agrees to provide written quarterly and annual reports to the City's Project Coordinator, describing the activities undertaken during the preceding period and also to report on the following performance measures: Number of calls responded to, average response time for these calls, type of patient service provided for each response. (Whether the patient accepted or declined care). The parameters for calculating the average response time will be from the time the call is verified at the CEMS medical communications center until arrival at the incident location by the first arriving transporting Ambulance. "Time call is verified," shall be the moment the communications center personnel receive both sufficient location information to know where a response is required and sufficient information to determine the presumptive run priority designation. "Arrival at incident location," means the

moment an ambulance crew notifies the medical communication center that it is fully stopped at the location where the ambulance shall be parked while the crew exits to approach the patient. In situations where the ambulance has responded to a location other than the scene (e.g. staging areas for hazardous material/violent crime incidents or non-secured scenes), arrival at the scene shall be the time the ambulance arrives at the designated staging location. The quarterly reports are to be submitted to the Project Coordinator by April 10, July 10, October 10, and January 10 for the preceding calendar quarter. The data used to compile these reports will include only those calls for service within the corporate city limits of the City of Fayetteville, Arkansas and will be reported for the current quarter, current year-to-date, and prior year-to-date.

5. CEMS commits to maintaining an **average response time not to exceed (8) minutes** within the City of Fayetteville's corporate limits for the duration of this contract.

6. CEMS agrees to make both financial and response data records available for review by the Project Coordinator and the City's Internal Auditors as requested, and to provide the City with an annual audit performed by a certified public accountant licensed by the State of Arkansas. CEMS agrees to comply with the Arkansas Freedom of Information Act as applicable. Requests for records shall follow compliance requirements of the Health Insurance Portability and Accountability Act (HIPAA)

7. For the purposes of this Agreement, the Project Coordinator for the City will be the City Fire Chief or his/her designee. The Project Coordinator for CEMS will be CEMS Director Tony Hickerson or his successor or designee. Communications pertaining to this agreement will be through the respective Project Coordinators for the City and CEMS.

8. Terms of Performance. The term of performance for this agreement will expire December 31, 2005 and may be extended for an additional three years subject to approval of a budget containing funding for the service.*CEMS will hold harmless, defend, and indemnify the City, from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the performance or nonperformance of the services or subject matter in this Agreement.

9. Budget. The City agrees to pay and CEMS agrees to accept, as payment in full for its services, during 2005 the amount of **$250,000.00**. The amounts to be paid for services in future budget years are dependent on the amounts appropriated by City Council for each budget year.

10. CEMS must provide and maintain in force, at all times during the term of the contract, insurance for worker's compensation as provided by state statute, commercial general liability, and vehicle liability. Such policies will be issued by companies authorized to do business in the State of Arkansas. Minimum amounts required for commercial general liability and vehicle liability are $1,000,000.

11. For any work sublet, CEMS will require the subcontractor to provide similar worker's compensation insurance. In case any employee engaged in work on the project under this contract is not protected under workers' compensation insurance, CEMS will provide and will cause each subcontractor to provide adequate employers' liability insurance for the protection of such of his employees as are not otherwise protected. A certificate of insurance addressed to the City listing the above coverage's is to be submitted with contract approval. The premiums for all insurance required herein will be paid by CEMS.*Emergency Medical Services Workgroup. CEMS and the City agree to establish a standing Emergency Medical Service (EMS) Workgroup. This EMS Committee shall consist of three (3) representative from CEMS, three (3) representatives from the Fire Department and two (2) representatives from the Police Department's Central Dispatching Office. This group will meet to discuss the coordination of services, facilitate the exchange ideas to enhance the quality of service being provided and develop a problem solving mechanism for issues that may arise. This Committee will meet as requested by a member of the workgroup, least once every quarter during the calendar year.

12. The City agrees to compensate CEMS in the form of equal monthly installments with any remaining balances, for the calendar year, to be paid in December of the respective year.

13. Notices. All notices required or permitted under this agreement will be submitted in writing to the other party in this agreement by certified mail, return receipt requested, with the notice becoming effective no less than three (3) days after deposit therein addressed to the following:

City of Fayetteville	Fayetteville Fire Dept.	CEMS
Dan Coody	Chris Bosch	Tony Hickerson
Mayor	Fire Chief,	Director
113 West Mountain St.	303 W. Center St.	645 S School Ave
Fayetteville, AR 72701	Fayetteville, AR 72701	Fayetteville, AR 72701

14. Neither party may assign any of its rights or obligations under this agreement, without the express written consent of the other party. Nor shall this agreement be construed to bestow any rights or benefits upon anyone other than CEMS and the City.

15. A waiver by either party of any terms or conditions herein shall be limited to that particular instance, and shall not be construed as a general waiver of any other breaches by either party.

16. Agreement constitutes the entire understanding of the parties, and no modification or variation of the terms of this agreement shall be valid unless made in writing and signed by the duly authorized agents of the City and CEMS.

17. Severability. Each paragraph of this agreement is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs will remain in full force and effect.

18. Interpretation. This agreement shall be interpreted according to and enforced under the laws of the State of Arkansas.

19. Tax Exempt Status: Attached hereto and made part hereof is a copy of the correspondence from the Internal Revenue Service dated 5-27-83 confirming the 501(c)(3) tax exempt status of the Central Emergency Medical Service.

IN WITNESS WHEREOF, we have hereunto set our hands on the date first written above.

Central Emergency Medical Services, Inc.	**City of Fayetteville**
Tony Hickerson, Director	Dan Coody, Mayor
Attested By:	Attested By:

STAFF REVIEW FORM - FINANCIAL OBLIGATION

____ AGENDA REQUEST
__X__ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: **February 1, 2005**

FROM:

Name	Division	Department
Chris Bosch	**Fire Administration**	**Fire**

ACTION REQUIRED: An Ordinance waiving formal competitive bidding and ~~A resolution~~ approving ~~the renewal of the annual~~ a contract with Central Emergency Medical Servcies, Inc. for 2005 in the amount of $250,000 for emergency ambulance transport service in the City of Fayetteville.

COST TO CITY:

$250,000.00	$ 250,000.00	Transfer to CEMS
Cost of this request	Category/Project Budget	Program Category / Project Name
1010-6600-5705.00	$ -	Emergency Medical Contract
Account Number	Funds Used to Date	Program / Project Category Name
	$ 250,000.00	Sales Tax General
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: __X__ Budgeted Item ____ Budget Adjustment Attached

Budget Manager ____ Date ____

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager ____ Date ____ Internal Auditor ____ Date ____

City Attorney D. J. White Date 1/12/05 Purchasing Manager ____ Date ____

STAFF RECOMMENDATION:

Division Head ____ Date ____

Department Director C. Bosch Date 1/11/05

Finance & Internal Services Dir. Date 1-14-05

Chief Administrative Officer ____ Date ____

Mayor Dan Coody Date 1/13/05

Received in Mayor's Office 1/12/05 P.H. Date

Cross Reference:

ENTERED 1/11/05

Previous Ord/Res#: ____

Orig. Contract Date: ____

Orig. Contract Number: ____

New Item: **Yes** No

Fayetteville
ARKANSAS

FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701

Interdepartmental Correspondence

To: **Mayor/City Council**

Thru: **Gary Dumas, Director of Operations**

From: **David Bragg, Fleet Operations Superintendent**

Date: **January 11, 2005**

Subject: **Extension of Drive through Equipment Wash Contract**

RECOMMENDATION: That City Council approve a one year extension of an existing contract with DyChem International for drive through equipment wash supplies and equipment.

BACKGROUND: By Resolution 68-98, City Council entered into a contract with DyChem International to furnish a drive through wash bay in the Fleet building and for exclusive purchase of chemical supplies for the operation of the wash equipment. The contract ended December 31, 2003. Fleet staff began a search for alternative equipment and contractors in August, 2003. A trial period with an on site mobile washing contractor during January and February 2004 was not successful. By Ordinance #4566, City Council extended the contract until December 31, 2004.

During 2004, Fleet Staff researched washing alternatives and sent out a request for proposal. Proposals were received August 16, 2004. Fleet staff visited two facilities with the types of vehicle washing equipment that is under consideration. The Equipment Committee requested further information on costs of the systems at the meeting in November. This information is currently being researched.

In order to keep the existing system operating, it is recommended that the City extend the existing contract with all of its terms and conditions for a period of one year, ending December 31, 2005. Contract terms allow for termination upon 60 days written notice, allowing an earlier transition to a new system. DyChem has provided written agreement to the proposed extension.

Funds are available in the operating budget for ongoing washing of equipment under this contract.

ORDINANCE NO. ______

AN ORDINANCE TO WAIVE COMPETITIVE BIDDING AND AWARD AN EXTENSION OF A CONTRACT WITH DYCHEM INTERNATIONAL THROUGH THE END OF 2005

WHEREAS, Dychem International was selected by competitive bidding in 1998 and awarded a contract renewable through December 31, 2003 for automatic drive through wash equipment; and

WHEREAS, the City Council, by Ordinance No. 4566, waived competitive bidding and extend the contract through the end of 2004; and,

WHEREAS, city staff have continued to examine other options but have not yet found a successful alternative; and

WHEREAS, it would be in the best financial interest of the City to extend the current contract with Dychem International through December 31, 2005 rather than competitively bid this contract now.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby determines that an exceptional situation exists in which competitive bidding is not deemed feasible or practical and the City Council hereby waives the requirements for competitive bidding and awards a one year extension of the current Hydro-Shock Fleet Washing System Lease and Chemical Purchase Agreement entered into on June 2, 1998 so that this contract will be in effect until December 31, 2005.

PASSED and **APPROVED** this the 1st day of February 2005.

APPROVED:

By: ________________________
DAN COODY, Mayor

ATTEST:

By: ________________________
SONDRA SMITH, City Clerk

DyChem

DyChem International, Inc.
560 North 500 West
Salt Lake City, Utah 84116
(801) 521-0315
(800) 453-4606
(801) 328-8503 FAX

City of Fayetteville
Attn: David Bragg
Fleet Operations Superintendent
1525 South Happy Hollow
Fayetteville, AR 72701

January 11, 2005

Dear Mr. David Bragg,

DyChem International is willing to extend the contract with the City of Fayetteville for the year 2005. The contract may be terminated provided either the City of Fayetteville or DyChem International gives a 60-day written notice.

Sincerely,

Fred Lieber
President

FL/jo

ORDINANCE NO. 4566 **MICROFILMED**

AN ORDINANCE TO WAIVE COMPETITIVE BIDDING AND AWARD AN EXTENSION OF A CONTRACT WITH DYCHEM INTERNATIONAL THROUGH THE END OF 2004

WHEREAS, Dychem International was selected by competitive bidding in 1998 and awarded a contract renewable through December 31, 2003 for automatic drive through wash equipment; and

WHEREAS, city staff examined other options in early 2004 but have not found a successful alternative; and

WHEREAS, it would be in the best financial interest of the City to extend the current contract with Dychem International through December 31, 2004 rather than competitively bid this contract now.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby determines that an exceptional situation exists in which competitive bidding is not deemed feasible or practical and the City Council hereby waives the requirements for competitive bidding and awards a one year extension of the current Hydro Shock Fleet Washing System Lease and Chemical Purchase Agreement entered into on June 2, 1998 so that this contract will be in effect until December 31, 2004.

PASSED and **APPROVED** this the 4th day of May, 2004.

APPROVED:

By: Dan Coody
DAN COODY, Mayor

CITY CLERK/TREASURER CITY OF FAYETTEVILLE ARKANSAS WASHINGTON COUNTY

ATTEST:

By: Sondra Smith
SONDRA SMITH, City Clerk

CONTRACT EXTENSION FOR HYDRO SHOCK FLEET WASHING SYSTEM LEASE AND CHEMICAL PURCHASE AGREEMENT

THIS LEASE/PURCHASE AGREEMENT EXTENSION is made and entered into this 21 day of May, 2004 by and between Dychem International, Inc. ("Lessor") and the City of Fayetteville ("Lessee").

Both parties agree to all the terms and conditions specified in the agreement dated June 2, 1998.

Both parties agree that the agreement shall be extended from May 1, 2004 to December 31, 2004.

Fayetteville City Council has passed and approved Ordinance No. 4566 allowing the waiver of competitive bidding and awarding an extension of the contract.

A copy of the original Agreement is attached as Exhibit A.

DyChem International Inc., Lessor

By: [signature]

Title: President

Date: 21 MAY 2004

Attest:

By: [signature]

Title: V.P.

Date: 21 May 2004

City of Fayetteville, Lessee

By: Dan Coody

Dan Coody, Mayor

Date: 6/9/04

Attest:

By: Sondra Smith

Sondra Smith, City Clerk

Date: 6/14/04

CITY CLERK/TREASURER CITY OF FAYETTEVILLE ARKANSAS WASHINGTON COUNTY

801-533-9486 FAX

DyChem

DyChem International, Inc.
560 North 500 West
Salt Lake City, Utah 84116
(801) 521-0315
(800) 453-4606
(801) 328-9503 FAX

City of Fayetteville
Attn: David Bragg
Fleet Operations Superintendent
1525 South Happy Hollow
Fayetteville, AR 72701

April 14, 2004

Dear Mr. David Bragg,

DyChem International is willing to extend the contract with the City of Fayetteville for the year 2004. The contract may be terminated provided either the City of Fayetteville or DyChem International gives a 60-day written notice.

Sincerely,

Fred Lieber/jo

Fred Lieber
President

FL/jo

RESOLUTION NO. 68-98

A RESOLUTION AWARDING BID NO. 98-37 TO DYCHEM INTERNATIONAL, INC. TO PROVIDE FOR AUTOMATIC DRIVE THROUGH WASH EQUIPMENT, ITEM NO. 1 AND 2 AT NO CHARGE; AND SUPPLIES, ITEM NO. 3, HYDRO WASH A (BULK) @ $5.00 PER GALLON, HYDRO WASH S (BULK) @ $5.00 PER GALLON, TRD (OPTIONAL) @ $12.75 PER GALLON, ELBOW GREASE BULK (OPTIONAL) @ $5.50 PER GALLON.

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

Section 1. That the City Council hereby awards Bid No. 98-37 to DYCHEM International, Inc. to provide for automatic drive through wash equipment, Item No. 1 and 2 at no charge and supplies, Item No. 3, Hydro Wash A (bulk) @ $5.00 per gallon, Hydro Wash S (bulk) @ $5.00 per gallon, TRD (optional) @ $12.75 per gallon, Elbow Grease Bulk (optional) @ $5.50 per gallon; and authorizes the Mayor and City Clerk to execute a Washing System Lease and Chemical Purchase Agreement. A copy of the lease/agreement is attached hereto marked Exhibit "A" and made a part hereof.

PASSED AND APPROVED this 2nd day of June, 1998.

APPROVED:

By: Fred Hanna

Fred Hanna, Mayor

ATTEST:

By: Heather Woodruff

Heather Woodruff, City Clerk

B ID: 98-37
D ATE: 4/29/98
T ME: 9:00 AM
C ITY OF FAYETTEVILLE

DESCRIPTION: AUTOMATIC DRIVE-THRU CAR WASH

BIDDER	ITEM #1	ITEM #2	ITEM #3
D YCHEM INTERNATIONAL	*no chg	*no chg	Product Hydro wash A (bulk) $5.00 per gal Hydro wash S (bulk) $5.00 per gal TRD (optional) $12.75 per gal Elbow grease bulk (optional) $5.50 per gal

*if 300 unit washes per month maintained

PVice
P Vice Purch Mgr

B Williams
Witness

4/29/98
Date

EXHIBIT A

HYDRO SHOCK FLEET WASHING SYSTEM LEASE AND CHEMICAL PURCHASE AGREEMENT

THIS LEASE/PURCHASE AGREEMENT is made and entered into this 2 day of June, 1998 by and between DyChem International, Inc. ("Lessor") and the City of Fayetteville ("Lessee").

WHEREAS, Lessor is engaged in the business of manufacturing and installing hydro shock fleet washing systems ("System") and the detergents to operate System ("Detergents"); and,

WHEREAS, Lessee desires to lease a System and purchase Detergents.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein contained, Lessee and Lessor agree to the terms and conditions as set forth herein:

1. System Equipment. The System equipment shall include that equipment listed in Addendum "A" attached hereto and made a part hereof.

2. Lease Fees. The System shall be provided to Lessee at no monthly charge; however, Lessee agrees to a minimum monthly purchase of Detergent.

3. Term/Termination. This Lease/Purchase Agreement shall remain if effect until December 31, 1998 and shall automatically renew, subject to Lessee's budget approval, for a period of one (1) year, (the "Principal Term"). Thereafter this Lease/Purchase Agreement shall automatically renew for four (4) one (1) year terms, subject to Lessee's budget approval. The parties shall have the right to terminate this Lease/ Purchase Agreement upon sixty (60) days written notice, at any time following the completion of the Principal Term.

4. Installation. Lessor shall provide the System including all parts and equipment, as well as all labor to fully install the System and make it fully operational. Lessee shall provide the items contained in Addendum "B" attached hereto and made a part hereof.

5. Ownership of System. All parts and equipment which constitute the System shall remain the sole and separate property of Lessor. At no time shall they be considered fixtures, but instead shall constitute personal property. The title to the System shall remain with Lessor exclusively. This Lease/Purchase Agreement shall in no way imply a right to purchase the System, any such right is hereby expressly denied. At the termination of this Lease/Purchase Agreement, Lessor shall remove the System from Lessee's premises, together with all parts and equipment appurtenant thereto. Removal shall be performed in a workmanlike and reasonable manner and shall be removed within 30 days from termination of this Lease/Purchase Agreement.

Lessee agrees to execute a UCC-1 form acknowledging Lessor's ownership interest in the System equipment.

6. Detergent. Lessee shall use DyChem Products exclusively in the System.

7. Detergent Fees. The fees for Detergent shall be as set forth in Addendum "C" attached hereto and made a part hereof.

8. Maintenance of System. Lessor agrees to furnish all labor, equipment, and parts necessary for the ordinary maintenance of the System, provided that such maintenance is necessitated only by ordinary wear and tear of the System resulting from its normal, ordinary, and expected use.

Damage to the System resulting from any use by Lessee outside its normal, ordinary or expected use and or use contrary to the instruction of Lessor shall be repaired by Lessor; however, all expenses relating thereto, including reasonable charges for labor and materials, shall be invoiced to the Lessee for payment.

9. Terms of Payment. All payments shall be made within thirty (30) days after receipt of invoice.

10. Notice and/or Written Communication. Any notices, requests, instructions, or other written communications shall be delivered personally or sent by registered or certified mail to:

LESSEE:

City of Fayetteville
1525 S. Happy Hollow
Fayetteville, AR 72701

LESSOR:

DyChem International, Inc.
ATTN: Fred Lieber
560 North 500 West
Salt Lake City, UT 84116

11. Remedies. In the event of any material breach hereunder, including but not limited to purchasing detergents to be used in the System from any party other than Lessor, or failure to make timely payment concerning invoices of Lessor, the Lessor may cancel this Lease/Purchase Agreement and remove the System, and pursue other legal and or equitable remedies, as permitted by law.

Lessor's failure to maintain and/or promptly repair the System shall be a breach of the Lease/Purchase Agreement. Lessee shall give Lessor written notice of such breach and Lessor shall have 14 days to perform remedial work. Failure to perform remedial work shall entitle Lessee to seek repairs from parties other than Lessor, and to pursue other legal and/or equitable remedies, as permitted by law.

12. Amendments or Modifications to this Lease/Purchase Agreement. This Lease/Purchase Agreement may only be modified or amended in writing, executed by Lessee and Lessor.

13. Assignment. This Lease/Purchase Agreement may not be assigned by either Lessee or Lessor without prior written consent of the other party.

14. Insolvency or Creditors Relief. In the event that either Lessee or Lessor becomes insolvent, makes as assignment for the benefit of creditors, or becomes the subject of any action or proceeding in bankruptcy or for the benefit of creditors, any such occurrence will be deemed a default of and will automatically terminate this Lease/Purchase Agreement.

15. Governing Law. This Lease/Purchase Agreement shall be deemed to have been executed in the State of Arkansas. Furthermore, this Lease/Purchase Agreement shall be executed in accordance with and constructed and interpreted under the laws of the State of Arkansas.

16. Entire Agreement. This Lease/Purchase Agreement, together with Addenda A, B, and C, constitute the entire lease and purchase agreement between Lessee and Lessor and shall supersede all prior agreements, written or oral, together with any memoranda, or correspondence. Any other promises, terms, conditions, or obligations not contained herein are neither binding on the parties nor actionable in a court of law.

16. Multiple Counterparts. This Lease/Purchase Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which taken together shall constitute but a single instrument.

IN WITNESS WHEREOF, this HYDRO SHOCK FLEET WASHING SYSTEM LEASE AND CHEMICAL PURCHASE AGREEMENT is executed as of the day, month, and year set forth below.

DyChem International Inc., Lessor

By: FRED H. LIEBER
Title: PRESIDENT
5/15/98

Attest:

By: MICHAEL DUNLAP
Title: V. PRESIDENT
5/15/98

City of Fayetteville, Lessee

By:
Fred Hanna, Mayor

Attest:

By:
Heather Woodruff, City Clerk

ADDENDUM "A"
SYSTEM EQUIPMENT LIST
BASIC FLEET WASH COMPONENTS

DyChem is providing the following equipment to be used in the City of Fayetteville Fleet Wash System.

(3) Steel Arches
(9) Guide Rail Feet
(1) Set of Guide Rails
(18) Micro Switch Mounting Brackets
(1) Rinse Pipe
(1) Rinse Pump Cover
(2) Chemical Application Pump Covers
(10) Pipe Mounting Brackets
(--) PVC Piping and Fittings
*** Customized electrical control panel with Quick Disconnect Including Motor starters, relays, transformers, terminals and all electrical components to operate system.)
(2) Chemical Solution tanks
(2) Bulk Storage Tanks
(1) Rinse Tank
(1) 30 HP Motor with Centrifugal Pump
(1) High viscosity D-Foam Pump
(1) 1-1/2" Clay Valve and Control
(18) Micro Switches and Actuator Clamps
(2) Hydrominders with Hoses and Fittings
*** Tee Jets and Vee Jet Nozzles together with Unistrut steel, clamps, wands, and other miscellaneous hardware necessary for chemical application.
(1) 2 side Low PH Pipe Assemblies Sch 80 1" PVC Pipe
(1) 2 side Alkaline Pipe Assemblies Sch 80 1" PVC Pipe
(1) set of Back door Low PH and Alkaline Pipe Assemblies
(2) Alkaline Wheel wash Assemblies
(2) Low PH wheel Wash Pipe Assemblies
(2) Chemical Solution Pumps

ADDENDUM "B"
EQUIPMENT TO BE PROVIDED BY LESSEE

Lessee is required to do the following:

Provide an adequate building for the Fleet Washing Equipment;

Provide a I ½" incoming water supply at 50 psi to the Fleet Washing Equipment;

Provide incoming electrical supply at 2O8, 230, or 440 volts, three phase with a disconnect box to the Fleet Washing Equipment.

Provide an adequate sewer line,

Ensure that all required permits are obtained in advance of the date of installation.

ADDENDUM "C"
DETERGENT

I. Detergents Pricing

PRODUCT Hydro Wash A
PRICE: $5.00 per gallon
DESC:
Low PH Chemical Application

PRODUCT Hydro Wash S
PRICE: $5.00 per gallon
DESC:
High PH Alkaline Hydro Shock Neutralizer

PRODUCT TRD (Optional)
PRICE: $12.75 per gallon
DESC:
Defoamer

These detergents are specifically Manufactured for the Fleet Wash System. They provide a perfect balance to ensure the best possible result. DyChems stringent production control standards guarantee the highest possible quality detergents.

II. Minimum Monthly Dollar Volumes Required

A minimum monthly Detergent purchase of $1,500.00 is required.

III. Detergent Price Increases

The above pricing will take effect as soon as the Fleet Washing System is installed. DyChem reserves the right to change these prices in the event of a dramatic increase in production costs, but will provide notice thirty (30) days notice before doing so. Pricing for the Detergents may be increased annually, but only in the event that Lessor's costs increase is in excess of three percent (3%). Total increase shall not exceed five percent (5%) of the above quoted price.

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

1-Feb-05
City Council Meeting Date

David Bragg	Fleet Operations	Operations
Submitted By	Division	Department

Action Required:

Approval of extension of contract with Dychem International to provide automatic drive through wash equipment.

$72,000.00	$ 89,040.00	Contract Services
Cost of this request	Category/Project Budget	Program Category / Project Name
9700.1910.5315.00	$ -	Services and Charges
Account Number	Funds Used to Date	Program / Project Category Name
	$ 89,040.00	Shop
Project Number	Remaining Balance	Fund Name

Budgeted Item [X]   Budget Adjustment Attached [ ]

Department Director — Date: 1-12-05

City Attorney — Date: 1/13/05

Finance and Internal Service Director — Date: 1-14-05

Mayor — Date: 1/19/05

Previous Ordinance or Resolution #: Ord. #4566
Original Contract Date: 5/15/1998
Original Contract Number: Res.68-98

Received in City Clerk's Office
ENTERED 1/12/05

Received in Mayor's Office
1/13/05 f.H.

Comments:

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Dan Coody and Members of the City Council

FROM: Frank Johnson, Chief of Police FJ

DATE: January 14, 2005

RE: Request for Public Hearing on a Certificate of Public Convenience and Necessity for First Class Car Service

Recommendation:

The council should schedule a public hearing to determine if a Certificate of Public Convenience and Necessity should be issued to First Class Car Service.

Background:

The council recently passed a new ordinance governing taxi and limousine companies in Fayetteville. There have been meetings with city staff, the police department and the fleet division to determine the procedure that will be used to implement the new ordinance.

Discussion:

Attached is a copy of their application, a copy of their liability insurance coverage and their financial statement.

The application requests a minimum of two and a maximum of four vehicles be permitted; however, the insurance certificate only shows two vehicles being insured.

RESOLUTION NO. ______

A RESOLUTION GRANTING A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO FIRST CLASS CAR SERVICE FOR THE OPERATION OF TWO (2) LIMOUSINES WITHIN THE CITY OF FAYETTEVILLE, ARKANSAS.

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 grants a Certificate of Public Convenience and Necessity to First Class Car Service for the operation of Two (2) limousines within the City of Fayetteville, Arkansas, in accordance with Chapter 117, Fayetteville Code of Ordinances.

PASSED and **APPROVED** this 1st day of February 2005.

APPROVED:

By: ______________________

DAN COODY, Mayor

ATTEST:

By: ______________________

SONDRA SMITH, City Clerk

Certificate of Public Convenience & Necessity
Application/Renewal

As required to comply with Chapter 117 of the Fayetteville Code of Ordinances

Emmanuel Business Corp 805 E. Hilltop Dr. Rogers, AR. 72756 (479) 366-5007
Applicant Name **Address** **Phone Number**

First Class Car Service (479) 366-4620
Name of Business **Phone Number**

805 E. Hilltop Dr. Rogers AR. 72756
Business Location

Same
Mailing Address

Corporation
Type of Business (Sole Proprietor, Corporation, LLC)

Name and address of all owners, officers and stockholders:

Julia Austin 4924 W. 8th St. Greeley Co. 80634

John Robinson 805 E. Hilltop Dr. Rogers AR. 72756

Tim, William, Amber, Melinda Robinson 805 E. Hilltop Dr. Rogers AR. 72756

Name of person to whom complaints should be directed:

John Robinson

Financial status of applicant (Attach financial statement or profit and loss statement)

Debt Free!

List any unpaid judgments against any of the owners, officers and stockholders and the nature or acts giving rise to said judgments:

Ø

Describe the experience of all owners, officers and stockholders in the transportation of passengers:

Drove for Tony C's Taxi & Have been in Car Service ~~for~~ Since 7/04 & Licenced in City of Rogers & XNA.

Give any facts you believe tend to prove the necessity of granting a certificate:

Most Hotels don't Have their own Car Service.
Not ENOUGH Companies permitted in Fayetteville to do timely Pickups.
We only service Hotels & AirPorts unlike the others.

List the number of vehicles that will be under your operation or control: 4

Minimum and Maximum number of vehicles to be permitted: 2 (Minimum) 6 (Maximum)

List the location of proposed depots and terminals:

Airports - XNA

Describe the color scheme or insignia to be used to designate your vehicle:

Factory Colors with insignia

List your days and hours of operation:

24 Hours per day 7 days per WK - or - "on call".

List any days you do not propose to provide taxicab service to the general public:

List your proposed passenger rate schedule:

XNA to Fayetteville $30.00 + 5.00 ea. additional passenger within same party

Sgt Mike Kay
Police Department Representative

1/13/05
Date

ACORD. CERTIFICATE OF LIABILITY INSURANCE

OP ID KB IBCFI-1

DATE (MM/DD/YYYY) 01/07/05

PRODUCER

Farris Insurance Agency, Inc.
P.O. Box 345
Springdale AR 72765
Phone: 479-756-6330 Fax: 479-756-9262

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED

IBC / First Class Car Service
John Robinson
805 E Hilltop Drive
Rogers AR 72756

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: Cypress Insurance Company	10855
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
		GENERAL LIABILITY COMMERCIAL GENERAL LIABILITY CLAIMS MADE / OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY / PRO-JECT / LOC				EACH OCCURRENCE	$
						DAMAGE TO RENTED PREMISES (Ea occurence)	$
						MED EXP (Any one person)	$
						PERSONAL & ADV INJURY	$
						GENERAL AGGREGATE	$
						PRODUCTS - COMP/OP AGG	$
A		AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS X SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS	ARA000318	10/12/04	10/12/05	COMBINED SINGLE LIMIT (Ea accident)	$ 500000
						BODILY INJURY (Per person)	$
						BODILY INJURY (Per accident)	$
						PROPERTY DAMAGE (Per accident)	$
		GARAGE LIABILITY ANY AUTO				AUTO ONLY - EA ACCIDENT	$
						OTHER THAN AUTO ONLY: EA ACC	$
						AGG	$
		EXCESS/UMBRELLA LIABILITY OCCUR / CLAIMS MADE DEDUCTIBLE RETENTION $				EACH OCCURRENCE	$
						AGGREGATE	$
							$
							$
							$
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				WC STATU-TORY LIMITS / OTH-ER	
						E.L. EACH ACCIDENT	$
						E.L. DISEASE - EA EMPLOYEE	$
						E.L. DISEASE - POLICY LIMIT	$
		OTHER					

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

1992 Ford Aerostar VAN 1FMDA11U7NZB6932; 1988 Lincoln Town Car #1LNBM81FOJY800519

CERTIFICATE HOLDER

BLANKCH

******* CERTIFICATE ***********
*****FOR INFORMATION ONLY*****
Sargeant Key
****
****

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL ____ DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Jeff O Jech

ACORD. CERTIFICATE OF LIABILITY INSURANCE

OP ID KE
IBCFI-1

DATE (MM/DD/YYYY) 01/07/05

PRODUCER

Farris Insurance Agency, Inc.
P.O. Box 345
Springdale AR 72765
Phone: 479-756-6330 Fax: 479-756-9262

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INSURED

IBC / First Class Car Service
John Robinson
805 E Hilltop Drive
Rogers AR 72756

INSURERS AFFORDING COVERAGE		NAIC #
INSURER A:	Cypress Insurance Company	10855
INSURER B:		
INSURER C:		
INSURER D:		
INSURER E:		

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
		GENERAL LIABILITY COMMERCIAL GENERAL LIABILITY CLAIMS MADE / OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY / PRO-JECT / LOC				EACH OCCURRENCE	$
						DAMAGE TO RENTED PREMISES (Ea occurence)	$
						MED EXP (Any one person)	$
						PERSONAL & ADV INJURY	$
						GENERAL AGGREGATE	$
						PRODUCTS - COMP/OP AGG	$
A		AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS X SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS	ARA000318	10/12/04	10/12/05	COMBINED SINGLE LIMIT (Ea accident)	$ 500000
						BODILY INJURY (Per person)	$
						BODILY INJURY (Per accident)	$
						PROPERTY DAMAGE (Per accident)	$
		GARAGE LIABILITY ANY AUTO				AUTO ONLY - EA ACCIDENT	$
						OTHER THAN AUTO ONLY: EA ACC	$
						AGG	$
		EXCESS/UMBRELLA LIABILITY OCCUR / CLAIMS MADE DEDUCTIBLE RETENTION $				EACH OCCURRENCE	$
						AGGREGATE	$
							$
							$
							$
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				WC STATU-TORY LIMITS / OTH-ER	
						E.L. EACH ACCIDENT	$
						E.L. DISEASE - EA EMPLOYEE	$
						E.L. DISEASE - POLICY LIMIT	$
		OTHER					

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

1992 Ford Aerostar VAN 1FMDA11U7NZB6932; 1988 Lincoln Town Car #1LNBM81FOJY600519

CERTIFICATE HOLDER

BLANKCH

******* CERTIFICATE ***********
*****FOR INFORMATION ONLY*****
****
****
****

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL ____ DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Jeff O Jech

Financial Statement

I John Robinson Have Lived in Rogers AR. for 3 years. I Bought my House for $28,000.00 and am adding 2,800 SQ Ft. to it. I also still own a House in Sterling, Colorado that is worth $80,000.00. The Balance Owed On it is approx $8,050.00. SS# is not OK to be used or shared with anyone else or any other Party. 56404-1511 I also own Property Located in Bella Vista — Lot #11 Block 3 Radcliff Subdivision

My Mother is also on the Board of Directors and Lives in Greeley, Colorado. She owns a House worth $225,000.00 approx. and owes approx $98000.00.

Her Social # is 566-56-8595

Her name is Julia Austin

Our Business is Paid in full - owing nothing exept $436.00 per Quarter for insurance.

2005 COMMERCIAL PERSONAL PROPERTY ASSESSMENT FORM - BENTON COUNTY, ARKANSAS 1

PPAN: 9903967

Business Name: IMMANUEL BUSINESS CORPORATION
Local Address: 805 E HILLTOP DR
Business Type: MISC - MAINTENANCE & REPAIRS
Owner/Manager: ROBINSON, JOHN S OWNER
Phone/Fax: (479) 636-2112

Mailing Address:
IMMANUEL BUSINESS CORPORATION
805 E HILLTOP DR
ROGERS AR 72756

District: C30
Rogers City
RE Parcel:

BENTON COUNTY ASSESSOR'S OFFICE
215 EAST CENTRAL
BENTONVILLE, AR 72712
Local: (479) 271-1087
Out of area: (888) 267-7337

This form will be used by the Assessor in your county to determine the value of your business' personal property. An information sheet containing instructions on completion of this form and statutory provisions regarding the assessment of your personal property should be included with this form. If no information sheet is included, contact the assessor's office to obtain one. Do not mark in any area labeled FOR ASSESSOR USE ONLY or shaded areas. Complete all sections pertinent to your business. SIGN AND RETURN THIS FORM TO THE ASSESSOR BEFORE MAY 31. FORMS RETURNED AFTER THAT DATE WILL BE DELINQUENT AND PENALIZED 10% OF THE TAX AMOUNT. Information reported on this form is required by Arkansas law and is subject to audit by the county assessor and/or the State of Arkansas. Upon request, you should be prepared to provide documentation for the content of this assessment.

FOR ASSESSOR USE ONLY

Property Type	Market Value	Assessed Value
Inventory	0	0
F F & E	1,333	265
Vehicles		905
Livestock		0
Misc Equip		0
Aircraft		0

Valuation	1,170
Late Penalty	0
Total Assessed	1,170

VEHICLES: Please list below, or attach an itemized list, of the vehicles owned by your business. Vehicles requiring proof of assessment for licensing should be listed below. Non-licensed vehicles may be listed below, in the miscellaneous section, or a separate list may be attached to this form.

Year	Manufacturer	Model	Type	VIN/Serial Number	Assessed Value
1979	CHEVROLET	FLEETSIDE CV PICKUP		CKR169F136754	70
1997	18' HEAVY DUTY	UTILITY TRAILER		17018P35XV1004558	70
1991	CHRYSLER	LEBARON COUPE [redacted] "Limo"		1C3XJ453XMG105863	150
1988	LINCOLN	TOWNCAR 4DR	PO1800/04	1[illegible]F0JY800519	325
1992	FORD	AEROSTAR	2WD 1/2T	[illegible]7NZB69632	190
1989	CHEVROLET	CONVERSION VAN		1GBEG25KXK7142720	100

I hereby swear or affirm that this is a true and complete list of all the personal property that, by law, I am required to list for taxation, and that the values rendered are true and accurate to the best of my knowledge.

Owner: ______________________

Date : ______________________

Sworn before and subscribed to before me this ____ day of ______

CAG
Assessor, Deputy, or Notary

This is to certify that the above listed vehicles have been assessed for the current year.

County Assessor: Shirley Sandlin

This is to certify that the above business paid personal property taxes dues, as recorded by receipt # ________ on the ____ day of ____ ________ in the amount of ____________

County Collector: ______________________

This form prepared in provision with Act 153 of 1985, Act 521 of 1987, and Act 86 of 1988.

2005 COMMERCIAL PERSONAL PROPERTY ASSESSMENT FORM - BENTON COUNTY, ARKANSAS 2

FURNITURE, FIXTURES, and EQUIPMENT: Please list below, or attach an itemized list, of the furniture, fixtures machinery, and equipment owned by your business, including any items reflecting a book value of zero. Subtotals representing similar items may be listed so long as they are grouped by year of purchase and estimated useful life. Short-lived items such as tools may be listed in the miscellaneous section.

Item	Date of Purchase	Estimated Useful Life	Purchase Price	Value per Owner	FOR ASSESSOR USE ONLY	
					REL%	Market Value
COMPUTER	1999	5	850		25%	213
1988 YAZOO LAWNMOWER	2002	10	600		85%	510
SEARS LAWNMOWER	2002	10	45		85%	38
WEEDEATER	2002	10	40		85%	34
GAS CAN - 6 GAL	2002			7		7
GAS CAN - 1 GAL	2002			1		1
TELEPHONE	1996			6		6
PRINTER	1999	5	75		25%	19
TABLE	1999			50		50
PLANNER	20035			10		10
SUPPLIES	2002			250		250
ESTIMATED FF&E	2004			195		195

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

1-Feb-05
City Council Meeting Date

Frank Johnson		Police
Submitted By	Division	Department

Action Required:

Schedule a public hearing to determine if a Certificate of Public Convenience and Necessity should be issued to First Class Car Service

N/A	N/A	N/A
Cost of this request	Category/Project Budget	Program Category / Project Name
N/A	N/A	N/A
Account Number	Funds Used to Date	Program / Project Category Name
N/A	N/A	N/A
Project Number	Remaining Balance	Fund Name

Budgeted Item [ ] Budget Adjustment Attached [ ]

Previous Ordinance or Resolution # ______

Original Contract Date: ______

Original Contract Number: ______

Department Director — Date 1-14-05

City Attorney — Date 1/18/05

Mayor — Date 1/19/05

Received in City Clerk's Office

Received in Mayor's Office 1/18/05 P.H

Comments:

ENTERED 1/14/05

1 - ~~[illegible]~~ ?

2 - ~~[illegible]~~

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville ARKANSAS

Aldermen

Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
Ward 3 Position 1 - Robert K. Rhoads
Ward 3 Position 2 – Bobby Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
February 1, 2005

A meeting of the Fayetteville City Council will be held on February 1, 2005 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order
Roll Call
Pledge of Allegiance

A. CONSENT:

Jan 4, Jan 6.

1. **Approval of the Minutes:** Approval ~~of the January 18, 2005~~ City Council meeting minutes.

B. UNFINISHED BUSINESS

1. **Planning Commission Appeal (Crystal Goedereis):** An appeal filed by Crystal Goedereis regarding Planning Commission's denial of RZN 04-1333 (J.B. Hays) for property located at 1882 Starr Drive as submitted by Crystal Goedereis. ***This item was tabled at the January 18, 2005 City Council Meeting to the February 1, 2005 City Council Meeting.***

C. NEW BUSINESS:

This will change to an ordinance

1. **Central Emergency Medical Services, Inc. Contract Renewal:** A resolution approving renewal of the contract for services in the amount of $250,000.00 between the City of Fayetteville and Central Emergency Medical Services, Inc. to operate and maintain an emergency ambulance service to serve the residents of Fayetteville.

2. **Dychem International Contract Extension:** An ordinance to waive competitive bidding and award an extension of a contract with Dychem International through the end of 2005.

Consent 3. **Appointment of Building Official:** A resolution appointing a building official for the City of Fayetteville in accordance with A.C.A. § 14-56-202(2)

Consent 4. **McClelland Consulting Engineers, Inc. Contract Amendment #1:** *No Resolution. Does not Have Mayor's Signature.*

D. PUBLIC HEARINGS:

1. **First Class Car Service/Cert. of Public Convenience & Necessity:** A resolution granting a Certificate of Public Convenience and Necessity to First Class Car Service for the operation of two (2) limousines within the city of Fayetteville, Arkansas.

E. INFORMATIONAL:

Council Tour: January 31, 2005 – 4:30 pm

Arkansas Democrat Gazette
NORTHWEST ARKANSAS EDITION
"Northwest Arkansas' Most Widely Read Newspaper"

AFFIDAVIT OF PUBLICATION

I, Jill D. Scott, do solemnly swear that I am the Legal Clerk of the Arkansas Democrat-Gazette/Northwest Arkansas Times newspaper, printed and published in Lowell, Arkansas, and that from my own personal knowledge and reference to the files of said publication, that advertisement of:

Final Agenda was inserted in the regular editions on January 31, 2005.

PO# ______________

** Publication Charge: $ 148.80

Subscribed and sworn to before me this

31 day of January, 2005.

Sharlene D. Williams

Notary Public

My Commission Expires: Sharlene D. Williams
Notary Public
State of Arkansas
My Commission Expires
October 18, 2014

** Please do not pay from Affidavit.
An invoice will be sent.

FINAL AGENDA
CITY OF FAYETTEVILLE ARKANSAS
CITY COUNCIL MEETING
FEBRUARY 1, 2005

Fayetteville
ARKANSAS

A meeting of the Fayetteville City Council will be held on February 1, 2005 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order
Roll Call
Pledge of Allegiance

A. CONSENT:
1. Approval of the Minutes: Approval of the January 4, 2005, January 6, 2005, and January 18, 2005 City Council meeting minutes.
2. Appointment of Building Official: A resolution appointing a building official for the City of Fayetteville in accordance with A.C.A. § 14-56-202(2).
3. McClelland Consulting Engineers, Inc. Contract Amendment #1: A resolution to approve amendment #1 of the contract with McClelland Consulting Engineers, Inc. in the amount of $25,100.00 for the Farmington Waterline Replacement Project.

B. UNFINISHED BUSINESS
1. Planning Commission Appeal (Crystal Goederels): An appeal filed by Crystal Goederels regarding Planning Commission's denial of RZN 04-1333 (J.B. Hays) for property located at 1882 Starr Drive as submitted by Crystal Goederels. This item was tabled at the January 18, 2005 City Council Meeting to the February 1, 2005 City Council Meeting.
2. OMI Contract Amendment No. 11 (A): A resolution approving amendment No. 11 (A) to the contract with Operations Management International (OMI) in the amount of $76,693.10 for extending the term of the agreement for operations, maintenance and management services and additional five (5) years; and approving a budget adjustment transferring $76,693.00 from Use of Fund Balance to PCP Operation Contract Fund. This resolution was tabled at the January 18, 2005 City Council Meeting to the February 1, 2005 City Council Meeting.
3. Highway 71 East Square Redevelopment District #1 Project Plan Amendment: An ordinance amending the Project Plan for the Highway 71 East Square Redevelopment District Number One, finding the Plan is economically feasible and declaring an emergency. This ordinance was left on the first reading at the January 25, 2005 City Council Meeting.

C. NEW BUSINESS:
1. Central Emergency Medical Services, Inc. Contract Renewal: An ordinance waiving the requirements of formal competitive bidding and approving a contract for services in the amount of $250,000.00 between the City of Fayetteville and Central Emergency Medical Services, Inc. to operate and maintain an emergency ambulance service to serve the residents of Fayetteville.
2. Dychem International Contract Extension: An ordinance to waive competitive bidding and award an extension of a contract with Dychem International through the end of 2005.

D. PUBLIC HEARINGS:
1. First Class Car Service Certificate of Public Convenience & Necessity: A resolution granting a Certificate of Public Convenience and Necessity to First Class Car Service for the operation of two (2) limousines within the city of Fayetteville, Arkansas.

E. INFORMATIONAL:
Council Tour: January 31, 2005 - 4:30 pm